

CANADIAN ENVIRONMENTAL LAW ASSOCIATION

Procedure Suggestions for Hartt Commission

1. Moritorium:

There must be a moritorium on all large scale Northern development during the process of the Hartt inquiry. This is clearly necessary so that Northern development carried on during the hearings does not negate the purpose of the Commission.

Such a moritorium would necessitate the cessation of other environmental assessment mechanisms during the time of the Commission's operations.

The moritorium must be negotiated to be acceptable to affected environmental & native groups.

2. Southern Hearings

The Canadian Environmental Law Association endorses the opinion of the Committee in Support of Native Concerns-London, Ontario, that while most of the hearings should take place in the north, and the concerns & opinions of northern people should be of the utmost concern to the Commission, since the decisions made about northern development will ultimately affect southern communities, the inquiry should hold Southern Hearings. Equal access must be afforded to all citizens interested in participating in the Commission.

3. Formal Hearings

Timing

The formal hearings in the North must be held at a time which would maximize the possibility of interested parties participating. Accordingly, hearings should not be held during the spring or winter months when transportation difficulties are paramount, nor during times directly in conflict with seasonal "employment" (ie. wild rice harvesting period.)

4. Adversarial Procedure

To ensure fair & proper hearings in which all participants have an equal opportunity to present & substantiate evidence, as well as an opportunity to review & question evidence submitted by other participants, the adversarial approach should be implemented in the formal hearings. This would involve:

- (i) All testimony to be given under oath;
- (ii) Full cross examination powers for all participants in relation to any witness, statement, or evidence presented;
- (iii) Re-examination by counsel for witness presenting testimony;

5. Access to Information & Production of Documents

The Commission must have access to all relevant documents etc. relating in any way to northern development whether or not such documents are held by participants, or non-participants & whether or not they are intended to be used as evidence at the hearings. This includes documents held by corporations, government, or individuals.

The Commission should ensure that transcripts of all proceedings are available at minimal or no cost in various accessible locations in the North and South. Transcripts should be available in Cree-Ojibway as well as in French and English.

It may be helpful for the Commission to establish several libraries where copies of all relevant documents, plans, studies, reports, texts, inventories, & research materials would be available for review.

The Canadian Environmental Law Association supports the procedural statement of Treaty Nine in general & specifically the suggestions in regard to:

1. Community Hearings;
2. Witness panels;
3. Commission counsel's duties to ensure all evidence is made available to Enquiry;
4. Partial Participation;
5. Documents & Discovery;