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• (1535)

[English]

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

We are resuming clause-by-clause consideration of Bill S-5. We are active. We are in order. We are live. The meeting is on. These are different ways of saying that we're going to start working now on this.

I know Mr. Benzen is at home, I think, or in his office somewhere.

Mr. Benzen, I was told that this would probably be your last committee meeting, and that you will be retiring from political life. Is that correct?

Mr. Bob Benzen (Calgary Heritage, CPC): At the end of December, I'm retiring. I'm going back to private business.

The Chair: We wish you the very best in your future endeavours and future projects. I just wanted to mention that. We wish you well. Thank you for being on this committee, which is doing important work.

Mr. Kurek.

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

Only because, of course, of the tragedy of the passing of Mr. Carr and whatnot, and of the nature of the last few days of Parliament, I'd just like to, on behalf of Conservative Party members of the committee, thank Mr. Benzen for his work on this committee. He won the riding of Calgary Heritage, I believe, in 2017, if I'm remembering correctly. I'd like to thank him for his tireless work on behalf of his constituents since then. I'm not sure if I'll have the opportunity to rise in the House on this.

Thank you, Chair, for giving me just a brief moment to thank Mr. Benzen for his tireless work for the people of his constituency, the city of Calgary, the province of Alberta and this entire country. Specifically, I know we share a passion for seeing the energy industry succeed in the province of Alberta and our world-class, environment-friendly energy products be shipped around the world.

On behalf of Conservative members of this committee, and I think I speak on behalf of the entire Conservative caucus, thank you, Bob, for your work over the last number of years. You'll certainly be missed. Although I didn't have a chance to get to know you during the COVID-19 circumstances, only having been elected in 2019, I certainly appreciate the opportunities and the conversa-

tions we've been able to have. I think specifically after a meeting in Calgary we were able to have dinner together and discuss some of the challenges around the issues Alberta is facing. I know you're incredibly thoughtful and have worked very diligently. Thank you for that.

Thank you, Mr. Chair, for the indulgence.

The Chair: There's no problem. The entire committee joins in supporting your remarks. We share those sentiments. Thank you, Mr. Benzen, and we wish you all the best with your future endeavours.

Going on to clause-by-clause, we have Ms. Lewis substituting for Mr. Deltell. Welcome, Ms. Lewis, it's nice to have you with us.

We'll pick up where we left off on Friday. We were at clause 3, on amendment NDP-7.

[Translation]

Ms. Monique Pauzé (Repentigny, BQ): Excuse me, Mr. Chair, but didn't you have something to say?

The Chair: I was going to say it at the end of the meeting.

[English]

What Madame Pauzé is getting at is that we will not have a meeting on Friday. We will resume clause-by-clause when we get back in January—unless we finish today.

Voices: Oh, oh!

The Chair: I guess it's always within the realm of possibility.

Ms. Collins, would you like to move NDP-7?

Ms. Laurel Collins (Victoria, NDP): Yes. I move that Bill S-5, in clause 3, be amended by replacing lines 19 and 20 on page 3 with the following:

stances to replace or reduce the use of animals;

The Chair: Thank you.

In response to that amendment, I have a ruling, which reads as follows. Bill S-5 seeks to encourage alternative methods and strategies in the testing and assessments of substances to replace, reduce or refine the use of vertebrate animals. The amendment seeks to extend it to all animals. However, as *House of Commons Procedure and Practice*, third edition, states on page 770, "An amendment to a bill that was referred to a committee after second reading is out of order if it is beyond the scope and principle of the bill."

In the opinion of the chair and for the above-stated reason, the amendment brings a new concept that is beyond the scope of the bill. Therefore, I rule the amendment inadmissible.

That's where we stand on that.

We'll now go on to—

Mr. Greg McLean (Calgary Centre, CPC): Perhaps, Mr. Chair, the difference between animals and vertebrate animals.... For the benefit of the committee, you should scientifically explain which animals are not going to be vertebrate animals here.

• (1540)

The Chair: Unfortunately, I don't have to do that. I should say, fortunately I don't have to do that. There's no debate on this ruling, so we'll move on to G-4.

Who would like to move G-4?

Mr. Patrick Weiler (West Vancouver—Sunshine Coast—Sea to Sky Country, Lib.): Mr. Chair, this is an amendment that I put forward. It's going to be dealt with further in the bill, so I'm not going to move this amendment at this time.

The Chair: Are you standing the amendment? Is that it?

Mr. Patrick Weiler: No. I'm not moving it.

The Chair: You're not moving it, period. It's not just a question of not moving it at this time. Okay.

Thank you, Mr. Weiler.

Go ahead, Madame Pauzé.

[*Translation*]

Ms. Monique Pauzé: I'd like to ask a question about this.

I understand that Mr. Weiler won't be moving his amendment today. However, I didn't understand if he was never going to move it.

I have an amendment that I'd like to propose that would be a continuation of his. Will he come back with his definition later?

The Chair: I don't believe so.

[*English*]

Mr. Patrick Weiler: Madame Pauzé, if you wish to move an amendment yourself, you're free to do that. It can build off the amendment that was submitted in advance, or you could start from scratch.

It doesn't in any way impact your ability to do that, as far as I'm aware.

[*Translation*]

Ms. Monique Pauzé: Thank you.

The Chair: Was it a subamendment?

Ms. Monique Pauzé: No. It was an addition.

The Chair: Apparently, that's the same thing as an amendment.

Ms. Monique Pauzé: Oh, it is?

The Chair: Since he didn't move his amendment, we can't proceed to the subamendment.

Ms. Monique Pauzé: Okay.

My amendment, which deals with definitions, would be in clause 4. So it's not right away.

The Chair: We're getting to clause 4.

[*English*]

Shall clause 3 carry as amended?

(Clause 3 as amended agreed to on division)

(On clause 4)

The Chair: We'll start with PV-3. Pursuant to our routine motion with regard to members from a party not represented on the committee, this amendment is deemed moved.

Would the sponsor like to make a brief explanation in support of her motion?

Ms. Elizabeth May (Saanich—Gulf Islands, GP): Thank you, Mr. Chair. I would indeed.

This is, I think, consistent with points made earlier in committee by members of committee, including Greg. It's the notion that in using a term, we shouldn't leave it to courts to define how it's going to be interpreted later.

PV-3 offers definitions that are quite widely accepted in the field for the terms “aggregate exposure” and “cumulative effect”. Given the time, I'm not going to go through describing the definitions—they speak for themselves—but they're straightforward and quite widely accepted, to provide background.

When the bill eventually needs interpretation, these definitions will be very helpful.

• (1545)

The Chair: Thank you. Is there any debate?

Ms. Collins.

Ms. Laurel Collins: I want to thank Ms. May for the amendment. I appreciate the definition for “aggregate exposure”, but I have concerns about the definition for “cumulative effect”. It reads to me to be too narrow. It excludes environmental effects and also narrows the definition to common mechanisms “that target the same tissue”.

This kind of narrow definition has been problematic in the pesticides act and has meant fewer cumulative risk assessments on important topics like neonics, so I hope we won't repeat the same mistakes we've seen in that definition.

I would propose an amendment to the amendment, to take out the definition of “cumulative effects”.

The Chair: Now we're debating the subamendment. Then we'll come back to Mr. Kurek. Who would like to speak to the subamendment?

Mr. Longfield.

Mr. Lloyd Longfield (Guelph, Lib.): Thank you, Mr. Chair. I wonder if maybe Mr. Moffet could provide some technical support on this in terms of the cumulative effects and maybe, in general, the definitions within the act around effects.

Mr. Damien Kurek: I'm sorry, Mr. Chair. Can we just clarify exactly what the subamendment is?

The Chair: Yes, I would like to do that. Is the subamendment just to take out the paragraph on “cumulative effects”?

Ms. Laurel Collins: Yes.

The Chair: Okay. Mr. Longfield was speaking.

Mr. Lloyd Longfield: My question was on the subamendment, but I think in answering my question it might also help clarify where we stand.

The Chair: I'm sorry. You asked Mr. Moffet for an answer.

Go ahead, Mr. Moffet.

Mr. John Moffet (Assistant Deputy Minister, Environmental Protection Branch, Department of the Environment): Thank you. I'm happy to respond.

I think the government shares the concern about defining “cumulative effect” in two senses.

One, we don't think it's necessary or appropriate to define it in the act itself, because it is a concept that continues to evolve within the scientific community, and defining it in the act would then lock it in and preclude us from being able to evolve on a policy basis.

Second, we also have concerns about the definition that is proposed, which is at variance with the approach we've included in other parts of the bill, including in proposed section 68, which provides ministers with the power to collect information on various topics, including on whether exposure to a substance in combination with exposure to other substances has the potential to cause cumulative effects.

This kind of information-gathering would not be restricted to substances that have common mechanisms or modes of action. It would go well beyond that and allow us to look at the cumulative effects from multiple completely different substances that may have different kinds of mechanisms or modes of action, or even different effects.

Therefore, this would be unnecessarily restrictive. It's also an example of why, in many cases, when a concept is being introduced that is evolving in science, it's best left to the government to clearly and publicly define it as a matter of policy and put that definition out but then let it evolve as the science evolves.

Just on the issue of “aggregate exposure”, the term doesn't appear anywhere else in the bill, so it's not clear what the legal implication of defining it would be.

The Chair: Thank you, Mr. Moffet.

Does anyone else want to speak to the subamendment?

Mr. McLean.

• (1550)

Mr. Greg McLean: I'm sorry. I got a little confused by Mr. Moffet's explanation. He's talking about this being more restrictive than the current interpretation of the bill as far as “cumulative effect” goes. I thought this would be specific enough.

However, Mr. Moffet, what you're telling this committee is that the non-definition, if you will, would speak to the evolution of the way this could be interpreted in the scientific community going forward. Am I hearing from you that by defining this, we are restricting the use of what “cumulative effect” will mean?

Mr. John Moffet: Yes. I apologize if I was not clear. I was trying to say two things. First, defining it in any way could have the implication of precluding its evolution over time. Second, the particular definition that is proposed here is, in fact, narrower than our current interpretation of the term.

The Chair: Is there anyone else?

Madame PaUZé.

[*Translation*]

Ms. Monique PaUZé: I insisted on the definitions last Friday. I think what's important is that the definitions be the same in French and in English. They have to be identical.

Perhaps Mr. Moffet can enlighten me on that. If the Canadian Environmental Protection Act refers to defence, is that concept under the heading “Definitions and Interpretation” or under the heading “Administrative Duties”?

There are several documents.

[*English*]

Mr. John Moffet: I'm not sure if I'm going to be able to respond directly to the question. Neither term, “aggregate exposure” or “cumulative effect”, is defined in the statute at the moment. “Cumulative effect” and “cumulative effects” are referred to in a number of places in Bill S-5, however, so it is an important concept, and it is one that informs our risk assessments and our risk management decisions.

“Aggregate exposure” is not referred to in the act or the bill.

The Chair: Thank you.

Ms. Collins.

Ms. Laurel Collins: Mr. Chair, I'm just wondering if we could go to Ms. May. My guess would be that maybe one of her amendments talks about aggregate exposure, so defining it might be important in case that amendment passes. However, I'd love to hear from Ms. May.

The Chair: Okay.

Be brief, please, Ms. May.

Ms. Elizabeth May: Laurel Collins is correct. I have a number of amendments, so I'm going through them now to see which ones need "aggregate exposure". One of them was already defeated, so that is moot at this point.

The Chair: Is there anyone else before we vote on this subamendment?

Mr. McLean.

Mr. Greg McLean: I'm going to ask Mr. Moffet once again for clarity here.

You would prefer to have this undefined. I'm talking specifically about "cumulative effect", if you could zero in on that term, please. You're more comfortable having this undefined in this legislation so that it's wide open about how that definition evolves. Is this what you see as better for this legislation? If so, please explain.

Mr. John Moffet: That's correct. We believe this term should be defined as a matter of policy, so we're not suggesting that Canadians not be informed about the way the government is interpreting and applying the term. However, defining it as a matter of policy, again, would enable us to revise it over time as the scientific understanding of the kinds of ways in which cumulative effects are understood and need to be assessed evolve as science evolves.

• (1555)

The Chair: Does that answer your question?

Mr. Greg McLean: Yes.

The Chair: Okay. Is there anyone else before we go to the vote?

(Subamendment negatived: nays 10; yeas 1)

The Chair: I believe we have Mr. Kurek, who wants to speak with regard to the amendment.

Mr. Damien Kurek: Thanks, Chair.

I'm hoping to get some clarity—somewhat to expand, I suppose—on the conversation we had during the subamendment, because it's now especially relevant with both terms. The government's position, it seems, is that it would be problematic to have these definitions outlined within the act, when we've heard from witnesses that the lack of clarity is concerning.

Perhaps we could hear from you, Mr. Moffet, or one of your colleagues, specifically regarding "aggregate exposure" and the definition that's provided, and further regarding both terms as they're being suggested by this amendment.

Mr. John Moffet: Again, the issue of aggregate exposure is a little difficult for me to comment on, because at the moment Bill S-5 does not include that term. As Ms. May has explained, however, she's proposing the introduction of the term in other amendments.

I can't comment on committee process, but it might be useful for the committee to understand how those amendments would introduce the term and thereby make it potentially relevant.

The Chair: Go ahead, Ms. Collins.

Ms. Laurel Collins: Yes. I was hoping to take out "cumulative effect" so that I could vote in favour of "aggregate exposure", because I support the definition and I support Ms. May's amendments

that add it in. It does sound as though at least one of the previous PVs that had it in has been defeated, so I'll be voting against this.

The Chair: Is there anyone else before we go to the vote?

Okay. Let's vote.

Ms. Elizabeth May: Is there any chance...?

Oh, sorry. Was that the call to a vote?

The Chair: Yes.

Ms. Elizabeth May: It occurred to me that the Conservatives had seen the point in having clarity around the language that is in the act for "cumulative effect", but might want to reverse the amendment and keep "cumulative effect" defined.

However, you've called the vote.

The Chair: We've called the vote.

Ms. Elizabeth May: The Conservatives can always make up a new amendment on the fly. I can't.

The Chair: Yes. Okay.

We'll have a roll call vote on PV-3.

(Amendment negatived: nays 6; yeas 5 [*See Minutes of Proceedings*])

The Chair: We'll go now to amendment G-5.

Go ahead, Mr. Weiler.

Mr. Patrick Weiler: I would like to propose amendment G-5. Its reference number is 12136497. It would amend clause 4 in Bill S-5 by adding after line 28 on page 3 the following:

healthy environment means an environment that is clean, healthy and sustainable.

That's the amendment itself, and I will explain the rationale behind it.

It begs the question of what kind of environment would be healthy if it wasn't also clean and sustainable, but this amendment is based on testimony that we heard from multiple witnesses, not the least of whom was Dr. David Boyd, the world's foremost expert on this subject matter and the UN special rapporteur on human rights and the environment, who also happens to be a Canadian. This would make this act consistent with how the right is described in the UN General Assembly in a resolution that was passed less than half a year ago and that Canada supported. It would ensure that Canada essentially practices what it preaches internationally.

It's defined here in the definitions section, such that it wouldn't need to be amended every time we mention "right to a healthy environment" throughout this act.

• (1600)

The Chair: Thank you.

Go ahead, Ms. Collins.

Ms. Laurel Collins: I want to thank Mr. Weiler for putting this amendment forward. I think it is incredibly important, and I enthusiastically support it.

The Chair: Go ahead, Mr. McLean.

Mr. Greg McLean: Thank you.

It is an interesting amendment. I thank my colleague for putting forward a definition of a healthy environment, but “a healthy environment means an environment that is...healthy” is not really explicative of what we need to accomplish here. With all respect, “clean, healthy and sustainable”, are all, in my opinion, relative terms. I think we need to come to what we mean by a clean environment, a healthy environment and a sustainable environment.

These are more words on paper, signifying no result at the end of the day, so it doesn't add anything to what's already there as far as saying “healthy environment”. That a healthy environment represents an environment that is healthy, clean and sustainable, again, is an interpretive definition.

I think it's redundant, and I will be voting against it.

The Chair: Is there anyone else?

Go ahead, Ms. Lewis.

Ms. Leslyn Lewis (Haldimand—Norfolk, CPC): I agree with my colleague's assertion that, if we go back to the days of Maurice Strong and our common future defining what sustainability is, we know that it's a very complex term. When we have terms that are looking to improve on environmental sustainability, we can't have them in a tautology. It's tautological to have these terms intertwined without defining exactly how each one relates to the other and how they enhance the environment.

The Chair: Thank you.

Go ahead, Mr. Kurek.

Mr. Damien Kurek: We're talking about definitions. I know there has been some discussion related to definitions in previous amendments, and one of the substantive changes that has been brought forward in this bill compared to previous iterations is the conversation around the right to a healthy environment.

Do the officials have comments on this definition, whether it's restrictive, whether it is, in fact, too broad, or whether it has some consequences in the interpretation of how other clauses affect the bill? I think that would be helpful for the committee.

The Chair: Would anyone like to take that?

Mr. John Moffet: I can start, Mr. Chair.

I would make two points. The main one is that notwithstanding the fact that many countries supported the UN resolution and that many countries have in fact codified various formulations around the right to a clean or a healthy environment, there is no standard approach or understanding of the content and scope of the right.

Indeed, when Canada voted in favour of the resolution, Canada expressly said that work remains under way to develop a common understanding of the right.

The second point I would make is that precisely because of the broad and general terminology being used, the amendments we have introduced in Bill S-5 will require the ministers to develop an implementation framework and to develop that implementation framework through consultation with Canadians. The bill will require that framework, among other things, to clearly explain to Canadians how the government interprets these concepts and how it will apply those interpretations in the various decisions that are made under CEPA.

That's why the bill itself did not include a definition and deferred the approach to defining and unpacking the concepts to the implementation framework.

• (1605)

The Chair: Is there anyone else?

I saw Madame Pauzé, Madam Collins and Mr. McLean.

[*Translation*]

Ms. Monique Pauzé: Personally, I find what Mr. Moffet just told us interesting.

In two years, people will have discussed it, and regulations will indeed be put in place. Currently, it's not a right that is actually included in the act. So I find it interesting to justify it or to detail it in that way, because it shows that we need to include definitions in the act, since there aren't enough of them.

[*English*]

The Chair: Ms. Collins.

Ms. Laurel Collins: Mr. Moffet, you had said some countries had supported it. My understanding was that it was a unanimously approved motion around the right to a clean, healthy and sustainable environment that passed last year, and that 150 countries around the world are implementing legislation around the right to a healthy environment.

Do you have any specific concerns about including the words “clean” and “sustainable” in this definition, when we heard from Dr. Boyd, the UN special rapporteur on human rights and the environment, that this was critical language?

Mr. John Moffet: First of all, you have my apologies. I shouldn't have used the word “some”.

You're correct. The resolution was widely adopted, recognizing the strong support globally for the importance of providing for a clean and healthy environment. The terminology we've included in Bill S-5 reflects the emerging international terms.

The issue we have at the moment is one of not knowing precisely how the implementation framework will define the concepts. We don't want to inadvertently set limits on our approach or require the approach to address issues that might be inappropriate under CEPA. It's really a question of... The approach is to adopt the concept and then spend time discussing with Canadians exactly what it means and how it will be implemented under the act.

The Chair: Ms. Collins, is this a follow-up question?

Okay. Go ahead.

Ms. Laurel Collins: I'm wondering if there would be language to define this that includes "clean, healthy and sustainable" and would allay your concerns about limiting the definition. What if it had something along the lines of "the healthy environment includes an environment that is clean, healthy and sustainable" or "includes but is not limited to"?

I'm curious as to how including the words "clean" and "sustainable" would cause problems in an implementation framework. I assume the government wants to include those concepts, given the recommendations we heard from Dr. Boyd and given the unanimous support from countries in the United Nations.

• (1610)

Mr. John Moffet: At this point all I can say is that various countries have defined the concepts differently. They have started with the same term, "healthy environment" or "clean environment", and then developed further definitions that are not all the same.

Given that there isn't a clear and consistent approach, the approach that's codified in the bill at the moment is to start with this general terminology and then unpack it through a public process to develop an implementation framework.

I don't know if I can elaborate much more than that. I apologize.

The Chair: Thank you.

Mr. McLean.

Ms. Laurel Collins: Just as a last comment, I hope we can support moving forward with this language. It doesn't seem to me that it would limit the definition. If it does, then I hope people who have concerns with it would maybe amend it to use language that would be open, but would still include these critical pieces.

The Chair: Mr. McLean.

Mr. Greg McLean: Thank you.

I'm glad we talked about the implementation framework, because what is lacking in anything the United Nations puts forward is the implementation in jurisdictions that have the responsibility to do something of this nature. It is a bit of a paper tiger in that respect.

I want to look at the conundrum that we're talking about here, because we are putting something on paper that is a definition to be looked at going forward.

I want to address "clean". Most of us here would say that "clean" would represent a lack of bacteria, and "healthy" might mean a lack of viruses, and "sustainable" would mean exactly the contrary, because the environment isn't sustained without some viruses and some bacteria. As a matter of fact, it's one of the phyla that make up a large portion of the earth, yet it's not considered to be clean to have a bunch of bacteria floating around in the environment. At least, most people, in interpreting this definition, wouldn't think so.

That's the conundrum I have, this whole classification of each of these three words that don't really jive together at all when you analyze them, and what people are going to interpret them to mean.

Are we going to say, yes, this is clean, or yes, this is healthy, or yes, this is sustainable? The three don't exist together.

The Chair: Ms. Taylor Roy.

Ms. Leah Taylor Roy (Aurora—Oak Ridges—Richmond Hill, Lib.): Could we call the vote?

(Amendment agreed to: yeas 7; nays 4 [*See Minutes of Proceedings*])

The Chair: We're now on amendment BQ-2.1.

Madame Pauzé.

[*Translation*]

Ms. Monique Pauzé: Wait a minute, Mr. Chair. I'm looking for BQ-2.1.

The Chair: It's the one that deals with the precautionary principle.

Ms. Monique Pauzé: I put it after line 32.

Our clerk must have sent you the definition in the Rio Declaration. This follows up on the discussion we had on Friday, when we wanted to define the precautionary principle in accordance with principle 15 of the Rio Declaration on Environment and Development, which dates back to 1992. It states, "Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation."

Do I need to discuss this further? I have done so extensively in the past week.

The English version of the 1999 act uses the definition given in the Rio Declaration. The error is in the French version, and this corrects the error.

• (1615)

The Chair: Okay.

Seeing no further debate, we'll proceed to the vote.

[*English*]

Mr. Greg McLean: Can we discuss this at all?

The Chair: I just asked for the vote. Weren't you ready?

Mr. Greg McLean: Did you ask for discussion at all, Mr. Chair?

Mr. Terry Duguid (Winnipeg South, Lib.): Mr. Chair, I will ask to suspend.

• (1615)

(Pause)

• (1615)

The Chair: Mr. McLean wants to speak.

Mr. Greg McLean: Thank you.

I think it's a good amendment, but I want to get clarity from the expert here, Mr. Moffet, on what this means exactly when we talk about principle 15 of the 1992 Rio Declaration. Does that impact the bill in any way?

• (1620)

Mr. John Moffet: At the moment we're trying to work through the implications; we've just seen this amendment. The changing of the term "*prudence*" to "*précaution*" is not at all problematic. It's a clarification of a translation.

Referring to the Rio principle, from a preliminary perspective I think we all agree that would not be a problem either, given that it is the foundation for the way in which the precautionary principle has been interpreted by the Government of Canada for the last couple of decades. I don't think we see any significant operational concerns.

Mr. Greg McLean: Okay, let me just ask this. "Precautionary principle", as a term, is defined as principle 15 of the 1992 Rio Declaration on Environment and Development, so principle 15 will be what is defined.... The two will be equal. Whenever we refer to precautionary principle, it will have the full definition of principle 15 of the 1992 Rio Declaration. Could you read to us what that full definition is, please?

Mr. John Moffet: I don't have that available. I'm not sure if one of my staff does. We can get it quickly, I'm sure, but I can reassure you that principle 15 has been the basis for the approach to the precautionary principle under CEPA from its inception.

Mr. Greg McLean: We're talking two different things, Mr. Moffet. We're talking about the definition of "precautionary principle" equalling principle 15 of the 1992 Rio Declaration. I'm not sure—not having seen it, I apologize—if that's all that's included in principle 15 of the 1992 Rio Declaration. That's where I'm seeking clarity.

Mr. John Moffet: I can read principle 15.

In order to protect the environment, the precautionary [principle] shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

The first sentence is obviously the commitment by states. The second sentence is the definition that was introduced by the Rio Declaration, and you will remark that it is precisely the definition that has been codified in CEPA.

Mr. Greg McLean: That's the full definition.

The Chair: Yes.

Go ahead, Mr. Weiler.

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

I hate to nitpick here, but I wonder if it is common practice in this type of legislation to directly refer to something like a principle in international environmental law such as this, or would it be better to just say what it is? That is, where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

It's nitpicking maybe, but I'm just wondering if we need to include that reference, as long as we're sure the definition itself is consistent.

The Chair: Is that a question for Mr. Moffet?

Go ahead, Mr. Moffet.

• (1625)

Mr. John Moffet: The answer is that it's not standard practice and indeed it could introduce some element of uncertainty to people not familiar with the Rio principles. That said, the basic legal test for referring to external documents is that they need to be clear and they need to be available in Canada's official languages. Of course, that's the case for the Rio Declaration.

To your more general point, it's not necessary, given that the way the principle is codified in CEPA is identical, word for word, to the Rio Declaration.

The Chair: Is there anyone else?

Ms. Collins.

Ms. Laurel Collins: I'm just noting that while I appreciate the amendment, I don't think we should be using the language from the Rio Declaration.

As has been argued before, the Stockholm Declaration and others don't use the words "cost-effective". The Senate purposely took out the word "cost" and was instead moving toward just "effective".

While I appreciate the motion, I will be voting against it.

[Translation]

The Chair: Ms. Pauzé, you have the floor.

Ms. Monique Pauzé: In the English version of the 1999 act, the definition of the Rio Declaration was used. I want to correct 20 years of error by putting "*principe de précaution*" in the French version. My colleague Ms. Collins is talking about profitability, which is a little further on, but it seems to me that we dealt with that last time.

Earlier, we were wondering what "healthy", "clean" or "sustainable" meant in terms of the environment. We now have a clear definition, which has been used for 20 years in the English version. I just want us to use the same definition in the French version.

The Chair: Perfect.

I think we're ready.

[English]

Ms. Lewis.

Ms. Leslyn Lewis: It's perfectly fair to try to define and to use a definition. What's problematic is that we are giving ascension to the 1992 Rio Declaration in this document. I don't think it is appropriate to include an international treaty within this document.

The definition in and of itself may not be problematic; it's just the inclusion of that declaration on the environment in the document.

The Chair: Is there anyone else?

Madame Pauzé.

[*Translation*]

Ms. Monique Pauzé: Since 1999, the English version of the act has used the definition given in the Rio Declaration. The error lies in the fact that the French version refers to the precautionary principle, which does not exist in the environmental field. Accountants and economists use the precautionary principle.

I therefore move that the act be amended to make the English and French versions consistent. The definition in the Rio Declaration is already in the English version of the 1999 act. It's simply a matter of making a correction to include "*principe de précaution*" in the French version.

[*English*]

The Chair: Yes, this is not a substantive amendment. Semantics are important, but these are semantics.

Ms. Leslyn Lewis: I'm sorry. Do we have any evidence that this is just...?

My understanding of what was said is that it is merely the precautionary principle—the term "*principe de précaution*"—that is being changed to better reflect the accuracy of the term.

The Chair: Yes.

Ms. Leslyn Lewis: Is it a correct understanding that it's just a minor correction and that this principle already exists within the legislation?

[*Translation*]

Ms. Monique Pauzé: Exactly.

[*English*]

Ms. Leslyn Lewis: It's in the preamble. Okay.

The Chair: Is there anyone else?

(Amendment agreed to: yeas 10; nays 1 [*See Minutes of Proceedings*])

The Chair: We now move to PV-4.

Ms. May, would you like to provide a brief explanation in support of your motion? It's deemed to already have been moved.

• (1630)

Ms. Elizabeth May: Thank you, Mr. Chair.

Pursuant to the motion passed by this committee, I will exercise my right to explain my amendment, which I otherwise, but for the motion, could have presented at the report stage in front of the whole Parliament.

Quickly, this is to say that we have in the bill a new concept that was introduced on the Senate side, of greater protections for vulnerable populations. They provided a definition to be added to section 3 of the act. It's part of clause 4, and you'll find it on page 3 of Bill S-5.

With this amendment I'm inserting greater clarity around "vulnerable populations" to ensure that we are including children, women, including pregnant women—you can read it for yourselves—se-

niors and people who are exposed through or have a disproportionate risk due to socio-economic status, race or national or ethnic origin.

You'll notice it gives clarity to the term that is used just above, where I propose we insert this amendment for greater clarity on vulnerable populations.

Thank you, Mr. Chair.

The Chair: Thank you.

Would anyone like to speak to the proposed amendment?

Go ahead, Mr. McLean.

Mr. Greg McLean: I thank the member for the definition.

In (f) it says, "workers who use, handle or are exposed to a substance or toxic substance". Effectively, anybody who is a worker is covered under the vulnerable population.

Is that perhaps a misprint?

I'll ask the member first of all, please.

Ms. Elizabeth May: Thank you.

Within the existing Canadian Environmental Protection Act, substance is defined, as is toxic substance, so this would not be a plain-language meaning that any worker who touches anything is covered. It would be those workers who are exposed to a substance within the meaning of the act.

The Chair: Go ahead, Ms. Collins.

Ms. Laurel Collins: I appreciate the amendment put forward by Ms. May.

I would just like to amend it further by deleting the word "include" to read, "includes, but is not limited to".

The Chair: Where is that, again?

Ms. Laurel Collins: It would go under "(4) For the purposes of the definition vulnerable population, the individuals in the group", and instead of "include", we'd put "include, but are not limited to".

To speak to my subamendment, I think the list provided here is important, but I don't think it is exhaustive. I think people who live in hot spots.... I wouldn't want to limit our definition of who is included in vulnerable populations to this, but it's important to explicitly state these groups.

The Chair: Is there anyone else?

Ms. Leslyn Lewis: I have a question for Ms. May.

I know that Ms. May has spoken extensively on racialization and environmental racism. I'm wondering why it's limited to just one group.

Could she clarify that for me?

The Chair: Go ahead, Ms. May.

Ms. Elizabeth May: Thank you, Mr. Chair, and thanks for the question, Dr. Lewis.

It's not to limit. It's to provide greater guidance in the interpretation of the "vulnerable population" definition, which is now included in the act.

What it says is a "disproportionate risk...because of...socio-economic status, race, national or ethnic origin, colour, gender, age or geographic location." It's not a narrow definition, but it is to provide some precision in the interpretation of the definition that's currently in the act.

The Chair: I'm sorry. Mr. Moffet had his hand up.

Did you want to say something, Mr. Moffet?

Mr. John Moffet: Thank you, Mr. Chair.

I want, first of all, to correct the assumption that it appears some members have that this amendment was introduced in the Senate. This, in fact, has been part of Bill S-5, part of the government bill.

We consulted extensively on the definition of "vulnerable population", and the feedback... I'd like to emphasize a couple of aspects of the feedback and then, if the committee will indulge me, I'll turn to my colleague from Health Canada to elaborate.

I have two points.

First of all, one of the main messages was to not limit the term—again, I realize I'm saying this in many cases—but to leave it open, leave it broad and not enumerate a list, so that it can be expanded over time.

Second, we received very specific feedback from some indigenous interlocutors who objected to being considered a vulnerable population. I appreciate that's not a consistent perspective from all indigenous people, but some were very clear that they did not want to be listed.

If I might, I'd like to turn to my colleague Mr. Carreau to elaborate on this.

• (1635)

Mr. Greg Carreau (Director General, Safe Environments Directorate, Department of Health): Thank you, John.

Indeed, Health Canada had the two concerns that were articulated by Mr. Moffet, notably that the motion could limit Health Canada's ability to assess subpopulation beyond those groups that had been identified by the motion, where new information regarding hazards or exposure may come to light with respect to populations that are more susceptible or highly exposed to harmful chemicals. To reiterate the point made by Mr. Moffet, we heard feedback based on public consultations that some subpopulations would rather not be explicitly classified as vulnerable populations. The current definition that's included in Bill S-5 provides clarity with respect to the scope and breadth of vulnerable populations without citing specific subpopulations, which can be defined through policy and implementation of the act.

The Chair: Ms. Lewis and then Mr. McLean.

Ms. Leslyn Lewis: I have a question for Ms. May again.

When you used the words "vulnerable populations", was that in reference to the disproportionate effects on these populations? Is that something you would consider changing, given the information

we heard about indigenous populations? Would this amendment, especially clause 4, be changed in any way if you added "but is not limited to", as our colleague has further stipulated?

Ms. Elizabeth May: To Mr. Moffet's point, while there was reference to vulnerable populations, the Senate amendment substantially expanded what will be occurring under future Canadian Environmental Protection Act policies and implementation around vulnerable populations.

To answer the second part of the question first, Dr. Lewis, I have no objections whatsoever to an amendment that says "but is not limited to".

Lastly, I would say to any group that finds it a difficulty, that this is the very specific definition that adds to a very general definition that is currently included in the act. It provides greater guidance. It is not overly general, but it does not apply in all circumstances. It's a population, when exposed to...or in the words of the bill now, in the Senate amendment to item 2(iii.2) on page 11, it's where there is a "vulnerable population...in relation to the substance". It's not a general statement that your population is always vulnerable; it's a statement that your population is vulnerable in relation to a substance regulated under CEPA. That becomes one of the context-setting elements to the question of toxicity, vulnerability and whether the government needs to take steps.

All the language that was adopted in the Senate committee on S-5 is very consistent with the bill this committee has already passed without amendment, Bill C-226, my private member's bill on environmental racism.

Thank you, Chair.

The Chair: Thank you, Ms. May.

Mr. McLean and then Ms. Collins.

Mr. Greg McLean: Thank you.

I'm just looking at the expansiveness of the definition here. You have everybody under the age of 18; women, including pregnant women; seniors, everybody over the age of 65; indigenous people of all ages; individuals with a medical condition of all ages; workers; and then part (g) really is a repetition of many of these, including socio-economic status, race, national or ethnic origin, colour and gender, again.

This seems expansive enough to apply to virtually everybody, so would it be more instructive to say who this doesn't apply to?

In (f) we talk about workers. We're talking about regulating workers. I don't know this answer, but are we treading on provincial jurisdiction by putting some more federal regulations around the provincial workforce? As much as we might be doing the right thing, will it have some spillover effects on provincial legislation?

Those are my two questions.

• (1640)

The Chair: Is that for Mr. Moffet?

Mr. Greg McLean: That's for Mr. Moffet.

I think the first question would be better answered by Ms. May, because she's here.

The second question, about the workers, I would direct to Mr. Moffet.

I can still ask her questions, can't I?

Ms. Leslyn Lewis: I've been asking her questions. My apologies. Thank you for giving me that latitude. Thank you.

Mr. Greg McLean: If that's not the case, then I'll Mr. Moffet to answer that.

The Chair: I'm sorry, Mr. McLean. We can ask Ms. May a question, but we need a very brief reply. It's sort of...

Ms. Elizabeth May: I hate these rules you've given me, Mr. Chair, but I will go with them and give the shortest answer possible to Mr. McLean's question if you will allow me.

The Chair: Yes, but briefly, please.

Ms. Elizabeth May: It does not apply to virtually anyone. It does not tread on provincial jurisdiction. The Canadian Environmental Protection Act's application has been upheld by the Supreme Court. It would continue to be upheld within the four corners of the legislation in recognizing that these are the vulnerable populations that could be in exposure to the substances as defined.

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

Can we go on to Ms. Collins?

Mr. John Moffet: I would just echo what Ms. May said.

The Chair: Perfect. That's excellent.

Ms. Collins.

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

Just for the officials, my subamendment was really to address the concern around amending it to be "includes but not limited to". Specifically to the official from Health Canada, I was just reading a list on the Health Canada website that lists what could be considered vulnerable populations. A lot of them are very similar to this list. As I scroll down, it says,

infants and children who may have greater exposures to certain chemicals due to behavioural reasons such as soil and dust ingestion

and

people living near industrial or commercial facilities or any other area with elevated levels of pollutants, including mixtures

and

Indigenous Peoples and communities who may be significantly impacted, due to their close ties to the land and their consumption of country and traditional foods

and

individuals with dietary habits different from the general population, including individuals with special dietary requirements, newborns and infants, new immigrants, or individuals in hunting and fishing communities consuming country foods that may have elevated levels of certain chemicals

It seems like Health Canada does have at least a proposed list for vulnerable populations.

The Chair: Is that a question for Mr. Moffet?

Ms. Laurel Collins: They seem to be saying that we shouldn't create a list, and I'm just wondering about it since we have a proposed list on the Health Canada website.

The Chair: We're debating your subamendment, really.

Was that a question for Mr. Moffet?

Ms. Laurel Collins: I'm sorry. That was a question for either Mr. Moffet or the government official whose name I did not catch from Health Canada.

Mr. John Moffet: It's Mr. Carreau, but maybe I can jump in initially.

The issue here would be the difference between codifying a list in a statute that is fixed until amended by Parliament versus providing an illustrative list as a matter of policy, which Health Canada has done, as you've already noted.

Ms. Laurel Collins: In terms of the subamendment in particular, just so we create language that doesn't limit it, it explicitly says that we're including these things, but we're not limiting it to this list.

The Chair: You're adding "not limited to".

You want feedback from Mr. Moffet.

Go ahead, Mr. Moffet.

Mr. John Moffet: I think the current drafting approaches, consistent with the way in which statutes are being interpreted in the courts, suggest that such language is not necessary. "Including" is intended to be read as "including but not limited to", as one uses it in normal parlance.

• (1645)

The Chair: You're saying we don't need that language.

Mr. Weiler.

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

My reading of this amendment is that it's quite a vast range of people. It essentially includes everybody as being a vulnerable population, with the exception of men aged 18 to 64 who are non-indigenous.

I understand proposed paragraph (g) is what this is really about, which is individuals who are at disproportionate risk because of exposure. I have an issue with saying that all folks other than the group I just mentioned are vulnerable. That's the reason I have a problem with it. I'll be voting against.

The Chair: Okay, but we're voting on the subamendment.

Are we ready to vote on the subamendment?

Ms. Laurel Collins: Mr. Chair, can I withdraw my subamendment?

The Chair: Yes, with unanimous consent, you can.

Do we have unanimous consent for Ms. Collins to withdraw her subamendment?

Some hon. members: Agreed.

(Subamendment withdrawn)

Ms. Laurel Collins: Mr. Chair, can I move a different subamendment?

The Chair: Yes, apparently you can.

Ms. Laurel Collins: Wonderful.

Instead of “include”, the amendment would be to put “may include”. The intention behind this is to provide greater clarity and to address some of the concerns Mr. Moffet raised around some indigenous individuals who wouldn't necessarily want to be included in this list.

The Chair: Do we need to debate that, or can we go to a vote on this new subamendment?

We'll go to a vote.

(Subamendment negated: nays 9; yeas 2 [*See Minutes of Proceedings*])

The Chair: The subamendment is not carried. Are we ready to vote on the amendment?

(Amendment negated: nays 10; yeas 1 [*See Minutes of Proceedings*])

The Chair: PV-4 is negated. We now move on to PV-5. It is deemed moved.

Ms. May, would you like to give a brief explanation?

Ms. Elizabeth May: Yes. The principles that are put forward in PV-5 are already in the act in various places. This is to provide a definition. Definitions are included in PV-5 for “intergenerational equity”, “non-regression” and “polluter pays”; where “non-regression” is not in the act, it is useful to have the definitions in place, as scientific advances may mean that the government continues to want to amend the act in future. Thank you.

(Amendment negated: nays 9; yeas 2 [*See Minutes of Proceedings*])

The Chair: PV-5 is negated.

(Clause 4 agreed to on division)

(On clause 5)

• (1650)

[*Translation*]

The Chair: We're now at G-6, and I must advise you that if it's adopted, PV-6, BQ-3 and NDP-10 cannot be moved, since all four amendments amend the same line of the bill.

Does any member of the government want to move G-6?

Go ahead, Mr. Weiler.

[*English*]

Mr. Patrick Weiler: Mr. Chair, given that there are some active discussions happening among the parties with respect to this clause, I'm going to move to have this clause be stood and for us to return to it after we have gone through some of the other clauses.

The Chair: Is everybody in agreement with Mr. Weiler's motion to stand G-6?

I'm told it's the whole thing. Mr. Weiler wants to stand clause 5. Apparently, you have to stand the whole clause. The legislative clerk says it's the whole thing.

Mr. Terry Duguid: Can we suspend for a moment?

• (1655)

The Chair: Yes, we can.

• (1650)

(Pause)

• (1655)

The Chair: Are we back in business?

Are you moving that we allow clause 5 to stand?

Mr. Patrick Weiler: I moved that.

(Amendment allowed to stand)

(Clause 5 allowed to stand)

Ms. Elizabeth May: Mr. Chair, I'm sorry. Does that mean that amendment PV-6 is stood before being heard at all, and that we'll come back to it later?

The Chair: Yes.

(On clause 5.1)

The Chair: Now we have amendment G-7. Who would like to move that?

• (1700)

Mr. Terry Duguid: Mr. Chair, I will move that.

The Chair: Do you have anything to say about it?

Mr. Terry Duguid: I think it's straightforward, Mr. Chair. I would open the floor to commentary, but then I'd be doing your job. Someday maybe....

The Chair: Yes, maybe.

Madame Pausé.

[Translation]

Ms. Monique Pauzé: The French version says “*Contenu du Registre*”, while the English version says “Contents of Environmental Registry”. So the French version should be “*Contenu du Registre environnemental*”.

Does this require a subamendment or can we simply correct this oversight?

[English]

The Chair: That's a question for Mr. Duguid, then, I guess.

Mr. Terry Duguid: I don't have an answer. Maybe Mr. Moffet....

The Chair: Maybe Mr. Moffet can tell us.

Mr. Moffet, in the French version, do we need to add the adjective “*environnemental*” so that it's “*Registre environnemental*”, or is it intentional that it says only “*Registre*”?

Mr. John Moffet: The registry has been in the act since 1999. I can't tell you why, but it has been referred to in this way since then as “*Registre*” only in French and “Environmental Registry” in English, so this is just retaining that inconsistent approach.

I don't think it creates a problem, but I appreciate that the wording is different in French and English.

[Translation]

The Chair: Okay. Thank you.

Is there any further discussion on this before we vote?

Go ahead, Ms. Pauzé.

Ms. Monique Pauzé: I want to understand, because I wouldn't want to propose an amendment like I did with the precautionary principle.

Mr. Moffet, can we just add the word “environmental” because it's an error or an oversight, or do I have to move a motion or a subamendment?

The Chair: It doesn't seem to be an oversight. It's been like that for years.

Ms. Monique Pauzé: Therefore, it needs to be corrected. We had the same discussion about the precautionary principle.

The Chair: Yes, I understand.

I'm told that the word “registry” appears several times in the bill. If we added the word “environmental”, that would have repercussions elsewhere in the text, and it would become very complicated.

There's nothing to prevent you from proposing this addition, but there would be consequences throughout the text.

Ms. Monique Pauzé: Mr. Chair, this is the same discussion we had last Friday, but I'll remain calm this time.

Subsection 13(1) of the English version begins, “The Environmental Registry”, whereas the French version begins, “*Sont conservés au Registre*”. Which registry is this?

This is another 1999 error that needs to be corrected. I can't believe that we can't correct it. We just did it for the precautionary principle, and we should be able to get it right in this case too.

The Chair: Before we vote, is there any further discussion?

Ms. Monique Pauzé: Yes, Mr. Chair.

It's strongly suggested that I ask if we can confirm that this amendment deletes everything that's written in line 27 on page 4, ending at line 3 on page 5, of Bill S-5.

In amendment G-7, it does state, “replacing line 27 on page 4 to line 3 on page 5...”. So that seems to remove everything that was there. Is that correct?

• (1705)

The Chair: We're not talking about the Registry anymore, if I understand correctly.

Ms. Monique Pauzé: No, it's another issue.

The Chair: Before I answer this new point, I have an answer, Ms. Pauzé. We'll be able to address your first concern.

Part 2 of the Canadian Environmental Protection Act, entitled “Public Participation”, has a section called “Environmental Registry”. After this section, each reference to the word “Registry” refers to the Environmental Registry.

It seems to me the problem is solved. It's for efficiency reasons. Is it more or less to your satisfaction?

Ms. Monique Pauzé: Efficiency isn't the same in English as in French. That's the problem.

The Chair: However, it's understood that we're talking about the Environmental Registry.

You raised a second point, though.

Ms. Monique Pauzé: That's right.

The Chair: Before asking Mr. Moffet to answer you, could you repeat your question?

Ms. Monique Pauzé: Yes.

Mr. Duguid's amendment seems to cover a lot of ground, from line 25 on page 4 to line 3 on page 5. I just want to make sure that's what it says and understand what the implications are.

[English]

Mr. John Moffet: I think this question is better posed to the clerk, but indeed, the amendment would delete all those lines that are referred to.

The Chair: Yes, it would, but Madam Pauzé's asking what that means substantively for the bill.

[Translation]

Ms. Monique Pauzé: That's exactly it, Mr. Chair. I'm asking why.

[English]

The Chair: Maybe Mr. Duguid could tell us what the purpose of G-7 is.

Madam Pauzé is basically asking what the purpose of G-7 is.

Maybe Mr. Moffet can help.

Mr. John Moffet: Perhaps I can help. When CEPA 1999 was passed, it enumerated the list of documents that the law required the government to include on the registry. In Bill S-5, one thing the government intended to do in multiple places, including in the registry, was to increase public access to information.

This amendment, while shorter, in fact expands the scope of documents the government would need to publish on the registry. Whereas previously it had only to publish the items listed in the lengthy list of provisions, now it is required, at a very high level, to publish all notices and documents published or made publicly available by the minister. It's now a much broader requirement with respect to the kinds of information and documents we will need to publish on the registry. That's the substantive implication of the amendment.

[*Translation*]

The Chair: Does that answer your question, Ms. Pauzé?

Ms. Monique Pauzé: Yes.

The Chair: Okay.

Mr. McLean, you have the floor.

[*English*]

Mr. Greg McLean: I think the amendment does the opposite, doesn't it, Mr. Moffet? It means filing fewer documents, if I'm correct. I'm going to ask a follow-up question, Mr. Chair.

Mr. Moffet?

• (1710)

Mr. John Moffet: That's not our interpretation. Maybe I can turn it over to my colleague, Ms. Laura Farquharson.

The Chair: Ms. Farquharson, you have the floor.

Ms. Laura Farquharson (Director General, Legislative and Regulatory Affairs, Environmental Protection Branch, Department of the Environment): There are a couple of things this change would do. The first is that there's a reference to a database in the amendment the Senate made, so this is to eliminate that reference. There are several search engines that are used to find documents, but that may not be how we do it all the time.

The revisions that were made, though, were to take out those long lists—you're right—and to make the more general requirement to publish documents that are relevant. The other change that was made was that it's broader, as Mr. Moffet said, in the sense that it now includes documents published or made publicly available by the ministers or either minister, whereas before it just had “minister”.

The Chair: Okay, thank you.

Do you have a follow-up question?

Mr. Greg McLean: Yes, my follow-up is just the (b) part of that, replacing lines 8 and 9 on page 5 with the following: “registry is publicly accessible and searchable and is in electronic form.” What difference will the amendment make here? I'm unclear; it seems to mean the same thing to me.

Ms. Laura Farquharson: I'm sorry. I'm just trying to find which part you're looking at.

If this is about its being accessible electronically, it's to replace that language about database, which is a very specific way of providing information.

Mr. Greg McLean: Please explain the difference to me, because we're talking about a registry. The old wording says “registry is maintained in the form of a publicly accessible and searchable electronic database”, which seems to make sense to me. The new one is “registry is publicly accessible and searchable and is in electronic form”.

Tell me what the difference is and the nuance of those two specifics, please.

Ms. Laura Farquharson: I think, literally, “database” may not be how you use it. I think somebody said blockchain. I'm not sure that you would use blockchain for this, but there may be other ways of providing the information than a database. It's literally the database.

Mr. Greg McLean: Okay. Thank you.

The Chair: Is there any more before we go to a vote on clause 5.1?

Go ahead, Madame Pauzé.

[*Translation*]

Ms. Monique Pauzé: On page 4 of the bill, paragraph 5.1(1)(i) refers to “every action, process, decision, assessment or activity—however called—that is carried out in relation to the substance under any provision of this Act, whether it has occurred, is in progress, or is proposed”. Does that remain?

Then, paragraph 5.1(1)(ii) refers to “every international instrument to which Canada is a signatory that applies in respect of that substance”.

Does it all go away? There are still some worthwhile things here for each substance.

The Chair: Did you understand the question, Ms. Farquharson?

Is what Ms. Pauzé just mentioned included in the amendment?

[*English*]

Ms. Laura Farquharson: The second part, “every international instrument to which Canada is a signatory that applies in respect of that substance”, would not appear in the registry.

I question the value of that, since the way Canadian law works is that whatever is an obligation internationally has to be implemented through domestic law, so that's how you know which instruments apply. You would see it in, for example, a regulation under CEPA that might prohibit the use of a substance that Canada had agreed should be prohibited under an international instrument, so that is not there any longer.

• (1715)

The Chair: It's not there any longer, but it's implied in regulations and—

Ms. Laura Farquharson: Yes. You'll see it in other ways.

[Translation]

The Chair: I think that answers your question, Ms. Pauzé.

Can we proceed with the vote?

[English]

No. There's no subamendment.

[Translation]

We're going to vote on G-7, proposed by Mr. Duguid.

[English]

(Amendment agreed to: yeas 11; nays 0)

(Clause 5.1 as amended agreed to on division [See *Minutes of Proceedings*])

(Clause 6 agreed to on division)

The Chair: Now we'll go to PV-7.

Go ahead, Madame Pauzé.

[Translation]

Ms. Monique Pauzé: Mr. Chair, I'd like to say something before Ms. May moves PV-7.

I want to acknowledge the amount of work that the Green Party has done on this clause. Since Ms. May still has only a few seconds to put forward her amendments, could we not agree unanimously to give her more time?

At one point, Ms. May told us in the House that she had been working on this for years. I congratulate her. I think we can see very clearly the work that has been done here.

So I'd like to give her more than 30 seconds to propose her amendment.

The Chair: Are you seeking unanimous consent?

Ms. Monique Pauzé: Yes.

The Chair: We're already allowing Ms. May to speak to her amendment. I also have some latitude.

If I understood correctly, Ms. Pauzé, you would like us to give her a little more time than usual, since the amendment is so long. I'll take note of that, but I'll start by asking Ms. May to give us an overview of it.

Ms. Elizabeth May: Thank you.

Once again, I would like to thank my dear colleague from the Bloc Québécois, Ms. Pauzé, for proposing that I be given a little more time. It's only because of the committee motion that I'm being rushed. This is obviously an important amendment, which isn't very short.

[English]

In presenting this, let me give the factual context and background. I think members of the committee will know that the section of the act that this amendment replaces is a comprehensive one. It puts forward the ways in which an individual can pursue an environmental protection action. It is significant that, in decades,

section 22 has never been used. It is cumbersome; it contains too many obstacles and it has never been used.

I want to thank senior lawyer Joseph Castrilli from the Canadian Environmental Law Association. I confess that the two of us have been working on the act. I worked on it before it had first reading, back in the 1980s, when I was in government.

This is an attempt to improve it significantly, especially now that Bill S-5 purports to create the right to a healthy environment, but with no mechanism to enforce that right.

This is a gift to the government, to Liberals and to all of us, to have an act that can work.

Let me explain briefly that PV-7—

• (1720)

The Chair: Explain very briefly, please.

The Chair: Go ahead.

Ms. Elizabeth May: I'll take no more than 20 more seconds to say that this amendment includes the ways in which an individual can proceed to federal court, the ways in which an individual can put forward their right and the way a court deals with that request for relief.

It also puts forward a comprehensive set of defences. Also, for those who would worry that this opens floodgates or in any way creates frivolous amendments, proposed section 22 of this amendment very specifically allows a court to dismiss any action that's frivolous or vexatious. In other words, this is a complete scheme. It's a comprehensive framework for the full enforcement of this act that is fair to all and will work in the public interest.

Thank you, Mr. Chair.

[Translation]

The Chair: Thank you, Ms. May.

I'm announcing that PV-7 seeks to create a legal recourse that isn't provided for in Bill S-5.

[English]

As *House of Commons Procedure and Practice*, third edition, states on page 770, "An amendment to a bill that was referred to a committee after second reading is out of order if it is beyond the scope and principle of the bill."

In the opinion of the chair and for the above-stated reason, the amendment brings a new concept that is beyond the scope of the bill. Therefore, I must rule the amendment inadmissible.

Ms. Collins.

Ms. Laurel Collins: I have a very quick comment.

It's so unfortunate that the government didn't open up section 22. This is such a critical piece of the bill in terms of enforcing the right to a healthy environment. Also, the chair knows that enforcement in CEPA is one of my interests. I think it is a critical issue, and I hope the government will tackle this as soon as possible.

I want to thank Ms. May for putting this forward.

The Chair: That's noted. Thank you.

We go to PV-8.

Ms. May.

Ms. Elizabeth May: I would assume it would also be beyond the scope, because it is a tidying up and deletion of a section replaced by the amendment you've just ruled out of order.

The Chair: Indeed, that would be the ruling from the chair.

The amendment seeks to amend sections 29 to 33 of CEPA. Again, "an amendment is inadmissible if it proposes to amend a statute that is not before the committee or a section of the parent Act, unless the latter is specifically amended by a clause of the bill."

It's going directly to try to amend CEPA where, as I understand it, this issue is not mentioned in Bill S-5.

Yes, unfortunately it's out of scope, as I see it.

We now go to PV-9.

Ms. May.

Ms. Elizabeth May: I'm sorry, Mr. Chair. I'm just mourning the last passages.

Let me get to PV-9.

Again, it proposes to repeal a short section of the act at the existing section 38. The rationale for that, as briefly as I can, is to ensure that the framework introduced in the previous amendment would make this part inconsistent, so I think it falls subject to the same ruling as before.

The Chair: It does.

The amendment seeks to amend section 38 of CEPA. As *House of Commons Procedure and Practice*, third edition, states on page 771, "an amendment is inadmissible if it proposes to amend a statute that is not before the committee or a section of the parent Act, unless the latter is specifically amended by a clause of the bill."

Since section 38 of CEPA is not being amended by Bill S-5, it is therefore my opinion that the amendment is inadmissible.

Now we are at NDP-11.

Ms. Collins, would you like to move the amendment?

• (1725)

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

The amendment, again, is looking at paragraph 22(2)(b). As Ms. May articulated, I think it is essential that we address the enforcement mechanisms in CEPA. The fact that no one has ever used the citizen enforcement is, in my opinion, egregious. I sincerely hope that the government will address this in short order. I'm incredibly disappointed that it was not included in the bill.

The Chair: Okay. Thank you.

[Translation]

Ms. Monique Pauzé: I have a question.

[English]

The Chair: Well, I have to rule on this before we open debate. There's no debate because of the ruling, but we haven't gotten to the ruling yet, so....

We have a very good legislative clerk. He's way ahead of me.

The amendment seeks to amend sections 22 and 29 of CEPA. Again, "an amendment is inadmissible if it proposes to amend a statute that is not before the committee or a section of the parent Act, unless the latter is specifically amended by a clause of the bill."

Since sections 22 and 29 of CEPA are not being amended by Bill S-5, it is therefore my opinion that the amendment is inadmissible.

We go now to clause 7.

Ms. Laurel Collins: Mr. Chair, as this is my first time going through clause-by-clause on a government bill—and with the utmost respect for your chairing—if I were to challenge the chair, the process would be that everyone would vote on it. Is that correct?

The Chair: Yes. There's no debate.

Ms. Laurel Collins: Yes, and again with the utmost respect, I would just like the committee to be on record about not opening up this section.

The Chair: We'll go to the vote, to challenge the ruling.

(Ruling of the chair sustained: yeas 9; nays 2)

The Chair: Mr. Weiler, do you want to say something?

Mr. Patrick Weiler: I do, just very briefly.

I think these are some very important amendments that were brought up. Obviously they are out of scope at this time, but these are things that have come up quite a bit with witnesses in the course of our meetings. Therefore, as the Senate did when it was concluding its study, I would recommend that these issues be addressed in a future bill or in a future action by government.

I would suggest that maybe our committee consider doing the same thing, so that we could have an official government response on that.

The Chair: Unfortunately, that's not debatable.

I was even remiss in allowing you to address it, because there's no debate on that at this point, but I thought you were going to talk about something else. That's why I gave you the floor.

Yes, Mr. Duguid.

Mr. Terry Duguid: Mr. Chair, because we are moving to a new clause, I was going to suggest that we adjourn and come back with fresh eyes and renewed vigour.

I would move adjournment.

The Chair: You mean in 2023.

Before we adjourn, I want to thank our clerk, the analysts, our legislative clerk, the interpreters, the technicians and everyone who makes these meetings possible.

I wish everyone the very best for the holidays, merry Christmas and a very happy new year.

Mr. Terry Duguid: We didn't vote, Mr. Chair. I don't think we'll get any objections.

The Chair: I know. I don't think we'll get any objections, but I just wanted to get that in before we decided to adjourn.

It looks as though it's unanimous, Mr. Duguid.

We'll adjourn.

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