



NATIONAL ROUND TABLE ON THE ENVIRONMENT AND THE ECONOMY
TABLE RONDE NATIONALE SUR L'ENVIRONNEMENT ET L'ÉCONOMIE

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Public Consultation on Environmental Issues

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Issue

Departments and agencies of the federal government have inconsistent, and generally inappropriate and ineffective approaches to public and stakeholder consultations on environmental issues. This may in fact be part of a larger problem, i.e., that the government's commitment to, understanding of, and skills and procedures for the design and execution of public consultations are *generally* inadequate, and not restricted to the field of environmental issues. However, these shortcomings are *particularly evident in the environmental domain* for several reasons:

- The large number of recent and forthcoming environmental policy initiatives (in a climate of heightened sensitivity and public awareness of environmental issues), have brought the question of public consultation to the fore.
- Environmental issues typically raise sensitive and complex questions involving: personal and social values; varying local, regional, national and global impacts; and critical conflicts and trade-offs between various groups and interests. These are especially demanding of public/stakeholder participation in the exploration and understanding of issues, the articulation and assessment of viable options, and the negotiation and formulation of resolutions and strategies.
- The public in general, and environmental interest groups and industry in particular, have a keen interest in participating directly in policy development and decision-making, and generally have high expectations for close and meaningful involvement in these processes. Many industry and other non-government groups have considerable skill and expertise in effective consultation processes, and expect government to be equally committed and competent.

Symptoms of the Problem

Shortcomings in the government's approach to public consultation are evidenced by the following typical symptoms:

- policies and strategies are formulated and plans and commitments are publicly announced with **no public input whatsoever**;
- "public consultation" exercises *are* conducted but essentially translate into **mere information and communication events** (and even then they are largely dominated by "**government information out**", rather than listening, dialogue and "**public information in**");
- opportunities for public input and participation occur **too late in the process**, with the government having formulated perceptions of the problem, issues and options with inadequate understanding of stakeholder views, concerns and circumstances;

opportunities for the public to set the agenda and define the scope and nature of the issues (let alone meaningfully influence the *outcomes*) are modest or non-existent;

- **the objectives of the public consultation process are inappropriate or ill-defined** (e.g., it is unclear whether a particular phase of consultation is attempting to identify issues, generate ideas for solutions, understand implications of options or negotiate recommendations);
- **the consultation methods chosen are inconsistent with the objectives of the phase of public consultation** (e.g., the public is asked to comment on a set of issues and options even though there is no understanding of, or agreement on, basic facts, terms or concepts);
- **the wrong stakeholders are invited/allowed to participate, while those with legitimate interests are excluded or ignored;**
- **the negotiable and non-negotiable dimensions of the consultation are not clearly spelled out;**
- **there is no clear understanding of the process for follow-up** including plans and commitments for reflection of public input into the policy or strategy being developed;
- **the input from public consultation is given only lip-service**, and is not integrated into options and recommendations.

Consequences

There are several negative consequences of inadequate, inappropriate and ineffective consultation. Perhaps the least significant, though important enough, is the tendency for poor consultation efforts to undermine public support for what may otherwise be reasonably good policy or program proposals. Having not been invited to participate, or having been alienated by an insensitive or otherwise inadequate consultative process, tends to increase public opposition to the specific proposals at hand (and to undermine public confidence in government in general).

More importantly, poor or inappropriate consultation approaches can actually contribute to bad policy. For example, it may tend to reinforce incorrect perceptions of issues, circumstances or appropriate options and solutions. Furthermore, if work continues on particular proposals or initiatives with insufficient or inappropriate consultation in the early formative stages, only to face public/stakeholder opposition when final recommendations are being made (or in fact when decisions have been taken), two types of problems may arise:

- there will be costly delays to rectify shortcomings in the proposals; and/or
- there may be too much momentum established for the proposals, as they exist, to be modified to make them more responsive to legitimate concerns.

The most important problem of all, however, is that inadequate or inappropriate public consultation fails to take advantage of the vital information, perspectives and values that can come from the public and specific stakeholder groups. Consultation is a necessary — and in many cases the *only* — source of information on specific conditions, circumstances, values and priorities. Many — if not most — aspects of public policy are "value neutral" from the point of view of bureaucratic and political decision-makers, whereas they are "value sensitive" from the point of view of the *public*. That is, the bureaucratic and political decision-makers are relatively indifferent about many aspects of particular policies (e.g., specific principles, strategies and priorities), and are relatively open to public preferences for specific approaches and priorities. Therefore, it is essential to obtain public input on these preferences.

One final consideration is that, increasingly, public policy is being implemented via partnerships between various levels of government, industry, voluntary organizations and individual consumers and members of the public. As a consequence, public understanding of, and acceptance of the policy — achieved through effective and meaningful public consultation — is vital for the ultimate implementation of the policy itself.

Essential Elements of Public Consultation

Public consultation is a process that **empowers legitimate stakeholders** (i.e., those with legitimate interests in a particular issue or subject matter) to **meaningfully participate in and contribute to** the planning, development and/or implementation of public initiatives, whether these are policies, programs, strategies or specific projects and activities of government. It is therefore a process that **goes substantially beyond simple two-way communication** (i.e., information out and information in), though these are two necessary ingredients for effective consultation. It involves, and is defined by, the **sharing of responsibility for decision-making** on public policy between officials and politicians on the one hand and the legitimate public stakeholders on the other. If there is no real opportunity for the public/stakeholders to influence ultimate decisions, then it is something other than *consultation*. Public consultation is certainly not a mere formality or a convenient device to allow the public to vent frustrations, raise concerns or otherwise simply be *seen to have been* "consulted".

Meaningful and effective public consultation therefore involves the following key elements:

- *the scope and limits of the issue that is subject to public consultation, including negotiable and non-negotiable dimensions, are clearly defined at the earliest stage;*
- *all legitimate stakeholders have an opportunity to participate (and non-legitimate stakeholders are excluded);*

- *public consultation is sustained (via the most appropriate approaches and methods), through each critical stage of the policy development or planning process — from identification of problems, issues and opportunities to assessment of options, and negotiation and formulation of recommendations and decisions;*
- *all stakeholders have adequate and meaningful opportunity to express their own views and perceptions, and to hear, question and challenge those of others;*
- *all stakeholders have an adequate and meaningful opportunity to participate in the assessment of trade-offs, and negotiation of compromises; and*
- *all stakeholders (including government) make, explain and follow through on their commitments regarding their follow-up from each stage of consultation to the next.*

Factors Currently Limiting the Effectiveness of Government Approaches to Public Consultation

There are several factors that have tended to contribute to relatively poor performance on the part of the government in public consultation on environmental issues:

- there is only limited understanding of and commitment to the real benefits of public consultation (let alone the *obligations* of government to share decision-making with legitimate stakeholders);
- public consultation is still largely seen as a step to be followed in the bureaucratic process (and a time-consuming one at that), rather than a source of valuable information and insights vital to the formulation of good policy;
- policy planners and program managers have limited training, skills and experience in public consultation (and tend to confuse it with aspects of communication, or focus on the limited range of approaches and techniques with which they may be familiar, regardless of how appropriate they may be for the particular phase and objectives of the consultation, and the circumstances of stakeholders);
- government officials are uncertain of their authority to initiate full and meaningful public consultation, especially those involving sensitive issues requiring trade-offs and negotiation;
- there is inadequate sharing of insights and experiences on effective consultation approaches and their positive results;
- planners and managers are, at best, evaluated on *whether* they conducted public consultation, rather than *how appropriate or effective it was*.

Recommendations

The National Round Table on the Environment and the Economy can help to initiate a process of expansion and enrichment of the federal government's commitment and capacity to conduct meaningful public consultation on environmental issues by:

1. Commissioning a **discussion paper on public consultation**, with guiding principles, recommended approaches and methods, and selected examples (empirical or hypothetical) of appropriate public consultation approaches. This would be used to promote better awareness of, and commitment to, meaningful public consultation on the part of relevant departments and agencies.
2. Hosting of a **seminar or symposium** involving senior planners and managers in the environmental domain (and possibly other policy fields) to raise awareness of concerns regarding the effectiveness of public consultation within government, promote sharing of experiences from other fields and the private and voluntary sectors, and identify more specific strategies that could be pursued by individual departments and agencies.
3. Encouraging the Treasury Board to develop and promote **policy guidelines** on public consultation for government departments and agencies, similar to the Treasury Board's *Guide on the Program Evaluation Function*. This would establish clear authorities and principles for officials involved in the design and management of public consultation.
4. Collaborating with appropriate departments and agencies (including Treasury Board Secretariat, Public Service Commission, and the federal management training centres) in the development of (a) **management training course(s)** on effective public consultation (utilizing environmental case examples), to be funded and provided on an on-going basis by government itself. (This might involve hiring off or replicating materials for similar training courses within individual departments.)
5. Encouraging Environment Canada to take the lead in establishing an **informal federal network** of individuals and branches interested and involved in public consultation, to promote and encourage the sharing of ideas and experiences.
6. Requesting Environment Canada and others to conduct some **formal evaluations** of recent public consultation exercises in which they have been involved, to provide tangible evidence of, and more substantial insight into, approaches that were effective or ineffective, including lessons learned regarding the factors contributing to success or failure. These could be used to guide the development of some of the above materials and in any case, could serve as useful reference materials.

J. Phillip Nicholson

Mr. Nicholson is the president of a consulting firm specializing in the development and evaluation of public policy, in a broad range of social, economic and environmental domains. He has provided consulting services to more than 60 federal and provincial departments and agencies over the past 14 years.

Of particular relevance to this initiative is his direct involvement in a wide range of public consultation initiatives, including national consultations on the *Canada Environmental Protection Act*, stress on land, wetland conservation and federal land management policy. Other diverse public consultation initiatives have included analysis of stakeholder concerns regarding the potential imposition of user fees for certain coastguard services, stakeholder concerns regarding the Canadian Patented Medicine Prices Review Board, and public and interest group input to federal proposals for the regulation of the tax rebate discounting industry. His firm recently provided support to public consultation initiatives of the Public Review Panel on Tanker Safety and Marine Spills Response Capability, and the Royal Commission on Passenger Transportation.

Mr. Nicholson is the co-author of Environment Ontario's *Guide to Public Consultation*, and Industry, Science and Technology Canada's *Consultation Guide*, and is currently developing guidelines and criteria for the environmental assessment of federal policies (with a heavy emphasis on public consultation and review) for the Federal Environmental Assessment Review Office (FEARO).

Mr. Nicholson has an undergraduate degree in geography (Carleton University), and graduate degrees in economics and politics (University of Oxford) and city planning (Massachusetts Institute of Technology). He served as a CMHC Graduate Fellow at M.I.T., where he specialized in environmental planning and design. He has lectured in geography, planning, architecture, political science and public administration at Carleton University, Queen's University, Dalhousie University, Simon Fraser University and the Massachusetts Institute of Technology.