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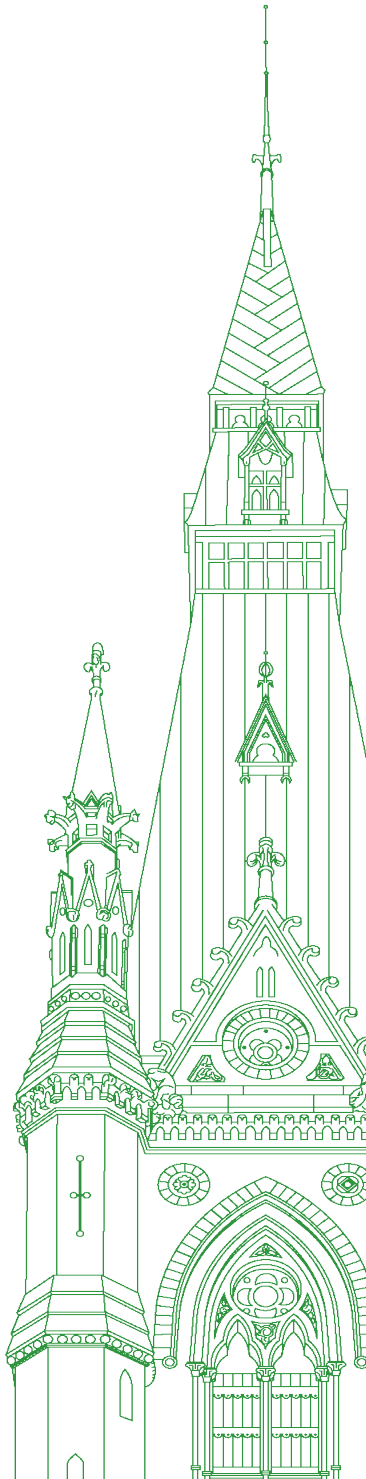

Chair: Mr. Francis Scarpaleggia

Standing Committee on Environment and Sustainable Development

Friday, November 25, 2022

● (1300)

[*English*]

The Chair (Mr. Francis Scarpaleggia (Lac-Saint-Louis, Lib.)): I call this meeting to order.

Before we get going, I would like agreement to adopt the committee budget for the study of Bill S-5. You've received it in your inboxes. Is there any objection?

There seems to be unanimous consent. It's done.

[*Translation*]

In accordance with our routine motion, I would like to inform committee members that sound quality checks have been successfully completed. We are therefore ready to begin our meeting.

During the first hour, we will hear from Ms. Sylvia Plain, environmental consultant; Mr. Joseph Castrilli and Ms. Fe de Leon, Canadian Environmental Law Association; Ms. Justyna Laurie-Lean, vice-president, environmental and regulatory affairs, Mining Association of Canada; as well as Mr. Jean Piette, chairman of the board, Quebec Business Council on the Environment.

Each group will have three minutes to make their opening remarks. We will then move on to the rounds of questions.

We will start with Ms. Sylvia Plain; you have the floor for three minutes.

[*English*]

Ms. Sylvia Plain (Environmental Consultant, As an Individual): Good afternoon. My name is Sylvia Plain. I am Anishinabe from Aamjiwnaang First Nation. We're located in southwestern Ontario.

Today, I'm here to share some environmental and health issues the residents of Aamjiwnaang First Nation face due to the pollution being emitted by the 62 petrochemical plants that surround our community. What I can offer here, today, comes from my experiences living in Aamjiwnaang, as well as advocating for Aamjiwnaang citizens at the United Nations. I can also offer my perspectives as an educator, knowledge-keeper and practitioner who works with a group of indigenous knowledge-carriers and elders across Turtle Island.

In November 2021, we received a report and presentation from the Ontario Ministry of the Environment, Conservation and Parks. It was very troubling. It was revealed that benzene, benzo[a]pyrene, fine particulate matter and sulphur dioxide were above the 2020 Canadian ambient air quality standards and the ministry's ambient air quality criteria.

Benzene emissions were 44 times the ambient air quality criteria, and benzo[a]pyrene was between 10 and 20 times the ambient air quality standards. 1,3-butadiene also reaches elevated levels in certain areas of the region. The St. Clair River, which is on the west side of our territory, was heavily contaminated with methylmercury and still remains a binational area of concern for the International Joint Commission.

The members of Aamjiwnaang plant gardens, fish, hunt, trap, harvest plants and medicines, play outside and enjoy outdoor activities, all of which exposes us to the dangers of the pollution being emitted through the air, water and soil, and through the food we eat. In our community, twice as many girls are being born than boys. Children in Aamjiwnaang are being born pre-polluted, and continue to be exposed throughout crucial periods of their development. Some children are being born with deformities, face lifelong respiratory illnesses, and have asthma and regular nosebleeds. Most recently, cancer is becoming a major concern due to the carcinogenic chemicals being emitted.

Overall, Aamjiwnaang community members are denied basic human rights before they are born and throughout all the stages of their lives. With that being said, one must ask, who and what is the Canadian Environmental Protection Act actually protecting?

In summary, Aamjiwnaang citizens would like to be included at the decision-making tables, and to be informed and consulted without delay. We would like to see the fines collected by the polluters in “Chemical Valley” reinvested back into Aamjiwnaang. Furthermore, we would like to contribute our regional, gendered and intergenerational knowledge to support all levels of government in ensuring that we are meeting the highest standards of air quality, water quality and human rights.

I would like to say *meegwetch* for listening, and for the opportunity to bring forward our issues. I look forward to the health and environmental improvements for Aamjiwnaang community members and a strengthened Canadian Environmental Protection Act.

● (1305)

The Chair: Thank you very much, Ms. Plain.

We'll go to the Canadian Environmental Law Association.

Mr. Castrilli, go ahead.

Mr. Joseph F. Castrilli (Lawyer, Canadian Environmental Law Association): Thank you.

The emission of toxic substances to the environment is a growing problem globally, as well as in Canada. The Canadian Environmental Law Association focused on the emission of cancer-causing agents to illustrate that Bill S-5 will not solve the problem in Canada, unless the bill improves the approach of the act to pollution prevention.

CELA analyzed 15 years of national pollution data from 2006 to 2020. These 15 years coincide with the period the chemicals management plan was in force under CEPA. We reviewed the data for 32 cancer-causing agents listed in CEPA's schedule 1 list of toxic substances. What we found nationally was that while federal requirements are reducing by millions of kilograms on-site air releases of these chemicals, on-site disposal and land releases of the same chemicals have been dramatically increasing in the tens of millions of kilograms.

For certain substances, the trends are even more dramatic. For example, we found in Quebec with respect to arsenic that on-site air emissions decreased 8% during the period of 2006 to 2020. However, on-site disposal and land releases of arsenic increased by almost 2,000%.

The bottom line is that moving a carcinogen from one environmental pathway—air—to another—land—does not represent progress in protecting human health and the environment. It merely represents putting a different part of the environment and a different group of people at risk.

What is needed is a strategy of prevention and the elimination of schedule 1 toxic substances from Canadian commerce to the maximum extent possible. This was the expectation for CEPA, as described in a 1995 House standing environment committee report.

There are three things wrong with CEPA that Bill S-5 does not correct on the issue of pollution prevention.

First, pollution prevention is discretionary, not mandatory, for toxic substances listed in schedule 1. This has resulted in only one-sixth of all substances in the schedule in the last 20 years having a pollution prevention plan. It's a rate that, if continued, will mean that all the existing toxic substances in schedule 1 will not have a plan until the 22nd century.

Second, pollution prevention is meant to control the creation and use of toxic substances. However, because of the approach that has been taken, pollution abatement has become the predominant measure employed by industry That is, only emission concentrations of a substance are sought to be controlled. The 1995 House standing environment committee report warned against doing this. The result has allowed such substances to stay in Canadian commerce and the environment.

Third, Bill S-5 does not make the substitution of safer alternatives to toxic substances a central focus of the amendments to the act, thus placing Canadians and the environment at risk, and Canada at a disadvantage relative to other countries that have done so.

How should Bill S-5 amend CEPA?

First, make pollution prevention mandatory for all chemicals that Canada has designated as toxic under the law, and do not employ pollution abatement as a substitute for pollution prevention under part 4. Second, enshrine the analysis of safer alternatives to chemicals as a central pillar of CEPA—

The Chair: Thank you.

I will go to Ms. Laurie-Lean.

Ms. Justyna Laurie-Lean (Vice-President, Environment and Regulatory Affairs, Mining Association of Canada): Thank you for this opportunity to speak to you about Bill S-5.

I am Justyna Laurie-Lean with the Mining Association of Canada.

The mining industry is affected by several parts of CEPA, but we do not offer comments on amendments that we have little experience with. We see Bill S-5 as generally well-crafted amendments that modernize and clarify existing enabling authorities, but we are concerned about the departmental capacity and resource implications of legislative changes. We urge you to be mindful that the implementation of changes to the act will require resources from departments already tasked with delivering on other priorities and struggling to deliver regulatory development and administration.

We previously highlighted the need for an online query tool to facilitate finding out the status of a substance under CEPA. Senate amendment number 4 responded to our recommendation. On November 4, Environment and Climate Change Canada made available, on its website, a new tool that meets the needs that MAC identified. This tool will increase transparency and amplify awareness and compliance.

We continue to struggle to understand what the proposed “List of substances capable of becoming toxic” would do that is not already accomplished by other existing provisions of CEPA. The list is not tied to any consequent action. It is not integrated in the CEPA framework for managing substances.

We recommend that this new list be removed or amended to require that the listing of a substance includes a specification of actions to be taken. We are concerned that Senate amendment 15(c) moves proposed schedule 1, part 1 away from focusing on substances that pose the highest risk and towards legislating specific hazard characteristics.

We recommend returning paragraph 77(3)(b) to the original wording and recommend avoiding limiting the flexibility of defining “highest risk”.

CEPA applies to a very wide range of substances with diverse combinations of hazard characteristics and exposure scenarios. CEPA is technical and complex.

As you consider Bill S-5, we urge you to avoid hamstringing enabling provisions through excess prescription. The act should encourage the use of expert judgment to adjust assessments and actions to the specifics of each issue based on the best available knowledge at the time.

We would also urge you to avoid constructing provisions in a way that encourages litigation. Fear of litigation drives departments to focus on avoiding litigation rather than on protecting the environment and health. Transparency and parliamentary oversight would be more effective at stimulating progress.

Thank you.

● (1310)

The Chair: Thank you very much.

Last but not least, we have Mr. Jean Piette.

[*Translation*]

Mr. Jean Piette (Chairman of the Board, Quebec Business Council on the Environment): Hello, ladies and gentlemen, members of the Standing Committee on Environment and Sustainable Development.

To begin, I will give you some information about the Quebec Business Council on the Environment, or CPEQ.

Founded in 1992 by representatives of Quebec's main business and industrial sectors, the CPEQ is the umbrella organization that represents and expresses the opinions of Quebec's private sector economic stakeholders on environmental and sustainable development issues.

The CPEQ is made up of more than 300 of the largest companies and associations in Quebec, which generate more than 300,000 direct jobs and report combined annual revenues of more than $45 billion.

Generally speaking, we welcome Bill S-5. We believe it will allow the key objectives in the Canadian Environmental Protection Act, 1999, or CEPA, to be met more effectively, namely, protecting the environment and human health in this country based on risk assessment of toxic substances. However, we believe that some elements could be further clarified or specified.

First, the bill appears to broaden the scope of control of the toxic substances defined in CEPA by using new terms such as "products," "activities" and "pollution" in new situations. We believe Parliament should be careful and avoid broadening CEPA's scope so as not to infringe on provincial areas of jurisdiction.

Further, CPEQ does support including the right to a healthy environment in CEPA. In this regard, let us recall that Quebec law already establishes the right to a clean environment and the right to a healthy environment. These rights are protected by Quebec's environment quality act and the Quebec charter of human rights and freedoms.

CPEQ maintains that consultations on developing the implementation framework for the right to a healthy environment must include all civil society stakeholders, including businesses. CPEQ also notes that the bill refers to concepts such as vulnerable populations, susceptibility and cumulative effects. We believe these concepts should be clarified so that the scope of these legislative amendments can be properly understood.

Finally, CPEQ reiterates its support for Bill S-5.

We thank the committee for giving us the time and the opportunity to state our views.

● (1315)

The Chair: Thank you very much, Mr. Piette.

We will immediately move on to the first round of questions.

Mr. Deltell, you have six minutes.

Mr. Gérard Deltell (Louis-Saint-Laurent, CPC): Thank you very much, Mr. Chair.

Good afternoon to all my colleagues.

Ladies and gentlemen, welcome to your House of Commons.

Mr. Piette, thank you for your comments on Bill S-5. You said that you want more details regarding vulnerable populations.

For vulnerable populations, what type of clarifications would you like to see added to the bill?

Mr. Jean Piette: The brief we submitted sets out the areas we are concerned about.

For example, the bill mentions "a group of individuals within the Canadian population who, due to greater susceptibility or greater exposure."

The word "susceptibility" is not clearly defined. We do not know exactly what it is referring to. We think what the susceptibility of a group of individuals is should be better defined. We would like an amendment or clarification on this. It would allow everyone to properly understand the scope of the law.

Mr. Gérard Deltell: In your remarks, you mentioned that we had to be careful not to infringe on provincial jurisdiction.

In your opinion, is there a clause or element in the bill that does not respect areas of jurisdictions, a principle that is sacrosanct and allows a federation to function properly?

Mr. Jean Piette: As you know, the Canadian Environmental Protection Act, or CEPA, passed in 1988, was challenged before the courts. It was examined by four courts and 14 judges. Nine of them found that the federal government overstepped its constitutional jurisdiction with this law. However, five Supreme Court justices against four found that the law was justified by federal jurisdiction over criminal law, as set out in subsection 91(27) of the Constitution Act, 1867.

That means that 14 judges looked at CEPA and nine found it to be unconstitutional. However, the five majority justices of the Supreme Court ruled the law constitutional. We believe it is important to tread very carefully.

In some provisions of Bill S-5, new concepts are introduced in subsections 46(1) and 56(1) of CEPA. The scope of these provisions is broadened. For example, subsection 46(1) mentions activities. The objective is to regulate activities, but activities have always been regulated by the provinces. They fall under property and civil rights, which are under provincial jurisdiction as set out in subsection 92(13) of the Constitution Act, 1987.

It is therefore important to be careful when broadening CEPA's scope, as it was validated by five justices against four. Of course, if the Supreme Court were to examine it today, I have no idea what the outcome would be. I therefore believe that it's important to be careful, as the provinces are already active. They regulate activities through provincial environmental protection legislation. So it is a concern we wanted to share with members of the House of Commons.

● (1320)

Mr. Gérard Deltell: That was clearly stated and duly noted, Mr. Piette. Thank you very much.

[*English*]

Madam Laurie-Lean, welcome to the House of Commons.

You talked earlier about the list and your concern about the list the government is tabling in this bill. Can you explain a little bit more your concern with that?

Ms. Justyna Laurie-Lean: Essentially, we tried to sort of flowchart how the decisions are made. You arrive after an assessment at a decision. Do you put something on schedule 1 or not? Look at it from the official standpoint. If you put it on schedule 1, you immediately trigger obligations—it's time-limited, you must develop risk management, you have a clock ticking—or you can put it on this new list and do nothing at all. You can imagine, in an overworked environment, what you would do.

So you end up, on this list, with nothing happening. If it's truly of concern, then are you going to monitor it? Are you going to research it? Are you going to chuck toys coming in at the border? What are you going to do if it's truly something of concern?

Frankly, I don't know how you would prove that a substance shouldn't be on the list, because everything is capable of becoming toxic in the CEPA definition. That's our concern. We think it kind of dangles there without doing anything that can't be done by other provisions in the act.

Mr. Gérard Deltell: Just to clarify, would you suggest that this article be erased or would you suggest that it be amended?

Ms. Justyna Laurie-Lean: Ideally, I think it should be removed. It's always concerning when the explanation of what it's for keeps changing and isn't clear. But we respect that the government, Parliament, may have an intent. At a minimum, amend it so that if you add something to the list, you're going to say to the public "this is what I'm going to do".

The Chair: Thank you.

Go ahead, Mr. Weiler.

[*Translation*]

Mr. Patrick Weiler (West Vancouver—Sunshine Coast—Sea to Sky Country, Lib.): Thank you very much, Mr. Chair.

Thank you to the witnesses for being with us today.

[*English*]

My first question is for Mr. Castrilli.

You mentioned in your opening comments concerns about the timelines for toxic substance assessments, given the current pace of such assessments that are taking place. I was hoping you could explain to this committee how you see the right balance being struck between having timely assessments while also having robust stakeholder engagement and informed decision-making.

Mr. Joseph F. Castrilli: Thank you for the question, Mr. Weiler.

Our focus really has not been on timelines, and my opening comments were not about timelines, so I am not really in a position to advance the discussion further.

I think you're thinking about other environmental groups that have raised that concern.

Mr. Patrick Weiler: Okay.

One of the other things you mentioned in your brief that was submitted in advance was about the lack of focus, perhaps, on safer alternatives in this bill.

I am wondering what suggestions you would have for amending this legislation such that it would better tackle this issue, and particularly with what you've seen in other jurisdictions.

Mr. Joseph F. Castrilli: That is something we've addressed, some people would say, in painful detail.

We provided two large documents to members of the committee over the last several months. One was a lengthy set of submissions identifying nine areas of concern with CEPA generally, one of them being the issue of alternatives. A second document, which was our proposed amendments to Bill S-5, is a document that's actually longer than Bill S-5.

The part you're referring to, which deals with alternatives, is set out in tab three of our proposed amendments. What we did was basically take a page from the process that's engaged in by the European Union in their REACH authorization program in how to address the question of alternatives. There it applies to any substance that's on their.... They have a separate listing system, similar to CEPA, and we're proposing that the same approach be applied here.

This is what we have done. Since the government is proposing to bifurcate schedule —something we don't think they should do, but assuming for the sake of argument that the government is going to do that—we've suggested addressing the first 19 substances, which are in part 1, with the alternatives analysis we've set out in our proposed amendments, not unlike the analysis that is authorized not only in Europe under REACH, but also in Massachusetts under their Toxics Use Reduction Act, and giving industry a number of years to address that issue as it relates to part 1 substances.

Then in relation to the 132 substances that are in part 2 of schedule 1, we've suggested a somewhat longer time frame. and we've set that out in our proposed amendments at tab three of our material. That analysis would then go through those 132 substances as well.

The point of the exercise is to do exactly what the 1995 standing House committee, the predecessor to your committee, was urging Parliament to do at the time. That is to basically make pollution prevention the primary approach to this statute and not pollution abatement, which is really what it is engaged in right now. Secondly, include alternative analysis in that exercise in order to expedite those reviews.

I think the answers to your questions are found, in summary, in tab three of our proposed amendments.

● (1325)

Mr. Patrick Weiler: Thank you very much, Mr. Castrilli.

You had mentioned in some of your materials the challenges with section 22 of the act. Given that almost two decades have passed since this part of the act has been engaged, I wonder if you have any suggestions for the committee on how perhaps that section of the act, or just environmental protection actions more generally, could be improved such that this can be an effective remedy for people.

Mr. Joseph F. Castrilli: Our proposed amendments dealing with not only our right to a healthy environment, but also the enforcement, or the remedy portion of that exercise, are also contained in our proposed amendments. We have a separate tab for that—I think it's tab two.

There what we're proposing to do is that essentially we've adopted a number of suggestions from, among other places, previous standing committees—again, your committee—in both 2007 and 2017. We're also mindful of the concerns that were identified by the Senate committee this year in June 2022, that the right to a healthy environment in the absence of reforming section 22 will remain as ineffective for the next 20 years as it's been for the last 20 years.

You'll find the statutory language we propose at tab two of our proposed amendments.

Mr. Patrick Weiler: Thank you very much.

My last question I'd like to ask of Monsieur Jean Piette.

There has been some discussion about labelling provisions in CEPA so far. I am hoping you could discuss the risk of duplicating regulatory regimes for product labelling that already exist under the Canada Consumer Product Safety Act if any labelling measures are pursued in Bill S-5.

[*Translation*]

The Chair: Unfortunately, the member’s time is up. You can always answer the question the next time you have the floor, Mr. Piette. My apologies.

Ms. Pauzé, you have the floor.

Ms. Monique Pauzé (Repentigny, BQ): Thank you, Mr. Chair.

I would like to thank all the witnesses for being here today.

I have questions for the representatives of the Canadian Environmental Law Association.

You are proposing that a clause containing definitions be added to Bill S-5.

Can you please briefly tell us what would be the advantages of such a clause?

[*English*]

Mr. Joseph F. Castrilli: Thank you, Madame Pauzé, for your question.

In our proposed amendments, we have a number of definitions for terms in Bill S-5 that are not defined. For example, “non-regression” appears in Bill S-5, and a number of other provisions or terms are identified in Bill S-5 but not defined.

What we've done in our proposed amendments, which are found at tab one of our proposed amendments document, is to define terms such as those. We've also included definitions for some of the alternatives analysis that we want seen as part of a standard pollution prevention regime.

[*Translation*]

Ms. Monique Pauzé: I am sorry to interrupt you, Mr. Castrilli.

I would prefer that you tell me about what advantages there would be if we included the definitions that you provided here in tab 1. How would that improve the bill?

[*English*]

Mr. Joseph F. Castrilli: Let me begin by an obvious fact. Number one, CEPA is an extremely complex statute, both scientifically and policy-wise. What's important for those who will be compelled to interpret it over time, whether that's the regulated community, the non-government organization community, the general public and also especially the courts, is they need to understand what is being pursued by the language that Parliament has used in any particular provision. Anything that helps Parliament and the courts better understand what Parliament wants to do should be welcomed, and that's the purpose of definitions. Judges and administrative tribunal members don't like to have to guess about Parliament's intention, and the more detail and the more information you can provide as guidance, the better the decisions that will result.

● (1330)

[*Translation*]

Ms. Monique Pauzé: I have two quick questions. I would ask that you reply with a yes or a no.

You stated earlier that this was completely inadequate.

Do you believe that the industry's powerful lobbying efforts influenced the drafting of the bill?

[*English*]

Mr. Joseph F. Castrilli: I'm sorry, but is that a question to me?

[*Translation*]

Ms. Monique Pauzé: Yes, the question is for you.

[*English*]

Mr. Joseph F. Castrilli: I have no comment on whether the industry influenced the drafting of this bill.

All I can tell you is, when I read the words of the bill itself, whether I find them satisfactory as a Canadian or not, and as a lawyer or not. In my respectful submission, I don't find Bill S-5 particularly helpful in addressing the issues that are in play in the year 2022. I would hope that I would not have to come back in 20 years and be making the same submissions about issues that have been dealt with over the last 20 years.

[*Translation*]

Ms. Monique Pauzé: Indeed.

You are surely aware of the provisions of the EU's REACH regulation, which are much stricter than what we have here in Canada.

Do you think that Canada should model itself on what the European Union is doing?

[*English*]

Mr. Joseph F. Castrilli: Yes, I do. In fact, we've incorporated some of REACH in our proposed amendments, particularly, for example, at tab three, where we were engaged in expanding sections 56 and 60 of CEPA to better approach the issue of pollution prevention than is currently the case. As you know, sections 56 and 60 have both been opened up by Bill S-5, and those are the provisions we addressed in our proposed amendments to do that.

[*Translation*]

Ms. Monique Pauzé: The REACH regulation also provides for a generic approach to risk management. That means no longer proceeding on a case-by-case basis.

Do you agree with this approach?

I haven't read your submission, I do apologize.

[*English*]

Mr. Joseph F. Castrilli: I think the short answer is that on the spectrum of statutes or regulatory regimes that address the issue of toxic substances, laws like CEPA and the American Toxic Substances Control Act are much more risk-driven than is the situation in Europe under REACH, which is much more hazard-driven.

In my respectful submission, given the nature and the quantity of chemicals that are being generated globally and in this country, we need a much more hazard-based regime to address the challenges, and not a risk-based regime, which is predominantly what we have now.

[*Translation*]

Ms. Monique Pauzé: Right, thank you.

My time is running out, but I have one last question for you.

You are surely aware that the department launched consultations on October 29 on the provisions contained in Bill S-5 that we are currently studying. The government is saying that the consultations will take place until the middle of January 2023. At the same time, the government is putting pressure on us to wind up our study before the end-of-year break, which means that we can't do an in-depth study.

Why do you think the government is holding consultations on certain aspects of Bill S-5 that we will not be able to take into account during the clause-by-clause consideration of the bill?

[*English*]

The Chair: Unfortunately, again, we're out of time, but you can keep your answer for another opportunity.

We'll go to Ms. Collins, please.

Ms. Laurel Collins (Victoria, NDP): Thank you, Mr. Chair.

My questions today are for Ms. Plain and Mr. Castrilli, although some have already been answered which is great.

I would like to begin with Ms. Plain.

You spoke about some of the truly horrific and heartbreaking health impacts your community faces. I want to give you the opportunity to talk a bit more about the consequences pollution has had on the health, the way of life, and the culture of your community. From what you've described so far, it's really clear that this is a denial of the basic human rights to live in a healthy environment.

I'd also love to hear about what resources the Aamjiwnaang community has currently. What is needed to both address the health impacts, and also collect data on what's happening?

● (1335)

Ms. Sylvia Plain: I mean, we're just ignored. We're coordinating a lot with academics. People are doing research. I'm doing a lot of work at the United Nations through the permanent forum, the expert mechanism, because it is a human rights issue. This is an avenue where we can go, engaging with the special rapporteurs and Human Rights Council. We have the opportunity to negotiate resolutions with different departments in the government, with CIRNAC or Global Affairs Canada, wherever we can be heard, because at the provincial and federal levels, the data is not given to us, or if it is given to us, there's no action plan.

We feel very defeated in not having the capacity at the community level to contribute. However, we would like to. I feel there are many options available. It's like we're out of sight, out of mind. We would like to, because we have that data. We have intergenerational data. We know what's going on. We can provide that data, extracted through our land-based activities and oral traditions.

We've developed our own environmental assessment processes. We can articulate our indigenous knowledge at science tables. There's a lot. It's really just being left out of the discussions and the tables where we can take action.

It doesn't need to be this way. We don't want to have these conversations. We want to sit at the table to say, “This is what we've achieved. These are our goals, and we've knocked off a couple of things.”

We would like to see more collaboration with the different levels of government to tackle some of these issues. Why should we have to go to the courts? Why should we have to go to the Human Rights Council? That's just above and beyond.

I feel like Canada has a much higher standard overall. This is an opportunity for these things to be fixed.

Ms. Laurel Collins: Thanks so much.

Can you talk a bit about the impact that enforceable air quality standards would have for your community?

Ms. Sylvia Plain: Right now, it just seems really flexible for the industry companies to keep polluting and to exceed the levels. If there were something firm in place where they knew that they were going to be held accountable, would they be testing the limits?

As I've stated to you before, it feels like we're a test site. It's like, let's see how much we can pollute and get away with, and then through the data of the different generations of community members, it will show through. It shouldn't be that way.

The special rapporteur in a recent report, published by the 49th session of the Human Rights Council, classified Aamjiwnaang as a “sacrifice zone”. That's really what we feel like. It shouldn't get to that point. There should be more accountability for the industry to produce the results of their chemicals, and have action plans and reinvestment plans.

There's a lot, and we're just a small example of many issues that are faced by vulnerable populations of indigenous people across Canada. We seem like ground zero as the worst-case scenario for Canadian environmental issues, but we don't want to be that. We should be an example of how you can fix that, and how we can collaborate together.

Ms. Laurel Collins: Thanks so much.

Clearly CEPA has not been effective at protecting your community. You've taken your concerns to the United Nations. Can you talk about any other changes to CEPA that are needed in order to make a real difference?

Ms. Sylvia Plain: There is an acknowledgement of the importance of indigenous knowledge, our traditional ecological knowledge.

As I said, we have environmental assessment processes. We have data that we can contribute. I feel as though if there were something in there to support that, whether through funding or regional agencies to bring together experts to utilize that, then we could be contributors to other Environment Canada offices. That's something we fight for at other tables and on other pieces of legislation, to include our knowledge.

We have our own science and technology. I've seen success stories of utilizing traditional practices in collaboration with science, in Yukon, for example, and the inter-tribal watershed. There are really great programs coming out with great results.

It's just a matter of seeing what's on the other side. If we make that decision to invest, what are benefits that can come out of it?

● (1340)

[*Translation*]

The Chair: Thank you, your time is up.

For the second round, I am going to reduce speaking times by 20% for both groups of witnesses, as I did last Tuesday, so that we may finish more or less on time. Speaking times will be as follows: four minutes, four minutes, two minutes, two minutes, four minutes and four minutes, for a grand total of twenty minutes.

Mr. McLean, you have the floor for four minutes.

[*English*]

Mr. Greg McLean (Calgary Centre, CPC): Thank you, Mr. Chair.

Thank you for the variety of witnesses here.

I'm going to start with Mr. Castrilli. One of the things you said really hit home for me. That was the fact that we want to deal with the definitions in this legislation, as opposed to having them interpreted in courts. It's something that I've said at this committee numerous times as well. You did give some examples of things that need to be further understood before we just throw them into the courts for discussion at that point in time.

You did go into some detail here on some of the proposed amendments you talked about. You talked about the constitutional effect of dividing the schedule into two classes, part one and part two. You referred to a 2007 environment committee report.

I'm a bit of a skeptic on that. I'd like you to enlighten me a little more, please. If I asked four constitutional lawyers something, I think I would get six different answers at this point in time. I'd really appreciate hearing what you have to say about how we're going to have a constitutional battle.

Who are those people who are going to challenge this constitutionally? What would be the basis of the challenge?

Mr. Joseph F. Castrilli: Mr. McLean, thank you very much for the question.

As you may know, there are already two challenges in the federal courts against the plastic manufactured items designation that's in effect pending the results of federal court cases. They were brought by an industry coalition concerned about that designation. The first of those two cases was actually brought a month after Bill C-28—which is the predecessor to Bill S-5—was tabled in Parliament. There's not necessarily a connection between the two, although the timing is...as I've suggested.

The basis for their concern, as I understand it from reading the notice of application, is that the constitutional foundation for CEPA is subsection 91(27) of the Constitution Act of 1867, the criminal law power. In order for federal legislation to be designated as valid based on the criminal law power, it has to have a valid criminal law purpose. The courts have said, essentially, that the problem has to be an evil or something that is injurious to the public.

I take it from the claims in the documents that were filed in federal court that the industry coalitions are suggesting that plastic manufactured items are not injurious to the public. That's their claim. How that will play out is for the federal courts to sort.

What I'm concerned about is—

Mr. Greg McLean: Okay.

What I was trying to get at here was your argument of constitutionality. Your concern here is on what's already ongoing in the federal court regarding the case around plastics. Is that correct?

Mr. Joseph F. Castrilli: That can be made worse by sloppy drafting, which is what I think Bill S-5 is engaged in.

I don't think it was a wise decision to eliminate, for example, the title of schedule 1, “List of Toxic Substances”. Number two—

Mr. Greg McLean: With respect, I'm not a lawyer—I think a few of my colleagues around the table are—but other environmental organizations have provided us with testimony that directly contradicts what you're saying there about the title, so we're being led in two different directions by different environmental organizations here.

Can you address the confusion?

● (1345)

The Chair: We're done on this segment. I'm sorry.

As I said, it doesn't prohibit the witness from answering in another context.

Ms. Thompson, you have four minutes, please.

Ms. Joanne Thompson (St. John's East, Lib.): Thank you, Mr. Chair, and thank you to the witnesses.

Ms. Plain, I'd like to begin with you, if I could, please.

You have stated in some documents that I've read, I believe, that you would like to see improved enforcement tools in CEPA to support the proposal for the right to a healthy environment.

The right to a healthy environment is provided for under section 2 of the act, and furthermore, the bill proposes that within two years of the amendments coming into force, the minister must develop an implementation framework and this framework must be published with an annual report.

Does this satisfy your concerns, and if so, how does it? If not, what would you like to see happen?

Ms. Sylvia Plain: We'll take whatever we can get. I know that environmental NGOs.... I haven't added anything in here because I've seen their intentions, so I trust what's there.

I guess for us—for Aamjiwnaang—we can't add anything specific in there. It's just so bad. The data can't just come to us and then just be sitting there. We're ingesting things.

If there is some sort of action plan in place, we want to be notified. We want to be included. We need to be prepared. We're just in a...reactive approach right now. We're not even warned, really. Most of the time we don't even know.

I don't have anything specific on that portion of it. I'm just really pleading that it's bad. If you can strengthen any section of it to make things move.... We don't want to be sacrificed. We want to be a part of that, to be cared for, to be thought of and to be protected, if that's the intention. We want to see our future generations continue to fight, but not have to fight as much.

That's all I can really offer. We're going to ask for whatever we can just to strengthen that and hopefully, through what I've shared today, you're hearing where different parts can be strengthened and the implications of what is not currently working in CEPA for us. It's a failure. Otherwise, I feel like we wouldn't be coming here with these issues.

I'm sorry, I can't answer that in a full capacity. It's really just a plea. We're ground zero. This is not protecting us.

Not only that—we're not thinking about ourselves only. There are specific groups like widows of the plant workers. There are the workers that work there. There are people in Canada and the United States. There are people downriver. We're coming here thinking about all of these people because Aamjiwnaang is a much bigger.... We signed the Treaty of Detroit. When we think about Aamjiwnaang, it's so much bigger.

That's what we have in mind when we come and do this work. Thank you.

Ms. Joanne Thompson: Thank you. I really appreciate that you're here today.

I realize that this has been a very lengthy process. Have you been engaged in consultations during the number of years that CEPA has been working through the government, from committee to the House and then the Senate?

The Chair: Answer in 15 seconds, please.

Ms. Sylvia Plain: I have not. I'm in different meetings with the chiefs of Ontario or Aamjiwnaang. Officially no, I have not participated in a consultation process.

[*Translation*]

The Chair: Thank you.

Ms. Pauzé, you have two minutes.

Ms. Monique Pauzé: Thank you, Mr. Chair.

Mr. Castrilli, I'm going to repeat the question that I asked earlier.

Consultations will end mid-January, but we will not be able to take the results of the consultations into account, because we are being pressurized to wrap up our study right now.

Do you have something to say on the subject?

[*English*]

Mr. Joseph F. Castrilli: This is a statute that gets amended once every 20 years. It's most likely that this statute will, in a material way, not be back before Parliament until some time in the 2040s.

We've identified nine areas of concern with this statute, some of which go back to the early 2000s. I think it's incumbent upon Parliament to get right what's wrong with CEPA right now, because we may not have an opportunity to do so in 20 years. Therefore, I think Parliament needs to take all the time it needs to get this right.

● (1350)

[*Translation*]

Ms. Monique Pauzé: Thank you.

I heartily agree with you. We should have the time we need to get this right.

Mr. Piette, I have in my hand a letter from two of your colleagues, Ms. Lauzon and Mr. Dulude. The letter talks about the possibility that the bill is encroaching on provincial areas of jurisdiction.

Do you think such an encroachment could have a negative impact on Quebec's businesses in terms of the environment?

The Chair: You have 30 seconds left.

Mr. Jean Piette: That is indeed the case.

I was a legislative drafter for nearly 20 years. When you draft laws, you always have to be careful to avoid any encroachment, because this sends the wrong message to stakeholders who are targeted by an act. Lawsuits can ensue.

The Chair: Unfortunately, we have to stop there.

Mr. Kurek, you have the floor.

[*English*]

I'm sorry.

Ms. Collins, it's your turn for two minutes. I'm sorry about that.

Ms. Laurel Collins: I apologize. Because of the delay with the translation, I didn't hear what you said. I just assumed it was me.

My question is for Mr. Castrilli. Can you talk a bit more about the suggestion you made that the government impose mandatory chemical testing obligations on the private sector, where information isn't available to determine if a substance is toxic or capable of becoming toxic?

In particular, I'm wondering if industry is best placed to provide this information. Do you have any concerns about industry providing information on chemicals in their own products, which the government is trying to regulate?

Mr. Joseph F. Castrilli: Thank you for the question, Ms. Collins.

There is already an obligation in section 71 of CEPA. It's an authorization whereby the minister may impose a testing obligation in particular circumstances. There's a second section, section 72, which provides an impediment to the minister requesting the testing.

That's part of the statutory problem that needs to be corrected. It's not corrected by Bill S-5. It is corrected by our proposed amendments, and they can be found at tab five of our proposed amendments.

The long and short of it is that the minister has the discretion to do so now, but rarely does, in part because of section 72. These two sections need to be amended so that whenever the minister is uncertain as to whether a substance is toxic or capable of becoming toxic in the circumstances that are described in Bill S-5, there is a mandatory obligation on the minister to require the testing. That can happen one of two ways. Either require industry to do the testing, or else require that industry pay for testing that's conducted, either by the government or by an outside, independent laboratory.

Ms. Laurel Collins: Thank you.

How do you feel we could prevent the shift in chemical and toxic pollution from air release to land release?

The Chair: Answer in 15 seconds, please.

Mr. Joseph F. Castrilli: The short answer is, you need to make part 4, which is the pollution prevention regime, more robust than it is now. To do that, you should adopt our proposed amendments in tab three of our proposed amendments document.

The Chair: Thank you.

Go ahead, Mr. Kurek.

Mr. Damien Kurek (Battle River—Crowfoot, CPC): Thank you very much, Mr. Chair.

I'm going to try to accomplish a few things in my statement here.

First, I would invite all of the witnesses, if you haven't had a chance to get all of your points across—I know some of you already have submitted briefs—to please feel free to follow up with this committee.

Mr. Chair, I distributed a motion on Wednesday morning. I would like to move that motion. I understand there's a friendly amendment coming.

Hopefully, we can get this out of the way here shortly, and then if I can, I'll get a couple more questions in.

The motion is as follows:

> That the committee undertake a study of the supplementary estimates (B), 2022-23, referred to the committee on Thursday, November 17, 2022, that the Minister of Environment and Climate Change appear before the committee on the supplementary estimates (B), 2022-23, for two hours, and that this meeting be held as soon as possible and televised.

● (1355)

The Chair: I think Mr. Duguid wants to propose an amendment.

Mr. Terry Duguid (Winnipeg South, Lib.): Yes, Mr. Chair.

I appreciate Mr. Kurek's motion. I have a friendly amendment, as he mentioned, to have the minister come for the first hour and officials come for the second hour, as is our usual practice.

The Chair: Are we all agreed?

Some hon. members: Agreed.

(Motion agreed to)

The Chair: That was pretty non-controversial.

We'll go back to you, Mr. Kurek. I didn't take any time away from you for that.

Mr. Damien Kurek: I appreciate that, Mr. Chair.

Thank you to the committee for that show of collaboration. I appreciate that greatly.

Ms. Laurie-Lean, we're just finishing up a study on clean tech. Canada's mining sector is uniquely positioned to seize opportunities related to emerging technologies, whether that be the components needed for batteries to do with electric vehicles, critical minerals, small modular reactors and a whole host of other things. I think that's part of the reason it's so important that we get Bill S-5 right. It has to do a lot with not only the chemicals and the designations and whatnot that we've heard a lot about, but this is what will position or hold Canada back from being successful as a leader in the future in green tech and all of the associated things.

I'm wondering if you could expand a little bit on anything that is required to ensure that we do get this right and that we don't hold our nation back from being a successful leader specifically related to the mining industry.

Ms. Justyna Laurie-Lean: Well, I'll put two things, one that's very mundane and that probably applies to a lot of others. It would really benefit our sector to have good government, in the sense of officials who are able to provide guidance and who therefore have the resources to provide guidance, reporting systems that work and so on. That was why our concern was around resourcing and taking focus away from the bread and butter.

The other issue is that we're a sector, along with the rest of the economy, in transition. The big things are electrification and digitization. That requires new technology, some of it developed in Canada, hopefully, and some coming in from other countries. We want to make sure that our environmental regulatory system doesn't hamper that innovation. We're not a big enough market. Compared with the EU and the U.S., we're not a big market. We've had experience in the past where a supplier of an innovative product will say that they're sorry, but the hoops for getting something approved in Canada are too big. They won't supply our market.

Mr. Damien Kurek: Perhaps I could ask you a simple and I think yes-or-no follow-up. If we don't get this right, do we risk not being able to provide these resources, in your case minerals and whatnot, to the rest of the world when it comes to ensuring that these technologies can be developed?

Ms. Justyna Laurie-Lean: I think it's “one of”. I think CEPA is one of many other factors in project permitting, infrastructure and a whole bunch of things. But yes, it is an important factor.

Mr. Damien Kurek: I have one quick question to do with the online query tool. I know that there have been some discussions before the Senate and whatnot. In as much time as I have left, I'm wondering if you could share your perspective on the idea of an online query tool.

Ms. Justyna Laurie-Lean: I'll try to do that quickly.

If you look at schedule 1, there are a number of listings that are groups. That is what we expect in the future—not a single compound but a group of things with certain characteristics. The person operating a mill, a plant or a manufacturing facility looking at the materials safety sheet has a compound with a CAS number, and is having to figure out how they correspond and is not knowing. The new tool actually allows you to put in the number for the substance. It tells you whether it was assessed, which will be very helpful to the user.

The Chair: Thank you.

Go ahead, Ms. Taylor Roy.

Ms. Leah Taylor Roy (Aurora—Oak Ridges—Richmond Hill, Lib.): Thank you, Mr. Chair.

Thank you to all of the witnesses for being here.

I have listened carefully to the testimony and the submissions regarding ambient air quality problems posed by toxins.

Ms. Plain, your testimony was very compelling on the data you had on what's happening.

Mr. Castrilli, I'm wondering if you could talk a little bit more about your recommendations [*Technical difficulty—Editor*] about ambient air quality problems posed by toxins not being addressed currently, what you see being done and how that could help address the concerns Ms. Plain raised in her testimony.

● (1400)

Mr. Joseph F. Castrilli: Thank you for the question.

I guess the issue originates with the 2017 report of this standing committee, in which it recommended that there be national ambient air quality standards developed under CEPA. The purpose of them, of course, is to address a half a dozen or so substances that are problems nationwide, lead being one of the primary examples.

It's a great equalizer to have ambient air quality standards, because there are parts of the country—and Ms. Plain identified one such place in Sarnia—that have substandard air quality. If we had a set of national standards, we could redress that kind of problem for vulnerable populations like the population she is describing.

One thing we have to do, though, is that we cannot rely on the standards that currently Canada has, which are issued under sections 54 and 55 of CEPA. They're simply non-enforceable objectives, number one, and number two, some of them are as much as four times less stringent than their counterparts in the United States. We need robust standards and we need them to be enforceable, and then we'd begin to address problems like the ones that are being discussed here today in Sarnia.

Ms. Leah Taylor Roy: Okay, thank you.

I also noted that one of the other groups, I think it was the coalition of the ENGOs that brought up the idea of putting in a specific reference to enforcing ambient air quality standards in the right to a healthy environment. Do you think this would be helpful to ensuring that this is done?

Mr. Joseph F. Castrilli: Well, I'm looking at their submission, and the way it's framed, I don't think would be very helpful. I understand the intent, but it's not good enough.

The problem is that it simply indicates that as part of the discussion about the implementation framework, there is a suggestion that there be specification of the actions that the ministers will take when ambient air quality standards are exceeded. Since ambient air quality standards are not legally enforceable now, that phraseology would not get you anywhere, number one. Problem number two, as I said at the outset, is that some of Canada's ambient air quality standards, which are really guidelines, are as much as four times more lenient than the American standards. We need better standards, and they need to be legally enforceable.

While I understand their suggestion, it's not really going to get us where we need to go.

Ms. Leah Taylor Roy: Okay, thank you.

Mr. Joseph F. Castrilli: What we need to do is what we suggest in tab eight of our submission.

Ms. Leah Taylor Roy: It's in tab 8. Okay, thank you.

In my remaining time, I want to turn my questions to Ms. Plain.

Is she still here?

The Chair: Yes, but there is really only time for a comment, Ms. Taylor Roy.

Ms. Leah Taylor Roy: I am just asking how we could help. Obviously the development of the implementation framework is important in how we move forward. What could we do? Do you see yourself being able to be involved, and what would it take for you to feel like you have participation in that?

If there is not time to answer fully, perhaps you could submit something to us. I feel that your participation is very important.

The Chair: Unfortunately, we are really over time.

If you could submit a letter of some kind as to how you feel you can be engaged in the framework, it will be circulated to the committee.

Ms. Sylvia Plain: Yes. I plan on submitting a brief that directs to resources, but also some recommendations on how I feel that Aamjiwnaang can contribute.

The Chair: Thanks so much.

Thank you to all of the witnesses for another fascinating discussion. These have been insightful and substantive hearings. This is our second day of hearings, and it augurs well for the rest of the study.

I'm going to pause here because we have to bring in our next panel. We'll proceed with them in a few minutes. Thank you.

● (1400)

_____(Pause)_____

● (1405)

The Chair: Hello to our next panel.

We have with us, from the Canadian Centre for Alternatives to Animal Methods, Dr. Charu Chandrasekera, executive director; from the Chemistry Industry Association of Canada, Bob Masterson and Danielle Morrison; and from the Manitoba Eco-Network, we have Heather Fast; and from Vigilance OGM, we have Thibault Rehn, coordinator of the organization.

[*Translation*]

Each group will have a total of three minutes to make its presentation.

Our first witness is Ms. Chandrasekera.

[*English*]

Dr. Charu Chandrasekera (Executive Director, Canadian Centre for Alternatives to Animal Methods): Thank you, Mr. Chair.

It is a pleasure to be here today to speak about the historic legislative changes being made to modernize toxicity testing in Canada. Toxicity testing is the process of determining how chemicals negatively impact our normal biological functions. This is currently done through extensive animal testing, where mice and rats serve as the gold standard, and dogs are the favoured non-rodent species. Many of these legacy animal methods were developed back in the 1950s and 1960s, and they are unreliable. They cannot adequately predict human biological responses. They are costly, time-consuming and ethically questionable.

There is a global shift away from animal testing, with new, 21st-century approaches and methods changing the game. For example, with organ-on-a-chip technology—which I'm holding here—we can emulate human biology on a chip the size of a thumb drive. We can capture toxicity in a petri dish, with 3-D bioprinted tissue models, as we do at my centre.

Such innovation is backed by bold global efforts, and with legislation and strategic road maps to phase out animal testing. The U.S. and the EU have an enviable, almost unbeatable, lead in this race. Needless to say, Canada is lagging far behind those nations, but, with Bill S-5, we have an unprecedented opportunity to usher in a new era of research and innovation to give Canada a competitive edge on the world stage.

As you will see in my brief, it is critical to strengthen the laudable amendments made in the Senate and adopt language that enforces the use of practicable and scientifically justified non-animal methods. This will prioritize animal replacement and the timely incorporation of these methods into regulatory risk assessment, complemented by a national strategic road map and sustainable funding for the Canadian Centre for Alternatives to Animal Methods, so as to catalyze our domestic effort—in partnership with Health Canada and Environment and Climate Change Canada—and meet the government's goal of ending toxicity testing by 2035.

I represent Canada's national hub and international interface. I have a seat at the table in international consortia on alternatives to animal testing. The last time I gave a talk at the European Commission, in 2019, I talked about how we select legislation and funding commitments in Canada. The number one question I got was, “Why don't Canadians care?” To this day, I don't have an answer.

Next year, in August 2023, my centre will be co-hosting, along with Health Canada and Environment Canada, the largest and highest-profile international conference in this field. When we welcome regulators, industry, academics and non-profits from around the globe, I want to be able to shout from the rooftops that Canadians do care.

I urge this committee to strengthen Bill S-5 and pave the way for Canada to play a leading role, make a significant leap to join our global counterparts in phasing out animal testing, and create a healthier Canada for generations to come.

Thank you.

● (1410)

The Chair: Thank you very much.

We'll now go to Mr. Masterson.

Go ahead, please.

Mr. Bob Masterson (President and Chief Executive Officer, Chemistry Industry Association of Canada): Thank you, Mr. Chair.

Thank you, committee members, for dedicating your Friday afternoon to this very important bill.

I am very pleased to be here today with my colleague Danielle Morrison. Ms. Morrison worked closely with your colleagues in the Senate as this bill moved through that chamber, and she will answer some of your questions about the specific amendments.

As a responsible care organization, CIAC, along with our chemistry industry, is committed to continuous improvement. We welcomed the original Bill S-5 as introduced. We felt it represented an appropriate update to CEPA and followed years of comprehensive study by parliamentary committees, as well as input from stakeholders and officials.

Overall, we're pleased to see how that bill and, generally, this bill, as amended, preserve the very important risk-based approach at the heart of this act. Through that risk-based approach, we have CEPA's chemicals management plan, which has had tremendous success. We've been a strong partner with that, all along the way. It has received international acceptance. It has a robust stakeholder process. That goes right through from initial risk assessment to risk management instruments.

Given that the original purpose of the chemicals management plan was to inform Canadians and create improved confidence in the chemistries that are in commerce, we support the amendments that reinforce principles of transparency and public participation. This includes the legislative recognition of a right to a healthy environment, the new provisions that allow any person to request the minister to assess a substance, and the creation of a searchable electronic database for domestically used substances.

At Tuesday's meeting, we were also pleased to hear that Dr. MacDonald didn't have any strong concerns about the renaming of schedule 1.

With the chemicals management plan nearing the end of its third phase, this bill will make important changes that will continue to guide decision-making over the next decade and allow for innovations, such as those talked about by the previous presenter, in terms of testing methods. That is one of the questions at the heart of this. We have to make sure we have enabled and preserved the ability to introduce innovation into the Canadian economy.

Unfortunately, there are a few aspects of the amendments to this bill that, we would say, unduly hinder the ability to be innovative and seek to impose a hazard-based approach on what is fundamentally a risk-based instrument. I'll highlight two of those: the creation of the redundant hazard-based watch list, and the provisions on how confidential business information will be eroded, seek to stifle innovation, and benefit competitors.

We look forward to the discussion and to answering the wide range of questions you have. As mentioned throughout today, this is indeed a very complex bill and set of amendments.

Thank you.

The Chair: Thank you.

We'll go now to Ms. Fast from the Manitoba Eco-Network.

Ms. Heather Fast (Director, Policy Advocacy, Manitoba Eco-Network): Good afternoon.

Thank you for the opportunity to speak with you today.

The Manitoba Eco-Network's work with vulnerable community members in Winnipeg has indicated why it is so important for the federal government to play a strong and effective role in the regulation of toxic substances in industrial activities.

Currently, Manitobans do not have the same procedural and substantive environmental rights as Canadians in other jurisdictions. Weaknesses in provincial and municipal legal requirements prevent community members from participating in the investigation and cleanup of toxic substances.

Manitobans are excluded from enforcement activities, and lack access to a range of important information. This puts environmental advocates, impacted citizens and vulnerable populations at a huge disadvantage when seeking protection of their health and surrounding environment. It also limits access to environmental justice for Manitobans.

As a result, we have focused on potential amendments to Bill S-5 that could strengthen the protection of vulnerable populations and ensure that all Canadians have access to the legal tools needed to facilitate access to environmental justice.

The recognition of environmental human rights at the federal level for the first time is an exciting outcome of Bill S-5. However, there's a need to amend the bill to ensure that the environmental rights of Canadians are able to be effectively used and protected under CEPA.

Bill S-5 should better align with Canada's international commitments and use terminology that better clarifies the scope of environmental rights. For example, the UN General Assembly recognized the right to “a clean, healthy, and sustainable environment” in a resolution this past July, which Canada supported. Similar clarifying language could be used in Bill S-5.

Proposed limitations on recognized environmental human rights in Bill S-5 should also be removed. The recognition of environmental human rights in other jurisdictions in Canada and 193 countries around the world does not include limitations on the right, so it's unclear why we need them in CEPA.

Corresponding public funding provisions should also be included in CEPA to reduce the financial barriers that often limit community engagement in core processes and independent testing procedures needed to protect environmental rights.

Finally, in order for Canadians to effectively leverage their environmental rights under CEPA, there's a need to address long-standing problems with section 22. It's disappointing this significant barrier has not yet been addressed in Bill S-5, but there's still time.

We recommend the committee adopt proposed recommendations from organizations, like the Canadian Environmental Law Association, that would operationalize section 22, and improve public access to environmental justice at the federal level.

Bill S-5 is an important opportunity to improve access to environmental justice for Manitobans, and help fill legal gaps in our provincial regime by regulating the use and cleanup of toxic substances. To achieve this outcome, the purpose of Bill S-5 and CEPA should be to protect the environment and people from harm.

We ask that you reform Bill S-5 to improve environmental protection and access to environmental justice for all Canadians.

Thank you.

● (1415)

The Chair: Thank you.

We'll go now to Mr. Rehn from Vigilance OGM.

[*Translation*]

Mr. Thibault Rehn (Coordinator, Vigilance OGM): Good afternoon.

Let me start up by saying thank you for giving us the opportunity to speak before you today on behalf of Vigilance OGM. We will be concentrating on Part 6 of the Canadian Environmental Protection Act, or CEPA, which deals about animate products of biotechnology.

You no doubt know that in 2017, Quebeckers were the first in the world to eat a genetically modified animal, which was genetically modified salmon. It's quite something to be the first in the world, especially when no one informs you of the fact.

The company made no announcement at the time and is still keeping quiet while its factory on Prince Edward Island is churning out tons of product annually that once again, winds up on our plates without warning. You will not be surprised when I tell you that our first request is that there be mandatory labelling for all genetically modified organisms, as is the case in 64 countries around the world, to compensate for the lack of transparency from the biotechnology companies.

Bill S-5, which was over 23 years in the making, only seeks to make minor administrative changes to Part 6 which do nothing to improve the assessment process provided for in the case of genetically modified organisms. We would like to see three major amendments.

Firstly, there must be mandatory consultations in order to obtain free, prior and informed consent from first nations who might be impacted by genetically modified organisms. As you know, salmon is a highly symbolic species for almost all of Canada's first nations. They were not consulted when genetically modified salmon was approved.

Secondly, we have to shift the onus. As long as a company cannot prove that a living organism which has its equivalent in the wild can be used completely safely, the development, production, import and use of the genetically modified organism should be prohibited. Why take the risk of contaminating our ecosystems when we have non-genetically modified living organisms that do the job?

Thirdly, we need a transparent and independent assessment process. All the studies used by Environment Canada or Health Canada about consuming such products should be made available and peer-reviewed. We can't say that our assessment system is science-based if the science is not transparent.

As you perhaps know, there's a lot of talk about genome editing, which is a new set of tools that biotechnology companies can use. These tools will probably speed up the commercialization of genetically modified animals in Canada in the future. It is therefore essential that Canada has a solid regulatory framework in order to prevent any genetic contamination of its ecosystems.

What's more, Canada will be hosting COP15 in Montreal in two weeks. Biotechnology will be one of the issues at the heart of important negotiations. We know that biotechnology companies are heavily lobbying the Government of Canada as well as the governments of many other countries.

● (1420)

The Chair: Thank you.

Unfortunately, I have to stop you there, but there will be time to answer questions.

[*English*]

Mr. Kurek, you have six minutes.

Mr. Damien Kurek: Thank you very much, Chair.

Thank you to all of the witnesses.

Being that time is a scarce resource, I would invite the witnesses, as I typically do, to feel free to provide further information to this committee in writing afterward if they have further information or did not have a chance to answer a question as fulsomely or as they feel they should have—and please make sure to not take this personally—as it is very helpful in terms of our further discussions and deliberations.

For the CIAC, I found it interesting in the submission you made to this committee that it's not only industry that wants to make sure we get this right. A joint submission was made by a number of environmental groups as well. This bill also came to this committee with broad support across political parties.

There's a question that I would ask Mr. Masterson or Ms. Morrison.

Can you outline the reasons why we need to get this right and how it relates both to the need for the intent of what environmental protection is and also to global competitiveness in terms of striking that right balance?

Mr. Bob Masterson: Do you want to start with the environmental protection, Danielle, and I'll speak about innovation?

Ms. Danielle Morrison (Policy Manager, Chemical Health and Data Management, Chemistry Industry Association of Canada): Yes, absolutely.

As part of our responsible care ethic and principles—which I'm sure Bob would be happy to speak to if you have more questions about that—we certainly support environmental protection and all of the things that go along with that, including the right to know and resource conservation.

Through the chemicals management plan, we believe this is extremely key, and it is addressed quite well through very robust risk assessment and risk management instruments, which are really at the discretion of expert assessors within the department who have the tools they need to look at various attributes that should be included within a risk assessment or risk management and to determine how they should be incorporated to include the most up-to-date and relevant science.

Mr. Bob Masterson: You asked the question about competitiveness, and I mentioned in my introductory remarks confidential business information. It's important to note that we do support the public's right to know. That's absolutely clear. At the same time, many don't know that chemistry is one of the most innovative industries around. One quarter of all patents granted in the U.S. every year are in the business of chemistry. We have to make sure, when we're looking at changes to confidential business information, that we're not creating a condition where Canadians are not getting access to the newest, safest chemistries that will help to solve solutions for clean air; clean water; safe, nutritious and abundant food; and to address climate change. That all depends on innovative chemistries.

We can't create boundaries under CEPA that are inconsistent with the overarching architecture of how the Government of Canada addresses confidential information, and restrict the industry's willingness to introduce those products.

We do see that, as you know, when we look around at the patented medicines area. There's a lot of concern about Canadians not having access to the most recent and best medicines.

Mr. Damien Kurek: Perhaps I'll ask a fairly pointed question. If we don't get it right in this bill and the updates to CEPA, what are the economic consequences of that not only domestically, but also some of the possible environmental challenges that would result from a leak of capital in investment that may go to regimes without as strong a record as Canada has?

Mr. Bob Masterson: Well, I would go back to some of the concerns expressed by Ms. Plain in the last panel. There are some very legitimate concerns. I have a number of answers to some of the questions she had.

Here's the truth. Industry does not make improvements in environmental protection on a step-by-step basis. We do it a little bit better here and a little bit better there. You make drastic, step-change improvements when you make major, new investments. What we need to do is make sure we have a situation in Canada that encourages and promotes new investment that will lead to improved environmental protection.

Again, there are opportunities in this act that will work against Canada's objective to have innovative new processes and innovative new chemistries.

Mr. Damien Kurek: Specifically on balancing that right to know, would you have some suggestions to balance that public's right to know versus ensuring that some of the sensitive information that some of your member companies would...?

Would you answer in about 30 seconds, because I have one more question I'd like to get to.

● (1425)

Mr. Bob Masterson: Certainly, with confidential business information, that information must be turned over to the regulatory authorities. They act in the public's interest. Every citizen still retains the right to petition for the release of that information. That can be considered. We think that's the way to do it.

If there is a desire to go forward, it can be done, as with other consumer products, through labelling. Think about masking...and saying, “Here's the nature of what's in this, the hazards and the risks incorporated.” You do not want to reveal specific formulas that your competitors will have line of sight to.

Mr. Damien Kurek: I have a quick, final question.

We've heard a number of concerns about having some duplication. I suspect it's well intentioned to have a watch-list, versus some of the previous mechanisms that exist. From your association's perspective, what are the challenges associated with duplication of a watch-list versus already codified mechanisms?

The Chair: Answer very briefly. You have about 20 seconds.

Ms. Danielle Morrison: Absolutely.

In terms of the watch-list, this is really moving towards a hazard-based approach, in addition to being redundant with the existing mechanisms in place to control existing substances. They have been determined as acceptable on the market as is, but if new uses come up for these substances, then there are those control mechanisms to address and assess that situation.

The Chair: Thank you.

I think we have to stop there. I'm sorry.

Mr. Longfield.

Mr. Lloyd Longfield (Guelph, Lib.): Thank you, Mr. Chair.

Thank you to the witnesses. We're doing a very technical study. We really appreciate your giving your technical expertise.

I'd like to draw my questions over to Dr. Chandrasekera around animal testing. Recently I met with the Guelph Humane Society in their new facility. We moved quickly from talking about the new facility and the animal care that's going on there to the topic of CEPA and the provisions around animal testing.

We also have the University of Guelph, which is doing a lot of work around animals—for testing, including using animals for testing cancer drugs. Drugs are being developed for ovarian cancer and other cancers at the University of Guelph.

I'd like to focus on these new approach methods and what role CEPA can play in transitioning us from the dated practices around animal testing and towards the more innovative technological solutions that are out there.

Dr. Charu Chandrasekera: Thank you for the question.

The world is burgeoning with these new approach methods right now, and this is our opportunity to really put that into law, to put it int writing, that we need to start using these methods. Until these methods go into regulatory acceptance—and this is one of the bottlenecks in the field, in every country, really.... We have all these amazing technologies being developed that are better predictive of human biology, but they are not being incorporated into regulatory risk assessment as fast as they should.

If we could strengthen our language to solidify that and not leave any space for interpretation or misinterpretation, and use every opportunity we can to replace and reduce the use of animals with practicable and scientifically justified methods and put these into our regulatory risk assessment process, that would get us a long way.

When you're thinking, perhaps, about revisiting this bill 20 years from now, some other countries in the world will have already ended animal testing, and we cannot be following these countries all the time. We need to take a lead and show how we can do that, so there are several different areas where the bill can be strengthened to ensure that we focus on the replacement and reduction of animals using these new methods.

Mr. Lloyd Longfield: Thank you.

You mentioned the phrase “scientifically justified”. When I look at the plan for chemicals management priorities addressing testing, those words aren't used. We also don't mention the three Rs of replacing, reducing or refining. The language is inconsistent.

Is that something you can give us testimony on for how the language can be improved in what is in front of us?

Dr. Charu Chandrasekera: Yes, absolutely.

Some of my proposed amendments are in the brief that I provided.

This is where we need to be very concrete with our language. Even in proposed subparagraph 68.1(2)(a), it says “is not reasonably possible”. Things like that are too vague.

The language that I am proposing comes from the United States. The U.S. Toxic Substances Control Act was amended back in 2016. They went through this process and came up with language that seems to be working very well in the United States with practical and scientifically justified methods to talk about a replacement and reduction and not leaving space to misinterpret refinement.

The way it is written right now, we have “reduce or refine the use of” animals, but refinement could really be just making the cage bigger, one square foot more for dogs, or putting in toys or bedding for mice, but refinement should really be refining procedures to minimize pain and distress. These things need to be written in; otherwise, we will not be making full use of these amendments that we are bringing forward.

● (1430)

Mr. Lloyd Longfield: That's very helpful indeed.

Proposed section 68.1, in limiting research and investigations, really ties the minister's hands in some cases when we aren't providing the off-ramp to get into the new technologies.

Dr. Charu Chandrasekera: Yes, I think the three Rs, honestly, have been around. The three Rs are replacement, reduction and refinement of animals in scientific research and testing. This was written back in 1959, and not much has changed.

If you think about it, if the scientific community were really adhering to these practices, we would not be using this many animals. In Canada we use over four million animals a year. It's over 200 million animals around the globe. The numbers have risen since 1959, so unless we make concrete proposals to replace, first, and then reduce and then refine the procedures.... Because we're going to be using animals for the foreseeable future, and those animals deserve better care to have their pain and suffering minimized, refinement should be in there, but not on an equal footing with replacement, which should be prioritized.

Mr. Lloyd Longfield: One caution I would put out is about getting too prescriptive in the act, and it may be through enabling legislation or regulations that these are items that the act can point towards, and then those details can be handled in another way.

Would that be a fair comment?

Dr. Charu Chandrasekera: That would be a fair comment if you could put in some language there that requires the timely incorporation of these methods into regulatory risk assessment. Then I think it will be more of an incentive to really focus on reduction and replacement while working on other ways to make animal lives better.

The Chair: Thank you.

[*Translation*]

Ms. Pauzé, you have the floor.

Ms. Monique Pauzé: Thank you, Mr. Chair.

I would like to thank all the witnesses for being with us this Friday afternoon.

Mr. Rehn, thank you for your presentation. I don't have much time, and I have a lot of questions for you.

You mentioned the importance of shifting the onus when it comes to GMOs. For example, we know that the salmon farmed by AquaBounty grows twice as quickly as wild salmon.

Can you explain why this characteristic is relevant when you talk about shifting the onus in order to prove that there are no toxicity issues linked to novel genetically modified animals?

Mr. Thibault Rehn: Thank you for the question.

Actually, when we're talking about “shifting the onus,” what we are trying to understand is the following: why make a genetically modified version of an organism when that organism already exists in the wild?

I've been working on this issue for nearly 15 years. Fifteen years ago, AquaBounty told us that its salmon matured twice as fast. Then, it was only one and a half times as fast. In the promotional video that came out when the company announced its production launch, no mention was made of the fact that its salmon grew more quickly. Now, there's no mention on the company site of its salmon maturing more quickly.

They made us believe that their salmon matured more quickly, perhaps to attract investors and to help advance the technology used. That is not the case currently, and the Norwegians, the biggest salmon farmers in the world, are able to raise non-genetically modified salmon as quickly as AquaBounty.

Why take the risk of genetically modifying a living species that can contaminate ecosystems when there's no advantage for the consumer or for animal production?

Ms. Monique Pauzé: You said “contaminate ecosystems.” That is the major issue.

Can you tell us what improvements are needed in Bill S-5, which amends Part 6 of CEPA that deals with animate products of biotechnology?

How can we improve the bill?

Mr. Thibault Rehn: I mentioned three ways of doing this.

I believe it is essential that first nations be consulted in order to give their free and informed consent. That is really important, especially because we are talking about animal species which are highly symbolic.

I am also closely following issues related to pesticides and GMOs. Those issues are linked. I don't think that Environment Canada, Agriculture and Agri-Food Canada and Health Canada can state that their studies are science-based if the science is not accessible. We have seen this in numerous instances, such as with Monsanto and the tobacco companies. Unfortunately, industries, as a rule, generally seek to make profits, whereas you, as our legislators, are charged with protecting the health of our citizens and our ecosystems and bringing in rules that protect us from these industries that sometimes cut corners.

We need an assessment of ecosystem contamination by genetically modified organisms, for example. We need free and transparent access to all the studies; otherwise, we can't possibly say that the assessment made by Health Canada or the Canadian government is correct.

● (1435)

Ms. Monique Pauzé: Indeed. What's more, the senator representing the region in question has said that he didn't even know what was going on in the factory. We can see that there is no transparency.

Do you believe that the regulations should take into account the impact of genetic pollution on biodiversity?

You mentioned COP15. Should the regulations take into account the impact of genetic pollution on biodiversity because of the presence of these organisms in the environment?

I assume, because of what you have just told us, that you are going to say yes.

Mr. Thibault Rehn: Yes, it is essential that ecosystem contamination be taken into account.

When we see how Environment Canada authorized AquaBounty to launch production, when we read the report, we see that the persons responsible came to the conclusion that there was little chance that the genetically modified salmon would escape. However, if the genetically modified salmon did escape, there would be no going back. The genie would be out of the bottle. The ecosystems will have been contaminated.

When we know that the AquaBounty factory in Prince Edward Island is in an ecosystem that has wild salmon, which is not the case of the AquaBounty factory situated in Indiana, it becomes necessary to take all precautions.

Currently, we are dealing with one organism. However, in the future, with genome editing, as I said before, there will no doubt be many more organisms being put on the market. It is therefore imperative to do things right right now.

Ms. Monique Pauzé: Can you tell us how far behind Canada is in this process compared to other countries?

Mr. Thibault Rehn: What you need to know is that Canada was the first country in the world, and is currently one of only two countries, to approve the production and consumption of a genetically modified animal. The United States is the other one.

As to determining if Canada is behind or in front of the pack, that depends on your point of view. You should know that 30 years ago, they were telling us that genetically modified organisms would feed the world and that we would have less hunger. I'm talking about agriculture in general here. However, here we are 30 years later, and we see that all genetically modified seed used in Canada has been modified to tolerate one or many herbicides, which has led to an increase in the use of herbicides. We have to stop thinking that...

The Chair: Thank you.

Unfortunately, I have to stop you there.

[*English*]

Ms. Collins.

Ms. Laurel Collins: Thank you so much, Mr. Chair.

My first question is for Ms. Fast. You have raised the concern about lead hot spots. Lead hot spots have been a concern particularly in Manitoba. I was reading about the levels in children in certain communities and certain areas.

How do community members feel that this bill does or does not help address this issue?

Ms. Heather Fast: Thank you for the question.

The main point of our engagement on this bill is to seek more protections for the vulnerable communities that are living near hot spots. I think some of the recommendations we've seen, both in our own submission and what I've spoken about today and from other organizations—such as to recognize the right to a healthy environment—and some of the other supports that have been discussed could help address some of these issues in a general way.

One thing community members are concerned about with Bill S-5 is the removal of the existing provisions, which could result in dedicated regulations or other responses to directly address problems in these hot spot areas. This removal doesn't make a lot of sense to our community members because they would prefer that provisions like these be left in and potentially expanded, as suggested by other organizations like CELA.

At this point, they're seeking anything and everything that could potentially help. That is a big concern. Anything that can help direct specific funding and other programming or other supports would be very happily received by community members in these areas.

● (1440)

Ms. Laurel Collins: Thanks so much.

Public funding provisions to reduce the financial barriers that often limit community engagement in court processes seem to be very important, as are independent testing procedures.

Can you talk a bit about why that link to this protection of environmental rights is so important?

Ms. Heather Fast: Our community members were very excited about the notion of recognizing the right to a healthy environment, because they see this as a tool that's going to help them in the future to protect themselves and hopefully engage in some court processes and other things.

What has stopped them from doing this so far, besides limited opportunity in Manitoba, is the fact that it's incredibly expensive to engage in these types of processes.

That is one of the main things they've asked us to ask you for, any type of provisions—and we've made some recommendations in our written submission, which I don't think have made it to the full committee yet—that would create additional opportunities for financial supports, like participant funding. There was even some discussion by our community members about creating court challenges programs and things like that. Those could help community members to actually use the rights that will, hopefully, be recognized through Bill S-5.

Ms. Laurel Collins: Thanks so much.

I also have a question for Dr. Chandrasekera.

Can you talk a bit more about the comparison you made with what's being done in the EU and the U.S. on eliminating animal testing and how Canada is lagging behind?

Dr. Charu Chandrasekera: Most of these countries have legislation already in place and national strategic road maps geared toward eliminating vertebrate animal testing in the United States. They amended TSCA, the Toxic Substances Control Act the same way that we're trying to amend CEPA here.

The Environmental Protection Agency was told that within two years of that act's passing, it had to come up with a strategic road map to phase out and reduce and replace the use of vertebrate animals in chemical safety testing. They did that. I was there as a Canadian expert to provide feedback on that.

Then the U.S. Food and Drug Administration is going to be going through a transformation with the FDA Modernization Act, under which manufacturers and sponsors will be able to use alternative methods to test the safety and effectiveness of drugs.

There are three national strategic road maps in the United States. One was written by 16 federal agencies that use animals for scientific purposes; there is also the EPA road map and an FDA road map on top of the recent legislation.

Ms. Laurel Collins: Thank you so much.

You know, I find it very compelling. I didn't realize before—and this is part of my ignorance—that alternatives can be more effective when it comes to animal testing—before seeing some of the research of the Canadian Centre for Alternatives to Animal Methods.

Can you describe a bit more about the benefits those alternatives provide?

Dr. Charu Chandrasekera: The key benefits are that they are cheaper, faster and more predictive of human biology, and that's the most important thing. In most of these legacy animal methods, these are animals that have many differences at various levels, and they cannot accurately predict how we humans would respond to chemicals and drugs and other things that we are exposed to. With these new methods, we are able to capture human biology at different levels. We're using these integrated methods that can capture what happens to our genes, what happens at the cellular level, what happens at the organ level, and incorporate all of these using very sophisticated computational programs.

We're also using these methods to think about the questions differently. Some of these animal methods that were developed in the fifties and sixties were never really validated to see if they were predictive of human biology. They were just adopted in many cases, and now we're seeing that they cannot address some of our questions.

One example is developmental neurotoxicities. This is looking at the toxicity in the developing brain. The gold standard mouse model is not a gold standard at all.

The Chair: We're going to have to stop there and go to our second round. I'm sorry. It's very interesting, but we have to go to our second round.

Mr. Benzen, you have four minutes.

● (1445)

Mr. Bob Benzen (Calgary Heritage, CPC): Thank you, Mr. Chair.

Thank you to all of the witnesses here today.

Mr. Masterson, you have a long history with the responsible care initiative. Maybe you could give us a little bit of background on what that is and tell us how your members of that initiative live up to the standards that have been set by the responsible care initiative. Also, you could tell us just how the initiative can work to help us have a healthier environment and how it's implemented through Bill S-5.

Mr. Bob Masterson: Our industry is extremely proud of responsible care. This was founded in Canada in 1985. It's now practised in 73 countries worldwide and by 95% of the top 150 chemical companies worldwide. It is “the” global ESG standard for the chemistry sector.

It's also a condition of membership for our association. We're a club of leaders, so when we come to the table, you're not getting the perspective of the entire chemistry industry. You're getting the perspective of the leaders who are committed to continual improvement and betterment of the environment and of society.

At its heart, the initiative covers more than 170 different requirements that go well beyond any regulation in Canada. It does oblige the members to take proactive efforts to protect the environment, as well as worker, community, customer and consumer health.

More broadly, though—and that's why we've been so involved with this process, both with the regulators and with other stakeholders—it's intended to ensure that the industry has awareness of, and is responsive to, society's changing expectations for the industry. You can see that no more so than in the last four years. This is an initiative that back in 1985 was largely focused on what happened inside our plant gate. That's not enough for society today.

In the last four years, what you've seen is that we have integrated commitments to indigenous reconciliation and engagement into responsible care, and just this past month, our board of directors also included commitments to diversity, equity and inclusion.

This is really important because one of the things at the heart of responsible care is that all these elements are auditable once every three years, and the reports are made publicly available. It's not just an empty commitment that, yes, I'm going to address indigenous engagement and reconciliation, and that, yes, I'm going to address diversity, equity and inclusion. I'm going to do it. I'm going to have a formal process to do it. I'm going to work with my critics and stakeholders to do it. I'm going to be audited, and the results are going to be publicly reported.

We think it's a world-class initiative, and in fact, it is a world-class initiative. We appreciate the opportunity to let parliamentarians know more about it.

Thank you.

Mr. Bob Benzen: Thank you. That was a great answer.

Now, considering that in schedule 1 they're going to be creating two parts and requiring certain substances to have a higher risk management, do you think it is appropriate that there is a pollution prevention plan for every substance listed in schedule 1?

Ms. Danielle Morrison: A pollution prevention plan, or a P2 plan, is a form of risk management. Really, at the heart of decisions made about risk management is that risk management has to be tied to the risk assessed. Experts currently have a variety of risk-management tools at their disposal, depending on the degree of risk that is posed by that substance. This ranges from, on one side, pollution prevention to, on another side, prohibition.

There are also regulations under CEPA and other acts for the use of the best-placed act that can be used for risk management.

We think that any mandatory pollution prevention requirement would take away this discretion, and this link between risk assessed and risk managed would codify the process and would not adequately reflect the science and the risk-based nature of the act.

Mr. Bob Masterson: I could share one example, perhaps. Ontario did introduce a Toxics Reduction Act. It did require plans for anybody producing and using substances on a long list. It became a paperwork exercise. Here you are, maybe you're manufacturing sulfuric acid, which is an important component that goes into and out of the mining industry. Maybe you're manufacturing chlorine in Quebec. Suddenly you have to come up with a plan to do what? Is it to reduce the production of chlorine? It's not very effective.

The Chair: Sorry, we have to stop there.

We'll go to Mr. Duguid for four minutes, please.

Mr. Terry Duguid: Thank you, Mr. Chair, and to all of our excellent witnesses today.

I have two questions, one for Mr. Masterson and Ms. Morrison, and the other for the Manitoba Eco-Network, Ms. Fast. If you could just keep to a couple of minutes, I'd appreciate it. I'd like to get to my Manitoba colleagues. I have a little bit of a bias there.

Mr. Kurek mentioned that you had a joint submission with some of the environmental groups, which, frankly, was very heartening to see. I'm aware of some of the behind-the-scenes activities on Bill C-28, which, for the most part, I think everyone involved in the debate was pretty happy with. We're dealing right now with amendments that have come from the Senate.

I wonder if you have made the same kinds of efforts, and environmental groups have made the same kinds of efforts, to come together on issues like confidential business information to see what might be possible. There's obviously a confidence gap. On the other hand, we want innovation. We want to protect IP. We want those goals. We want public confidence. We want innovation.

Is there a third way, as I was suggesting the other day, or full stop are you...?

● (1450)

Mr. Bob Masterson: Perhaps there is space. If we go back to the original report to committee, there were a lot of actions. We worked with others to identify where we could make progress jointly and to park those issues where we couldn't make progress. That would be one that we probably could do.

I would also say again, confidential business information is treated under the Privacy Act, the protection of private information. This is not the place to change Canada's architecture for treatment of confidential business information. You have other officials and you have other acts where that should be addressed. You do not want to do that in the case of just CEPA. It's not appropriate.

Mr. Terry Duguid: Okay, thank you.

I go over to Ms. Fast.

Ms. Fast, I may pick up where Ms. Collins left off. I understand your situation very well. I live in Winnipeg. Of course, we've talked about vulnerable populations and cumulative impacts. Maybe you could just reinforce what you feel that you need to be active participants in your own community in order to ensure that pollution is not negatively impacting these vulnerable communities.

I've heard you talk about financial resources. I've heard you talk about data. Maybe just give us a little more flavour and colour of the particular situation and how CEPA could help protect your communities—our communities. I say "our communities", because I live in Manitoba.

Ms. Heather Fast: Thank you very much.

As I discussed in my presentation earlier, we have been working with lots of vulnerable community members in mature neighbourhoods in their city who have been facing exposures from toxic substances from nearby industrial activities over many decades. There have been many efforts at the community level to try to engage with government at all levels to collect data to help them evidence their concerns and also to engage in other legal processes that would help them advance the changes they'd like to see—and again, protect their health and surrounding environment.

What we've been seeking in our engagement with Bill S-5 is more legal tools that would help empower our local community members to engage at all levels.

The Chair: Thank you. We'll have to stop there.

[*Translation*]

Ms. Pauzé now has the floor for two minutes.

Ms. Monique Pauzé: Mr. Rehn, I can't let you answer because we don't have much time, but from what I understand, Canada is leaps and bounds ahead when it comes to putting us at risk, but in terms of labelling, it is lagging behind 63 countries.

Mr. Masterson, your association oversees all lobbying activities on behalf of the industry that pertain to Bill S-5. During COP27, you launched a campaign called "Save Plastic," the main message of which was that we should continue to produce plastic because it is not toxic.

For example, we are finding microplastics in the environment and floating in the oceans. When microplastics are very light, they break down and become what is called nanoplastic which is even smaller and can be found in the human body, the placenta, the liver, etc.

Are you able to state here that microplastics are not toxic?

[*English*]

Mr. Bob Masterson: No. Microplastics are listed on the schedule 1 list of CEPA toxics, and we're promptly prohibited under certain regulations that follow from that for certain applications.

That is, I would say, an unfortunate mischaracterization of the campaign. It doesn't say that plastics don't cause problems. It says that we're putting a valuable resource in Canada, an incredibly valuable resource—nearly $8 billion a year—into landfill and there is an opportunity to recover that material and reintroduce it into the economy.

● (1455)

[*Translation*]

Ms. Monique Pauzé: I am going to stop you right there, Mr. Masterson, because I have another question and my time is very limited.

Europe has its REACH regulation and the European Chemicals Agency, which determines how the regulation is enforced in member states. The REACH regulation sets out that chemical analyses must be done by grouping chemicals into families, rather than one substance at a time.

Would you be open to this type of assessment?

[*English*]

The Chair: Could we have an answer in 20 seconds, please?

Mr. Bob Masterson: Under the current chemicals management plan, there are already group assessments that are being conducted, and risk management actions follow appropriately.

The Chair: Thank you.

Ms. Collins, you have two minutes.

Ms. Laurel Collins: Thank you, Mr. Chair.

My question is for Mr. Rehn.

I want to thank you for your testimony on genetically modified salmon. I'm particularly concerned about the impact on first nations communities. Wild salmon populations have been declining, and their survival is threatened by a variety of environmental factors.

Many first nations on the west coast, and in particular in the area where I live, on the Salish Sea, have expressed strong opposition to genetically engineered salmon and deep concerns about the threat it poses to their food systems, their culture and the ecosystems that these nations have stewarded for millennia.

You spoke a bit about the importance in many first nations cultures. I also wanted to hear your thoughts on some of the intellectual property and cultural concerns.

There's a quote by Valerie Segrest, who is an indigenous food nutritionist, as follows:

> Perhaps the most disturbing part of it all came when I was sharing my thoughts on this with a colleague of mine, and he pointed out that a corporation now owns the DNA of wild Chinook salmon. Someone now owns my ancestral foods' DNA. I remember that as a spirit-shaking moment and thinking, “How dare you?”

She talks a lot about the way in which colonization and genocidal policies work and the actions being carried out by agribusiness—in particular, AquaBounty, when it comes to genetically modified salmon—on intellectual property.

Other nations have expressed concerns about the lack of consultation. Can you talk a bit more about this?

The Chair: Could we have an answer in 30 seconds, please?

[*Translation*]

Mr. Thibault Rehn: All right.

We're also concerned by the fact that certain companies are claiming ownership of living beings, whether it be genetically modified animals or plants, such as canola. You know that canola is one of the main crops produced here in Canada, along with wheat. We are seeing that the best way not to be contaminated and not to be sued by the companies that own this seed is to plant genetically modified canola. That's why there is almost no non-genetically modified canola being produced anymore.

Once these companies become the owners of living organisms, it becomes extremely difficult to get them out of the system, so we should set up better protection right now.

The Chair: Thank you.

Mr. McLean, you have the floor for four minutes.

Mr. Greg McLean: Thank you very much, Mr. Chair.

[*English*]

I have a question for Ms. Chandrasekera.

I am really curious. When you speak about testing the animals, you're talking about it being more economical and having better outcomes with more targeted results for what we're after here as far as applications for human sources are concerned.

Can you give us, for our education here, an indication of how much is being spent on animal testing in Canada right now and how much you think we'd save with the changes we're talking about that would be part of this?

Dr. Charu Chandrasekera: In terms of the actual numbers, they are not available. In Canada, we do not know.

We know how many animals are used in toxicity testing, based on the Canadian Council on Animal Care guidelines, but those do not include some of the private companies that are not part of this accreditation organization.

I can give you some numbers on what these tests cost. I have them right in front of me.

One of the tests, the rat cancer bioassay, takes two years to look at carcinogenicity. It costs about $700,000 to do this test. When it comes to looking at sex hormone interactions—the estrogen hormone interactions and male androgen ones—these range from $30,000 to $40,000 to do the animal tests, but the non-animal methods are around $7,000. When you're talking about this, it's also the time that it takes, right? That also translates into money. Some of these tests can be done in a matter of a few days, whereas the animal tests take weeks and months and even two years for reproductive testing and for cancer bioassays and things like that.

In terms of exactly how much money is being spent in Canada, I'm not really sure that's ever been calculated. Some of these are being provided by.... It's the companies that are spending the money. If you are a chemical company and you're trying to get a new chemical approved, you're doing all of these tests and submitting the data to federal agencies.

● (1500)

Mr. Greg McLean: Tell me, what's the holdback now? If it is more effective and more economical, what is the holdback in making the change immediately as opposed to having legislation help make the change?

Dr. Charu Chandrasekera: I don't think there is enough of an incentive for everyone to adopt these technologies. That's where legislation comes into play.

This is what happened with the cosmetics industry in the European Union. When the EU government said that they were no longer going to be able to test on animals within a certain period of time, the innovators, the companies, the researchers and the government came up with a plan on how to accommodate that.

Right now, we have issues with “validation”. All of the new data that are generated from these new methods are constantly being compared to the old animal methods. That's hindering our progress. Even the ones that are far advanced are not being adopted by regulatory agencies around the world at the pace and scale that they should be, so that is holding us back.

With legislation, we could enforce that and give them an option to do it quickly.

Mr. Greg McLean: Okay. Thank you.

I have one question, because I am curious.... I went through Ms. Fast's submission here. I'm not clear about the difference between Manitobans and the rest of Canadians as far as the application of this law is concerned, and why you think the current law doesn't serve Manitobans as well as it serves other Canadians.

Give a quick explanation, if you could, please.

The Chair: Answer in 15 seconds, please.

Ms. Heather Fast: I was referring to the fact that at the provincial level, some jurisdictions have recognized environmental human rights. In Manitoba, at the provincial level, we do not.

That is what I was referring to.

The Chair: Thank you.

Go ahead, Mr. Weiler.

Mr. Patrick Weiler: Thank you, Mr. Chair.

I am going to be ceding my time to Ms. Taylor Roy.

The Chair: Go ahead, Ms. Taylor Roy.

Ms. Leah Taylor Roy: Thank you, Mr. Weiler.

Thank you to the Chair.

I would like to direct my questions to Dr. Chandrasekera. I hope I've pronounced that correctly.

Mr. McLean just talked about why we're not moving more quickly toward non-animal testing. There are three specific things that have been recommended by Humane Canada and Animal Justice, and I'm wondering what your thoughts are of them.

I will quickly go through them and turn it over to you, because I know we don't have much time. One of them was to include a target date to phase out toxicity testing on animals as a way to encourage faster progress toward this. The second was that instead of including “reduce, refine or replace” to remove “refine”. I know you talked about defining it, but they suggest we remove that. The third was requiring it only be used as a last resort, especially by the ministry in Canada.

I want to read one quick thing from the Animal Justice brief that was submitted. Most of the tests that are done on animals fall into category E, which are the most toxic of tests. They said “Tests can involve forced ingestion followed by vomiting, forced inhalation causing throat and lung irritation and burning to animals restrained in inhalation chambers”. Once it's done, the animals are killed.

I think when the alternatives are here, it behooves us to try to move more quickly to reduce the suffering of these sentient beings. What are your thoughts on these three things, Dr. Chandrasekera?

Dr. Charu Chandrasekera: I agree with the recommendations that were put forward by Humane Canada and Animal Justice. I've seen their briefs.

This is long, but what I proposed in my brief, which you will get to see soon, is along the same lines. You need to make the language a bit more specific, practicable and scientifically justified, instead of reasonably possible.

Also, with refinement, we have to be a little careful because, for the foreseeable future, we are going to be using animals and those animals deserve better care. If we are going to be refining, my proposal is that we need to make sure that the procedures are being refined to minimize pain, suffering and distress, and not just improving cage size or giving them extra bedding. In that case, refinement will still play a role until we are able to replace all animal testing, which will take a bit of time.

I'm sorry. I forgot the last section that you mentioned.

● (1505)

Ms. Leah Taylor Roy: What is the use of animal testing as a last resort?

Dr. Charu Chandrasekera: There are some methods that we do not yet fully have replacements for. Developmental neurotoxicity is one of those examples.

What we need right now is to adopt everything that we have available at our disposal. The entire tool box of new approach methods that we have at our disposal needs to be incorporated into every protocol and every procedure possible. At the same time, invest big time into developing these technologies where we are lacking them. That is where we are lagging behind other countries as well. The United States has spent hundreds of millions of dollars on the development of these new methods.

I don't think the Canadian government has done nearly enough—actually, it's not done enough at all—to move this field forward by investing in the development, validation and acceptance of these methods.

Ms. Leah Taylor Roy: Thank you very much.

I will cede my time back to Mr. Weiler, or whoever wants it.

The Chair: There are 30 seconds up for grabs here. No?

Mr. Duguid is moving adjournment. I don't see any objections.

Thank you to the witnesses. I wish everyone a good weekend.

Thank you very much. We'll see you next week.

The meeting is adjourned.