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## AXWORTHY AND STEWART PRESS CONFERENCE

LLOYD AXWORTHY (Minister of Foreign Affairs): Ladies and gentlemen, mesdames et messieurs, today Mrs. Stewart and I are here to announce a comprehensive strategy with the bulk removal of waters from Canadian watersheds, including removals for purposes of export. The strategy comprises four main components. First, amendments to the International Boundary Water Treatise. Secondly, a reference to the International Joint Commission, a moratorium and accord to be negotiated with the provinces to prohibit the bulk removal of Canadian watersheds. And fourth, a series of initiatives internationally to come to grips with the broad issue of water management.

La stratégie fédérale comprend quatre éléments principaux. (Inaudible)...pour traiter des eaux (inaudible)... On voit à la (inaudible)...internationale le moratoire et un accord négocié avec les provinces pour interdire les prélèvements massifs de l'eau dans les bassin hydrographiques canadiens et on croit passer une globale pour promouvoir les (inaudible)...de l'eau sur les forums internationaux(sic).

In Canada we think...as we saw in the debate that took place in the Commons yesterday, the issue of water has gone beyond just some of the simple notions that was implied say ten years ago in the debate. It's now become a much broader issue of management. It is foremost an environmental issue, not a trade issue and our approach that we're announcing today is designed to protect our waters from bulk removals from Canadian watersheds and it applies equally to those removals that would take place within Canada and that could potentially be removals from without Canada. It applies for use of water both in terms of internal use and also for purposes of export. And it's based, and I think this is the important thing, based on very broad principles of water management. To move it into a much broader, comprehensive, co-ordinated away of recognising the enormous value of this resource and not simply looking at it in its economic dimension, but in the terms of its basic essential utilisation for our ecology.

It is consistent this reproach with NAFTA and with the...the statement was made by the NAFTA partners in 1993 that nothing in that treaty would oblige any NAFTA party to export its water. The statement that we are making re-affirms that we still maintain full sovereignty and have control over our own water, and I think the approach that was consistent yesterday with the unanimous vote of the members of the House of Commons. But what is important is to recognise that if you're going to have a broad-based approach, if you're going to be looking at this in terms of the full implications and ramifications of the importance the water has, that we require

cooperation first with the provinces, because jurisdiction of water is split between federal-provincial governments and because provinces are responsible for the water management and Christine will speak to that later.

And secondly is that we also share a number of joint watersheds with our continental partners, both in the Great Lakes, the rivers, trans-boundary waters and that through the Boundary Water Treaty that we will be exercising our responsibility as a federal government for full management. The amendments to the treaty will give the Minister of Foreign Affairs the full regulatory power to prohibit the bulk removal from all boundary waters and these amendments will be applied if and when existing provincial policies or legislations are insufficient to provide or prohibit a specified project.

Secondly, to reinforce those amendments and to make sure that we are able to manage through the Boundary Waters Treaty Act, the joint sharing of this stewardship that we have, we have cooperation with the United States for joint reference to the International Joint Commission to examine the uses and diversions of water along the boundaries, including the Great Lakes and waters and including the potential impacts of water removals from an export point of view. And the work from the IGC references is already gone forward. We submitted it this morning. Public hearings will begin in March and we expect that the report, the first report will be submitted in early August.

With respect to the provinces, we're inviting them to develop a comprehensive accord on bulk water removal and we're asking them to voluntarily implement a moratorium until an accord is negotiated, we hope early as this Spring. We also will be continuing our extensive efforts in an international level by sharing Canadian expertise and the sustainable use of freshwater and we encourage other countries to develop their own solutions. Having just as (inaudible)... come from the Middle East, there's no question that in terms of the issues there...water is probably the most fundamental source of much of the conflict and that's beginning to occur around the world. So we must tackle a much broader look and work in cooperation with the department of environment. Our department will be taking a series of active initiatives.

Les mesures fédérales annoncées aujourd'hui pour protéger les eaux (inaudible)...mettent de leur (inaudible)...en approche destiné à assurer la sécurité (inaudible)...l'eau douce canadienne.

I am quite confident that this strategy which is looking into the future will alleviate Canadian concerns about the long term security of Canada's freshwater supply and give us a capacity as a country working together to really come to grips with the importance of water and how we can manage it for the best interest of Canadians and in fact for helping to give and example and guidance to the rest of the world. I'll now ask Miss. Stewart to make comments.

CHRISTINE STEWART: Thank you very much. Lloyd. Comme le ministre Axworthy vient de préciser, il s'avère nécessaire d'envisager une action consultée de la part des gouvernements fédéraux(sic), provinciaux et territoriaux pour assurer une protection complète des bassins hydrographiques canadiens contre le prélèvement de grandes quantités d'eaux. C'est la raison pour laquelle nous invitons les provinces et les territoires à collaborer avec nous dans le cadre de la stratégie fédérale à l'élaboration d'un accord pan-canadienne sur cette importante question. Notre stratégie est fidèle à la résolution sur l'eau adoptée à la Chambre des communes hier.

Just to follow on what Minister Axworthy has said, I and my officials in my department have been in dialogue with provinces and territories for the last several months and as a result of that action, some provinces...well BC had legislation in place, but some since then have put legislation and regulations in place since the beginning of our dialogue. Right now we have Saskatchewan, Quebec and Nova Scotia that are developing legislation and regulations with public consultation and as said, we are asking all provinces and territories to agree to an immediate moratorium and to come together with the federal government to develop a national accord, an accord that will on the basis of science look at better management practices and immediately prohibit the withdrawal of bulk water from watersheds.

I have just spoken with my provincial and territorial counterparts and I can say that there is a broad consensus around these ideas as a result of the consultations that I have had over the past months. I think it's extremely important that the federal

government work with provinces and territories. We each have distinct jurisdictions and control over water resources in this country. I think it's extremely important that we have a national accord, a national strategy so that we can protect the water resources for all Canadians and for our future. And of course as we learn through our reference to the IGC and the recommendations and through our own work federally, provincially, territorially, we will learn better how to manage our own water resources here at home for whatever purpose we might wish to withdraw water from watersheds and hopefully be able to share our knowledge and our management skills with other countries who today are facing very serious water crises.

In our own country climate change has had a significant impact on our water resources and this past summer the warmest on record we saw significant decreases in water levels in the Great Lakes, but in ground water levels many people with water wells, depending on water wells for their daily water use had serious problems with lack of water and so we have to look at among other things the impact of such things as climate change. I'll leave my comments at that and we're prepared to answer some questions.

Q: (inaudible)...could explain why you promote the export of non-renewable resources whether gas, minerals but you're so afraid of any export whatsoever of renewable...(inaudible)...it is renewable and some of it must be.

AXWORTHY: I guess you...to begin with you don't drink oil. It's a resources that value is not measures simply in dollar terms and commodity terms because it has

such an incredibly profound impact ecologically, for purposes of environmental controls, fish, flora, fauna.... A whole range of what makes a society work is so dependent on our water resources. You have to a much more effective water management system which is really what we're putting in place. So it's not just a...it's not just a commodity. In fact, the whole purpose of this approach we're taking is to move it away from...sort of notion that it is a tradable good. This is dealing with water in its natural sort of setting or dealing with water that is not seen as a tradable good. We'll be providing these prohibitions and regulations and agreements based on removal of water on a watershed principle which is to prohibit and manage the bulk removal of water based upon those broad criteria we just outlined.

Q: I was looking at the definitions in here. Is there a specific threshold that you're talking about. I mean, I am wondering if you can explain for example, the distinction between sending two truckloads of bottled Naya water to California and sending two tanker trucks of water to California.

AXWORTHY: Well, I think in this case one of the reasons why we want to...through the amendments we're proposing simply give us the right to examine such proposals. We're not talking about a couple of tankers, we're talking about sometimes removals of water that would have a clear watershed impact. So, I go back to the previous point I made, by having a watershed management strategy, you're looking at it in terms of its broad implications, its broad ramifications where there's simply somebody is digging a well to have some bottled water to send as a commodity, that is covered

under the trade act, but on these cases we're looking at very much as an environmental issue.

STEWART: One of the...if I could just add to that. Water that is withdrawn from watersheds and bottled for export doesn't have...is recognised to not have a huge cumulative impact. On the other hand, bulk water removals we don't understand enough of the science around that, but we believe that the cumulative impact of diversions by canal, by tanker trucks, by ship whatever could have a cumulative impact that could be very serious and we have to understand this.

Q: (inaudible)...thresholds that you have worked out?

AXWORTHY: It's one of the reasons why we're having specifically the reference to the International Joint Commission right now, it's so we can get some good science done and that will be part of the discussion we'll have with the provinces, because in each case they have their own sort of water management regimes and you want to make sure that they are now (inaudible)...integrated into a national approach, but that would be applied according to their own requirements.

Q: (inaudible)...in terms of environmental impact, but in terms of the trade impact what are you concerned about in terms of the precedent set if bulk water is exported. What is the worst case scenario that you're trying to (inaudible)...

AXWORTHY: Well I think what happens is that if...if it simply becomes part of a trade regime then the trade rules apply and that goes back to the 1947 <sup>GATT</sup> gap which

the basic principles there is that it then becomes subject to all the national treatment requirements and everything else and you lose the capacity to manage.

STEWART: But I think it's (whispers) just by defining it in...under a moratorium like this?)

AXWORTHY: (whispers) No.

STEWART: I think it's very clear under our NAFTA agreement that water in its natural state is not a commodity.

AXWORTHY: That's right.

STEWART: And therefore is not eligible for export. Is not liable to export. Water as defined in NAFTA for export is only in bottles or limited containers.

Q: But...okay let's say that (inaudible)...applies...then we decide, let's say Newfoundland decides a five year agreement to ship bulk water and then they decide environmentally we changed our minds, we don't want to do it. What's the downside? Could we not withdraw from that contract without facing huge penalties?

AXWORTHY: Well the whole point of this approach and I should say, I talked to the premier of Newfoundland this morning and he is fully supportive if these measures that we have put forward. First that we need to have a moratorium to take a look at this...of the issue and secondly to work out something that would be a broad national approach and so...to use to old parliamentary thing, your question is partly hypothetical. What we are saying though and this is the definition...you know oftentimes in this place we debate old vocabulary, old issues and we don't look ahead.

What we're trying to say is that the occasion of the NOVA(?) incident last summer gave us an opportunity to engage the Americans, to engage the provinces in a discussion what do we do about this. And I think everybody came to the realisation that it's about time that we got away from the old debates and looked at really what is the crucial issue which is the conservation and management of our very scarce water resources and Canada's in a very strategic position, 20% of the world's known freshwater resources are in our country. We have a real responsibility, a stewardship that if we don't sort of come to grips on water management issues we can't expect other countries to do the same.

Q: Why don't you follow the lead of Alberta and BC and simply pass legislation banning...

AXWORTHY: Well, we have in our own jurisdiction. We are amending, proposing to amend the Boundary Waters Treaty Act.

Q: (inaudible)...principally the Great Lakes it says here. What about the...

AXWORTHY: Well...no, I am sorry those are not...it deals with all trans-boundary water issues and that includes a number of the river basins along the way.

Q: So it also deals then with (inaudible)...lake proposal in Newfoundland?

AXWORTHY: No, that's totally internal within Newfoundland.

STEWART: This strategy that we're announcing today is much broader than just the export of bulk freshwater. This strategy today is talking about working

collaboratively with provinces and territories to talk and discuss management issues in general. So it's much broader than just export.

Q: (inaudible)...

STEWART: Yes, that's right. Each...water falls within provincial and territorial jurisdictions and they have some authority and that's why we're asking them all to work together with us in putting in place an immediate moratorium while we develop our national accord.

AXWORTHY: (inaudible)...those waters covered by our jurisdiction which are boundary waters.

STEWART: Yeah...and waters...

AXWORTHY: ...is going to be covered by our treaty and we are taking steps that we just announced to amend that treaty to give us the right to prohibit.

Q: (inaudible)...commitment from Newfoundland to take part in the moratorium...

AXWORTHY: Yes.

Q: Or is it conceivable that if they pass...

AXWORTHY: No, I did...I spoke to premier Tobin this morning.

STEWART: I spoke with the other provinces today and generally there is broad consensus to a moratorium and to developing a national accord. As I said previously, the discussions that we have had in the last month have resulted in several provinces taking actions in legislation regulation to date and we're hopeful that the others will continue, but from those that have not as yet started to develop legislation or

regulations, there was consent to the notion of immediate moratorium and development of an accord.

Q: There is a challenge in BC right now against this legislation. What happens  
if the American company wins that to...

AXWORTHY: Well, that particular... the case is not a case that involves a challenge  
to the B.C. legislation. It's more based on a contractual problem, and therefore is in  
the courts under those terms.

Q: Pour revenir à la question du moratoire. Est-ce que le Québec vous a donné son consentement? Parce qu'il y a un moratoire qui vient d'être levé au début de l'année pour l'exploration des (inaudible)... souterraines. Est-ce que vous avez l'accord du Québec aussi pour le moratoire?

STEWART: Je n'ai pas eu la chance de parler ce matin le ministre, mais avec le département et c'était claire du point de vue du département que le Québec est ouvert à cet accord aussi.

AXWORTHY: Comme vous le savez...

STEWART: Oui, le moratorium...

AXWORTHY: Le ministre de l'environnement à Québec a dis il y a un mois il faut avoir une collaboration avec les gouvernements fédéraux(sic) sur la stratégie

Q: (inaudible)... the analysis by one of the core members yesterday who said  
that if there were any trade, even within Canada, of bulk water, that would mean that

water is entered into commerce, and therefore it would be... people could  
(inaudible)... export.

STEWART: That's why we have the agreement, trilateral agreement, in  
writing, that water in its natural state is not a commodity.

Q: (inaudible)... commerce (inaudible)... people saying, if it enters into commerce,  
if it is traded anywhere, even within a province...

STEWART: No, we don't agree with that.

Q: What if one province in the next hundred years changes legislation and draws  
(inaudible)...

AXWORTHY: The next hundred years is a long time to think ahead. I just  
got through a 26 hour plane ride...

Q: Does that automatically make it a good, and therefore subject to GATT?

STEWART: We don't believe so, but we think that's the reason why in management  
terms in general it's important to have all jurisdictions who have authority in water to  
come together to develop an accord.

Q: The chief of defence staff today has taken responsibility for not being able  
to get the prime minister there in time. What are your thoughts on that?

AXWORTHY: Well, I just... because I was in Jordan representing the people  
of Canada and the prime minister, when I read the sort of questions that were being  
raised by the opposition, I just give them my example. I left... I was asked to because  
the prime minister was informed he simply couldn't make it on time. We were given

a very short window to get there. I arrived about two hours ahead of the actual ceremony. By the time I drove into the city and changed my suit, I was there just really at the beginning of the ceremony. So it was clear that if the prime minister had to had to make that kind of transit, he was on West Coast, he couldn't have got there in time. It's as simple as that.

Q: So it's not necessarily the military's fault, then.

AXWORTHY: I don't know who... all I know is that there was a very... it was very important to be represented. The prime minister's... being on the West Coast, couldn't have got there in time. I was called to ask if I would be able to go and take some members of parliament with me, which we were able to arrange very quickly, and we did, and we got there. And fortunately we had awfully good tail winds, and (inaudible)... 100 kilometres an hour, so it gave us a little boost, so we gained about half an hour. Otherwise I would have been just really been there right on the edge. So frankly...

Q: Did you get the notice to go, what time did you get the phone call to go?

AXWORTHY: I think... some time early in the morning. The set of calculations were that the prime minister had been informed he wasn't able to go, and that they had to get the plane ready and we had to get some MPs together. And we left around noon.

Q: What time did you start to make your preparations?

AXWORTHY: I can't recall. It was awfully... it was early in the morning, and I was on my way to my son's hockey tournament, so it must have been around 8:00.

Q: ...Friday that you might have to go in the prime minister's absence?

AXWORTHY: No.

Q: Did anybody in Jordan ask (inaudible)...?

AXWORTHY: No, actually, and this is something... I'm glad you asked that question. I had the occasion to speak directly with the Jordanian officials, including the new king Abdullah, the foreign minister and others, and they were not taking any exception. They understood the problems. They were very glad that we were there to represent, we received their good sort of response. We talked about a number of issues that we worked bilaterally with the Jordanians on, and I invited the new king to come to Canada. So it was all done in the most open, cordial way. And there was... certainly the Jordanians were not expressing what I heard from members of opposition.

Q: No offence, but when you saw that who's who of global leaders there, did you not wish that the prime minister had been there representing Canada?

AXWORTHY: Yes, I wish he'd been there, but he couldn't. It simply was impossible to get there. He just didn't have the time. I mean, that was the difficulty that was faced. There was... our embassy found out very late... I guess into Saturday or Sunday morning. They called into Ottawa as quickly as possible. I think the prime minister's office was informed. They checked the logistics. It was impossible. They

phoned me and said could I go to represent him, and I said yeah, we can probably get that together. We got there just in time.

Q: (inaudible)... questions when you were there?

AXWORTHY: No.

Q: Did anybody ask where is Chrétien?

AXWORTHY: No. I had occasion to talk to many of the leaders, from Khofi Annan to President Clinton to a number of other people from the Middle East and so on. And they said give the prime minister our best wishes. I explained that he couldn't be there.

But you know, people were not... can I say something very quickly? People at this funeral weren't there worrying about whether somebody was there or not. It was very important that the country be represented. But we were there to pay tribute to a very courageous man who had died, and to a country that had played a very important role. That's the issue. That's the story. That's what it's about. It's not about... I frankly am a little dismayed that the only questions the opposition seemed to be able raise in the House had nothing to do with the importance of Jordan in the Middle East process, the important bilateral relations we have with Jordan. We're working with them closely on de-mining projects in the Middle East. We're working on refugee problems. I didn't hear a question from a member of the opposition about what was really vital, is that how Canada continue to support the new government,

the new king of Jordan in these very important issues. That to me is what the whole thing is about, it should be about.

Q: You don't think it looks bad, though, when every other world leader is there, and...

AXWORTHY: Well, to begin with, your premise is wrong. Not every other world leader there.

Q: The American president...

AXWORTHY: There was only one leader from the Western Hemisphere who was there.. And that was President Clinton, because as I said, he has one of these wonderful 747s which, if we ever bought one, you would all be sort of on the warpath if we ever decided to go ahead with something like that. And he was able to sort of pull it together. He just...

Q: (inaudible)... skiing at Whistler, either.

AXWORTHY: Well, I don't know what President Clinton did. I make it my business not to know what he's doing.

Q: Why... given that water is a provincial responsibility, trade is a federal responsibility...

AXWORTHY: Yes, but it's both. Come one.

Q: But trade... international trade is a federal responsibility. So isn't...  
wouldn't it be within your rights to, if you wanted, to end all exports of water from  
Canada?

AXWORTHY: But once you do that, once you start doing that, then you make water into a tradable commodity, and then it gets subject to all the trade rules going back to GATT 1947. That to me is the anachronism of the approach that's being proposed by some of the other people, is that they want to turn it into a tradable commodity. We're saying there's a much more effective way of doing it, and that is to treat it in its natural state. Therefore it's not subject to trade rules, but you still are able to provide the kind of management, prohibitions and regulations that are required. That's the whole point. That's why I said, I mean, I think people are confusing. The debate that took place over NAFTA was really a debate at that time as to whether we were obliged to export water. That was the debate. I was there, probably directly involved. And that was the debate. It wasn't in terms of a broad-based management system. It was were we obliged. The statement that was made in 1993 clearly, by the three NAFTA partners, said there is no obligation for one country to export its water to another under this agreement. But the GATT rules still apply, and they go back to 1947.

And so what we're saying is... and look what's interesting about this, because of what's taken place. First, we've been able to get cooperation from the United States. The House of Representatives has passed a resolution. We've got a cooperative arrangement with Americans now to put a reference to the International Joint Commission. We also have a large scale cooperation with the provinces to come out with a comprehensive plan. We're going to come out with a much better

effective strategy for the management of our water resources than simply worrying about whether it's a tradable good or not. That's where I think the debate is frankly out of date.

Q: (inaudible)...

AXWORTHY: No.

Q: Can I ask about the reference to the IJC? What are you asking to do and how binding (inaudible)...

AXWORTHY: I think that there is the full reference right there. It's all there. Okay?

Q: So what did they say that their reason...?

AXWORTHY: No, I think that the reference is primary design. We're establishing a right for us to prohibit or manage; as the minister of foreign affairs, I now have the right to determine that any bulk removal from boundary waters. What we've asked the IJC to do is to start giving us a good examination of what criteria... what would it mean, how would it affect levels, what is the environmental impact? Those are the kind of things that the IJC is set to do. And frankly, now it relates back to some discussions we've had recently with Secretary of State Allbright, which is that we have to be a little bit more pre-emptive in our planning on these kind of environmental issues, so we simply aren't taking them to dispute resolution systems. But to use the IJC as a mechanism to look ahead, to do the kind of proactive examination of issues so that they can be managed more effectively, without always just simply having a

dispute or resolving one. And we're now looking at doing that, Minister Stewart and I, in terms of doing a pilot project with the Americans on a joint water management system to determine whether there can be... where waters cross the boundaries, we can have a full scale environmental management, as we did with the Red River during the flood.

Q: (inaudible)... last spring. Why is this taking so long just to make (inaudible)...?

AXWORTHY: Well, because we want to it as a package. I mean, this is isn't just a reference to the IJC. We're also looking at amendments to the Act, we're looking at the provincial implications, and we want to pull it all together so that it fits together. I mean, you can do a series of one-offs, and you can do a series of kind of unilateral steps, so I think we're going to want to do something that really fits together.

STEWART: And if I could add to that, the IJC has had a heads-up on this and they actually going to start their work next month, and they'll have a report to us by August.

AXWORTHY: Okay. Thanks very much.

UNIDENTIFIED: There are two officials here, David Preston (?) from Foreign Affairs, Jennifer Ward (?) from Environment Canada. If you have any questions about the water strategy, they can answer them. (Inaudible)... background briefing just to clear up the technicalities.

Q: (inaudible)... provincial moratorium (inaudible)... federal (inaudible)... tradable good (inaudible)...

DAVID PRESTON (Foreign Affairs): The minister, but the minister makes the point about the broader approach of dealing with this on a watershed basis. The notion of a moratorium is a temporary measure until we arrive at the... an agreement on an accord, which would have the effect of...

JENNIFER WARD (Environment): And it's a call to provinces for a moratorium. In effect, you have B.C. and Alberta and virtually Ontario with moratoria already in place, and that the two provinces with legislation, Ontario with a draft regulation, and other provinces are starting to announce their policies in that area.

Q: (inaudible)...

WARD: Okay, I will speak more slowly. British Columbia and Alberta have legislation in place. Ontario has a draft regulation, which prohibits the water moving from one (inaudible) basin to another. Nova Scotia has indicated... has intent to put a policy and legislation in place. Saskatchewan is in that same category. And... did I forget anything?

PRESTON: Uh...

WARD: Quebec is engaged on a consultation process. They announced that about ten days ago, where they are out talking to provinces on a broad base of water management issues, one of which is (inaudible)...

Q: At the same time, in Quebec they said that they have a moratorium that seems to be in effect at the beginning of the year. Did they agree to prolong the moratorium that they requested? I don't (inaudible)...

WARD: I'm not an expert for the province of Quebec, but I can tell you I understand that they had a moratoria on ground water, which is slightly different from what we're talking about here, in terms of bulk removal of water. And that will be part of the consultation process.

WARD: Just on a point. They intend their consultation process to finish on March 15, year 2000. So at the very least they're not going to presumably to do anything in the meantime, because they have a process of public review underway. So one assumes that that's more or less the period of the moratorium.

Q: A federal ban on bulk exports would then subject potentially water to GATT rules?

PRESTON: Well, principally because the notion here is treating water as a tradable good. And water is not a tradable good. We have, as they said in 1993, there is no obligation to export water. There is no obligation to make it into a tradable good. So what in fact the government is doing is choosing the option of dealing with it in its natural state. So what you do in effect is look to the provinces to prohibit the removal of water, the transfer between basins. Now, if you do it that way, it means that you can't transfer it between basins within Canada. So you can't transfer it, for example,

depending on the definition of the basin, from let's say the Great Lakes to Hudson Bay.

Let's take a point dealing with what Ontario has done. Because Ontario has done this in a way that deals with watersheds. Their regulation divides the province of Ontario into three watersheds, and doesn't allow the transfer between watersheds. So this whole principle is environmentally sound. In other words, you're not transferring (inaudible)... or anything else between one watershed or another. You're clearly not withdrawing the water and having an effect on the ecosystem in that way.

At the same time, of course, it also deals with transfers of water within Canada, but also deals with transfers of water outside Canada, or out of the watershed in either case. So the whole notion here is grounded on environmental considerations and not on trade considerations. And if you deal with trade, you're only dealing with part of the issue, because there's a much broader issue, and that's the question of watershed management.

Q: Why not... what I'm trying to understand is why you don't deal solely with (inaudible)...?

PRESTON: But you don't need to, because if you deal with it at the watershed level and in terms of removing water from watershed, you achieve the same thing. You sort of get two bangs for your buck.

Q: (inaudible)...?

PRESTON: Well, once you... yes indeed, if you were to get into the game of starting to treat water as a tradable good, you know, clearly then the issue is like any other good. Then you've got to treat it according to the rules. But there's a really important point here, and that is the question of water in its natural state. Just because you take a bit of water out of its natural state and trade it into a good, that doesn't mean that all other water is a good.

Q: If one province allows one (inaudible) export process (inaudible)...

PRESTON: No.

Q: Because water (inaudible)...

PRESTON: No, this is the point. The point is that certainly no, because what applies is the policies and legislation in effect in that jurisdiction. So if you take the hypothetical case, and the question was put to Mr. Axworthy, if you take that hypothetical case, it doesn't... it is a hypothetical case. It doesn't apply elsewhere. No other jurisdiction in Canada would be obliged to export water if a jurisdiction chose to do so. Because you don't have like circumstances. And that's the language which applies under NAFTA. The question is, in like circumstances. If you treat it in like circumstances... if you have another project in like circumstances, you can't discriminate.

Q: (inaudible)... moratorium (inaudible)... due to the fact that it's not a trade moratorium but (inaudible)...

PRESTON: As opposed to being a provincial matter? Yes. The basic principle is the policy itself, an environmentally based policy.

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Q: (inaudible)...?

WARD: It's been called (inaudible)... yes (inaudible)... well it is in effect (inaudible)...other provinces as they develop laws and (inaudible)...

Q: (inaudible)... there was a commitment by all provinces...

WARD: It's general support to the idea (inaudible)... part of...

Q: (inaudible)...

PRESTON: Yeah, but it's an important point. The important point in this, and this is that water is a public good. Water is owned by the state, unlike private goods, shall we say. Therefore governments, provincial governments, can make a sovereign decision as to whether they allow the water... that's the whole permitting process, of course. And in this case, the provinces in the course of the consultation with us, I guess the hypothetical question is, if somebody came forward to a province tomorrow and said I'd like to do X, would the province then, because the moratorium isn't, quote, "instant," be prepared to... would it allow the project to go ahead? I would think in light of all the discussion we've had with the provinces that that would be... that would be highly unlikely that they would. In any case, most provinces already have either legislation which prohibits, or a moratorium on it. And the nature of the discussions with the provinces, which we've done at the official level as well, is that none of them are... they've all in various ways expressed opposition to the export of

water. So if a project comes up, one anticipates that in effect you've got a de facto moratorium at the present time, even though they don't come back and say, you know, (inaudible)... I don't think the date is a big question.

WARD: And as Mr. Axworthy also said, (inaudible)...

PRESTON: Yeah.

WARD: Because everybody knows that's where the active proposal is right now.

Q: If everyone is on side, why aren't you able to announce an immediate moratorium on this? I mean, you've been talking to the provinces for months already.

WARD: There is in effect, there is a moratorium in place. It is on the broader watershed basis that's very much in the area where provinces have responsibility for management of water. So in our sense, as the minister had said, there is general support (inaudible)... policy to be put in place.

Q: My understanding was, did you begin looking at the possibility for a federal legislation banning the export of water?

PRESTON: Yes.

Q: That was the initial...?

PRESTON: Yes indeed. Of course, there was one of the...

Q: (inaudible)... rejection (inaudible)...?

PRESTON: I'm sorry?

Q: (inaudible)... reject (inaudible)...?

PRESTON: Good question. Probably some time in the fall. We began to examine this. I think it was not so much a question of rejecting it but finding a better answer. And the better answer was to deal with it through a watershed approach. People said, well hey, look, we're on to something that's really quite interesting here. Let's do it more comprehensively. Let's stick by our environmental principles. Let's not deal with part of the problem, which is this issue of exporting water to other countries, which is the way of course the issue was initially framed around the NOVA proposal. But let's deal with it in a more comprehensive way, and we can have our cake and eat it too, because that will deal with the export issue.

Q: (inaudible)... in order to keep water outside of international trading?

PRESTON: I suppose it might have a secondary benefit of that, but the idea, again coming back to the central principle, is that water in its natural state is not a good. Watershed management is a sound principle. So you're better to do the bigger and better thing than to focus on a ban on exports. And again, I guess you get your cake and you eat it too.

Q: (inaudible)... federal government (inaudible)... all the provinces should have their own separate ban on water exports?

WARD: I think it's important to come back to all the elements of what the strategy is. I mean, as Minister Axworthy said, it's not just doing one, which is why we didn't talk about the IJC reference earlier on. And I think in that sense, I mean, the federal government in the boundary waters area, is proposing to amend legislation which

would help us deal with the prohibition issue in the federal areas. As well, the other part... and then we want to talk to provinces on the broader framework of an accord, which will then give everybody a chance to say what we're doing federally as well the provinces and territories. And that whole framework together is going to give you the larger package of what it is we're trying to accomplish in terms of protection of our watersheds.

So I don't see it really as one or the other. It's trying to build on all the different parts of it. Then they have the IJC reference in the international (inaudible)... as well. But it's really putting the two (inaudible)...

PRESTON: One point to make, I guess, is that the provinces may well have a different... each province may have a different solution. I mean obviously Alberta and B.C. and Ontario are already out ahead of the roll on this one. The two having firm legislation at this point, and the other having proposed regulations which are out for public comment until February 16. So there are differences amongst the provinces. I don't think there's any notion on the federal side that every province has to have the same solution. The notion of getting into an accord with them is to discuss... it's around a set of principles rather than around trying to get around a one-size-fits-all solution for all provinces.

Q: Under trade law, why is it that if Newfoundland did decide to export bulk water from their lake, then a U.S. company could not insist on similar access to a

lake, an identical size lake in British Columbia. Why could they not? Once it becomes a tradable good, why can't they...?

PRESTON: Yeah, I guess the link... it's an issue of... it's like a chain link fence. All the little links, you have to accept all the little bits along the way. But water, again, water in its natural state is not a good. So that's the first principle you establish. So if we're looking at the B.C. case, B.C. operates as everybody else does on the basis that water in its natural state is not a good. It has its own legislation put in place to describe what it is, what the B.C. approach will be to that... to the notion of exporting water. Because another jurisdiction does so, doesn't imply that they have to do so as well.

Q: (inaudible)... regulations (inaudible)... various jurisdictions (inaudible)...?

PRESTON: Well, the federal government in the end is responsible for international trade, of course, under the BNA Act.

Q: If Ontario decided it is a good and P.E.I. insists that it's (inaudible)...?

PRESTON: Oh, of course, of course. Yeah, that's right. Because what they do, each province pursues its own policies and legislation and regulation. And you have different circumstances under... if you're looking at the GATT language, as I understand it, you don't have like circumstances amongst the provinces. You don't have like circumstances because their environmental situation is different. They have in place policies which relate... some provinces have policies related to export of water which are looked at more from an environmental point of view than others.

Others look at it in different terms. And so the notions that you're going to achieve  
like circumstances about a tradable good are just not there. So there's no obligation  
then, there's no precedent which is set from one to the others. Because the important  
point is that one (inaudible)... approach this with the same amount of skepticism as  
you are, but the logic, and I'm convinced of this, that the other water in the ground is  
not a good. Because you allow, suppose that you were to put water in one tanker and  
allow it to go, being a highly hypothetical case in this case, if you're allowed to allow  
that bit of water to be put into a tanker, then the difficulty is stopping. You can't  
restrict that water, because you've treated that water...

[END OF TAPE]

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