

September 17, 1993

Tony Clarke
Assistant Deputy Minister
Environment Canada
351 St. Joseph Blvd.
Hull, Quebec

Dear Mr. Clarke,

**Position of Non-Governmental Organizations in the Accelerated
Reduction/Elimination Toxics (ARET) Consultation**

The purpose of this letter is to clarify the position of non-government organization (NGOs) in the Accelerated Reduction/Elimination Toxics (ARET). As you may be aware, the NGOs have actively participated in this consultation since its inception. A year and one-half into the process, we are extremely disappointed in the progress of this consultation. Despite our time, effort and organizational resources, the consultation has not resulted in any action to improve the quality of the environment or added greater protection for workers.

The expectations of the NGOs for the ARET consultation has always been clear. We thought it would result in a legislated program directed toward eliminating the most hazardous of substances. Instead of proceeding with this fairly simple goal, ARET has been transformed into a complex and incredibly cumbersome initiative which remains, by and large, far from complete.

NGOs have many concerns regarding the ARET consultation. This letter will **not** list all the issues of concern by NGOs on ARET. It will catalogue only a few of these issues.

The Elimination versus Reduction Issue

From the very earlier stages of ARET, NGOs clearly stated their understanding of the purposes of the consultation - it was to identify the most hazardous toxic substance and then develop strategies for their phase-out.

Why were the NGOs so insistent on elimination of these substances?

(a) **Government Commitments:** The goal of virtual elimination is articulated in the Green Plan and is a fundamental policy objective of the Great Lakes Water Quality Agreement.

(b) **Failure of Pollution Control:** For the most hazardous substances, pollution control has not been sufficient to protect the environment. End-of-the-pipe controls are incomplete and only shift the problem to another medium.

(c) **Lack of Worker Protection:** The use and generation of persistent toxic substances endanger the health of workers by exposing them directly to these substances.

(d) **No Safe Levels:** When employing the precautionary approach, an underlying assumption is that there is no assimilative capacity in the environment for persistent toxic substances. Elimination is the only appropriate long-term strategy.

The controversy over what is meant by "elimination" was, in the end, surprising. The NGOs' position had always been explicit and consistent. Yet, despite 18 months of consultation and seven meetings of the Elimination Task Force, not only is ARET no further ahead on the issue, it has taken many giant steps backward. For example, with respect to the last industry proposal dated July 7, 1993 on the issue of elimination, there remains a host of unresolved issues. A non-exhaustive list includes:

(a) **Hazard Criteria versus Risk Assessment:** Industry proposed the inclusion of risk assessment as a precondition to action on candidate chemicals. NGOs had been under the assumption that the basis of ARET was to identify candidates for elimination based on the characteristics of chemicals (that is, hazards), rather than risk assessment methodologies.

(b) **Use versus Release:** The focus of industry remains on releases rather than generation and use. NGOs have been consistent in arguing for true "prevention" that attempts to reduce both generation and use of persistent toxic chemicals.

(c) **Definition of Virtual Elimination:** Industry suggests that the definition of virtual elimination is reduction to "acceptable levels." NGOs have followed the definition of the International Joint Commission which views virtual elimination as a two prong concept - turning off the tap for chemicals in use now, while remediating those chemicals already in the environment. In this context, there is no acceptable level, in the long term, for persistent toxic substances.

(d) **In-Plant and Out-of-Plant Releases:** Industry seems to define pollution as anything "entering the natural environment." NGOs refuse to draw an artificial and arbitrary line between chemicals found in the plant and out of the plant since both have the potential to harm both the environment and humans.

(e) **Purpose of Candidate List:** Industry assumes the chemical selection criteria will identify chemicals for "action." That action may include no action depending on costs, feasibility and societal demands. NGOs assumed that the candidate list would identify substances for phase-out.

(f) **Exclusion of Metals:** Industry suggests that heavy metals be excluded from the proposed strategy. NGOs have always proposed the elimination of inputs of all persistent toxic substances caused by human activities.

(g) **Single Chemicals versus Classes:** An underlying assumption all the way through the debate was that the goal was elimination of "substances" despite the constant argument of NGOs of the necessity to examine classes of substances.

In our view, by backtracking on such issues, it is clear that industry is not serious about the ARET consultation. In our view, with the nature and direction of proposals put forth by industry, it is apparent that they intended to frustrate the process. They knew or ought to have known that such a proposal would have provoked NGOs to rethink their status in the consultation.

Lack of Leadership of Environment Canada

Perhaps one of the most perplexing aspects of the ARET Consultation is the role of Environment Canada. Their view that they are only a "stakeholder" in the process created a lost opportunity for the department to take more of a leadership role in the consultation. The lack of a strong leadership role by the department created a policy vacuum for the discussion on the issues related to persistent toxic substances.

One of the few exceptions was the proposal on the definition of elimination proposed by Francois Guimont at the May meeting in Vancouver. Although NGOs had significant problems with the proposal, it was a positive and constructive contribution that really focussed consultation and delineated the issues at hand.

The Labour Concerns

Regarding labour concerns, the NGOs see the phasing out of specific substances as one option within a range of pollution prevention strategies as opposed to the traditional reliance on end-of-the-pipe controls. ARET failed to address both a general pollution prevention system (since it was aimed only at a limited number of specific substances) and to focus on pollution prevention at the expense of emission controls.

The focus on discharge releases also meant that workplace pollution and worker protection were never addressed in ARET, contrary to our position paper of February 1992 and despite repeated attempts to put workplace issues on the ARET agenda.

Nor was there any attempt to address worker displacement issues (alternative work, retraining, and compensation) in the light of the ambitious aims of reduction and elimination; though the final proposals to emanate from the other caucuses were so feeble that the employment impacts would have been minimal.

NGOs Position on ARET

In light of the comments expressed above, the NGOs listed below have decided to

withdraw participation in the ARET consultation. No doubt many will be disappointed with this stance. However, no one can be more disappointed than the NGOs. Their sincere intention was to accelerate preventative action on those chemicals that are considered the most hazardous to the Canadian environment. Our investment in time and resources has failed to result in this basic objective. It seems that ARET still has not "accelerated" indicating that voluntary initiatives are no more rapid or efficacious than a regulatory approach.

ARET, as far as it did progress, was not a waste of time. It brought forth fundamental and crucial issues of environmental policy. Various activities resulted in constructive reports. It is unfortunate that all the stakeholders did not have the courage to further new approaches that have been embraced with success elsewhere in the world. It is not surprising Canada will follow, rather than lead, other countries in their quest for a sustainable nation.

Next Steps

While the NGO members are leaving ARET, some NGO members would still welcome an invitation to participate in other consultations pertaining to the futherance of a sunset chemical regime.

Yours very truly,

David Bennett
Canadian Labour Congress

John Jackson
Great Lakes United

Paul Muldoon
Pollution Probe

Myles Kitagawa
Toxics Watch Society of Alberta

Chris Rolfe
West Coast Environmental Law Association