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INTERGOVERNMENTAL RELATIONS -- SOCIAL UNION ISSUES

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INTRODUCTION

With the major exceptions of unemployment insurance, which is federal, and the old age pension system, which is shared by both levels, most legislative jurisdictions relating to social policy (medical/hospital services, education and social security) are provincial. The provinces have, however, relied on money transferred from the federal government to finance major programs, such as hospital and medical insurance, and to expand the provision of post-secondary education. Traditionally the federal government has used its fiscal capacity to influence social policy, especially in the creation of desired programs and the maintenance of standards by the provinces. There is thus a high degree of intergovernmental contact, collaboration and (intermittently) conflict in the social policy sector.

In the 1980s, the federal government began to impose restraints on fiscal transfers to the provinces; this trend culminated in the mid ’90s with the consolidation of major social transfers into one, the Canada Health and Social Transfer (CHST), and the reduction of cash transfers by some $2.5 billion (or approximately 10%) for 1996-97. These reductions prompted a rising level of provincial protest. In a number of provinces, initiatives such as health care clinics that required payments from users were launched, even though such arrangements contravened the standards set out in federal legislation. More broadly, the reductions heightened pressures, especially from the larger provinces, for unilateral federal standard-setting to be replaced with processes involving greater provincial participation.

THE CHST TRANSFER

Since mid-1997, improvements in the fiscal position of the federal government have added fuel to provincial pressures concerning transfers. These have expanded to include demands for the full restoration of transfers to pre-1995 levels. Thus, the 15 June 1998 meeting

of federal and provincial Finance Ministers saw the provinces (except Quebec, which was not participating, and Newfoundland) press for either a $6.2-billion increase (full restoration), or a more moderate increase said to reflect cuts in line with those Ottawa had imposed on itself.

Discussions centring on health care spending continued into 1999 and became steadily more confrontational. The provinces pressed for full restoration of the health care component (in particular), while the federal government sought a general intergovernmental agreement setting out provincial obligations to report publicly how health care money is spent, provincial support for medicare standards, and commitments by the provinces to spend increases on specified core health care services such as emergency wards, cancer treatment and long-term care.

Discussions began to progress in January 1999, when Prime Minister Chrétien offered greater flexibility with respect to the health care services to which federal money could be applied. On 22 January, the 10 provinces and two territories responded by letter, agreeing to make a commitment that money transferred for health care would indeed be spent in that area. The fact that Quebec signed the letter was seen as a particularly hopeful sign, given the province's traditional reluctance to endorse any arrangements that imply a federal role in jurisdictions viewed by the province as being provincial.

According to media reports, on 25 January the Prime Minister welcomed the letter from the premiers and promised a significant increase in health care funding. Other reports, however, suggested that Quebec's participation had been strategic – aimed at getting restored funding in order to preclude a larger agreement that would imply a federal role – and that Quebec would not sign a general health accord. The end result was that several health-related issues were addressed globally, in the Framework Agreement on the Social Union (see below), which was achieved through Prime Ministerial intervention in the final stages of negotiations. Though there was no official announcement of the size of the increase to the CHST that would appear in the next federal budget, provincial spokesman reported their clear understanding that it would be in the order of $2 billion in the next year, rising to $2.5 billion two years later.

Federal commitments to increase the CHST by $6.5 billion (cumulative) between 1999-2000 and 2001-2002, and by $11.5 billion over the five-year period starting in 1999-2000, were announced in the February 1999 budget. While most provincial governments responded

positively to this commitment, reactions were more mixed to the announcement that CHST funding would be shifted to a per capita basis, thereby disproportionately increasing the transfer to provinces that had received lower payments in the past. This drew strong protest from Quebec, and negative reaction from Newfoundland. Premier Bouchard denounced the change as a "flagrant, arrogant, vulgar and brutal" assault upon Quebec, and the province launched a public relations campaign featuring graphic pictures of blood plasma bags and IOU bills, while reports appeared in the media of a memorandum in which the Justice Minister of Newfoundland accused the federal government of "taking from the poor to give to the rich."

While protests against the change to the method of calculating CHST payments have proven to be relatively transitory, provincial pressure continues for the full restoration of all categories of CHST funding (the budget will have the effect of restoring health care funding only). At the Annual Premiers' Conference, held 9-11 August 1999, Premiers and territorial leaders unanimously called on the federal government to "fully restore Canada Health and Social Transfer (CHST) funding to 1994/5 levels with an appropriate escalator." More recently, at their provincial-territorial meeting on 15 November 1999, Finance Ministers repeated this demand, as they did in a conference call between the Premiers and Finance Minister Martin on 25 November.

- For CHST details: see Odette Madore, *The Canadian Health and Social Transfer: Operation and Possible Repercussions on the Health Care Sector,* Parliamentary Research Branch, CIR 95-2E.

NATIONAL STANDARDS AND THE SOCIAL UNION

Restraints on federal transfers have since 1995 coincided with growing provincial experimentation with alternative delivery mechanisms, notably in the health care field. In a number of cases, provincial initiatives prompted federal counter-actions to uphold federally prescribed standards or practices, as well as major conflict with individual provinces.

A prominent example was the disagreement between the federal and Alberta governments during 1995 and 1996 over the charging of "facility fees" by private clinics. This

resulted in federal penalties and, ultimately, the provincial government's agreement to absorb the charges on behalf of clinic users.

Differences over whether the federal government should have an exclusive role in applying national standards within areas of provincial jurisdiction have since proven to be a major element in a more general discussions about roles and responsibilities in the social policy field.

On 12 December 1997, First Ministers agreed that a Framework Agreement on the Social Union would be developed, using the Federal-Provincial-Territorial Council on Social Policy Renewal (an ongoing forum for intergovernmental social policy discussions), with July 1998 as a target date. These talks were formally launched on 13 March 1998, under the joint chairmanship of federal Justice Minister the Hon. Anne McLellan and Saskatchewan Minister of Intergovernmental and Aboriginal Affairs, the Hon. Bernhard Wiens.

By June of 1998, the provinces (absent Quebec) had developed a proposal relating to the "process" part of a possible framework. The proposal provided for a range of collaborative practices, and would also have made new or changed national programs in areas of provincial jurisdiction subject to the consent of a majority of provinces. As well, it would have required the federal government to compensate any province or territory not participating in such a program, provided that the province or territory established a program that addressed the priority areas of the national program.

In mid-July, however, a scheduled meeting of federal and provincial Ministers at which the federal government had been expected to respond to provincial proposals was cancelled. When that government did respond, later in July, it rejected restrictions on the spending power beyond those to which it had committed itself in 1996, and asserted the continued need for an exclusively federal role in the interpretation and enforcement of national standards. The federal position did, however, indicate receptivity to more extensive consultations with provincial governments over the design and implementation of new social programs, including 12 months' notice of the introduction of such programs.

At the 5-7 August 1998 Annual Premiers' Conference, Premiers reaffirmed the position on the social union announced in June, and called for a draft agreement by the end of the year. A potentially significant development at the conference was Quebec Premier Lucien

Bouchard's endorsement of the provinces' social union proposals. Before this date, Quebec had not participated formally in the social union talks and had rejected power-sharing proposals on the grounds that the federal government has no role within areas of provincial jurisdiction.

The fall of 1998 saw a series of sharp exchanges in the media between Prime Minister Chrétien and Premier Bouchard over the provincial proposals. For example, the Prime Minister's suggestion, in a 16 September interview, that Premiers should seek election as Prime Minister if they wanted to run the federal government, was called a "slap in the face" by Mr. Bouchard and an attempt to brush aside constructive ideas from the provinces. During this period, a series of intergovernmental meetings on social union framework issues took place, culminating in Victoria on 29-30 January 1999. Agreement was achieved, however, only when the issue was shifted to the level of First Ministers; and a series of telephone calls from the Prime Minister to Premiers established the basis for an agreement combining remnants from the stalled health accord negotiations, social union framework elements and (as already discussed) a clear understanding about money.

On 4 February 1999, First Ministers hastily gathered in Ottawa to ratify a general agreement among the federal, provincial and territorial governments (with the exception of Quebec) entitled *A Framework to Improve the Social Union for Canadians.* The Agreement commits participating governments to:

- general principles such as equality of opportunity and access, and existing federal principles for medicare;
- the elimination of barriers to inter-provincial mobility of labour ;
- the public reporting of outcomes achieved by social programs ;
- joint priority-setting and intergovernmental information-sharing (including 3-months' notice by the federal government of new initiatives within the federal jurisdiction, and 1 year's notice of major changes to federal transfers) ;
- the principle that the federal government will not introduce new cost-shared programs without the consent of a majority of the provinces.

At the conclusion of the meeting, Premier Bouchard reiterated Quebec's longstanding opposition to arrangements that imply a federal role in what are seen to be

Quebec's exclusive social policy jurisdictions, and that do not provide for an unconditional provincial right to opt out of new federally initiated social programs. The agreement was described as "…a serious backward step that no Quebec premier could sign."

In the months since the signing of the Framework Agreement, individual issues appear to have substantially superseded it on the agendas of most governments. On 27 October 1999, however, provincial and territorial ministers responsible for social policy discussed possible next steps for interpretation of the Agreement and the implementation of reporting requirements, as well as provisions for accountability and dispute avoidance.

- For background discussion see: Jack Stilborn, *National Standards and Social Programs: What the Federal Government Can Do*, Parliamentary Research Branch, BP-379E

HEALTH CARE ISSUES

On 15 June 1999, the federal, provincial and territorial governments announced a final settlement agreement for persons who had been infected with Hepatitis C through the blood system. The proposed settlement, which requires approval by the courts in B.C., Ontario and Quebec because it proposes to settle lawsuits through class action proceedings in those provinces, will provide compensation from a $1.1-billion settlement fund to persons infected with Hepatitis C between 1 January 1986 and 1 January 1990. This issue had been a significant source of conflict between federal Minister of Health Allan Rock and his provincial counterparts since early in 1998, when the federal Minister had initiated talks on a joint compensation program for Hepatitis C victims. Major issues for many provincial governments had included: federal refusal to recognize the cost of provincial services such as welfare and hospital treatment as elements of the provincial contribution to a joint program and, subsequent federal reluctance to share the costs of assistance to those infected prior to the 1986-1990 period during which blood testing methodologies had been available to governments, but had not been implemented.

As has been seen, the Framework Agreement on the Social Union incorporated specific references to medicare, reflecting the fact that attempts to negotiate a separate intergovernmental health agreement in the context of discussions about federal transfers had

broken down early in 1999. Recent affirmations by all governments of the principles underlying medicare have not, however, put an end to disagreement about the interpretation of these principles. (It should be noted that, while Quebec did not sign the Agreement, it did sign the 22 January 1999 provincial/territorial letter indicating willingness to affirm the five principles set out in the *National Health Act* and to spend restored health money on health care).

Intergovernmental differences have been seen most recently in the wake of a televised address by Alberta Premier Ralph Klein on 16 November 1999 in which he announced plans for legislation that would permit regional health authorities to contract with private sector or non-profit providers for surgical services, including hip replacements and other procedures requiring overnight stays in hospital. The announcement provoked a letter from federal Health Minister Allan Rock which raised eleven questions concerning the Alberta plan and led to further federal-provincial correspondence. In a year-end interview on 14 December, Premier Klein declared that nothing planned by his government was in contravention of the *Canada Health Act*, and challenged the Prime Minister and federal Health Minister to sit down "…and have it out."

- For details see: Nancy Miller-Chenier, *Health Policy in Canada,* Parliamentary Research Branch CIR 93-4E.

EQUALIZATION

The principle of equalization was first implemented in a formal program in 1957, after a degree of reluctance on the part of the wealthier provinces had been overcome. As in today's program, the revenue-raising capacities of all provinces were compared by means of the application to all of a hypothetical common taxation base, after which federal grants were made to provinces falling below a designated standard. Initially, the standard was based on a national average; since 1982, an average based on five representative provinces (Quebec, Ontario, Manitoba, Saskatchewan and British Columbia) has been employed.

According to the methodology now in use, the fiscal capacity of the province with the strongest revenue-raising capacity (Alberta, at approximately $7,000 per capita) is twice that of the weakest province (Newfoundland, at just over $3,500 per capita). Seven of the ten

provinces fall below the current standard, $5,572 per capita, and thus qualify to receive payments from the federal government.

The equalization program is authorized by legislation that requires review and renewal by Parliament every five years. One of these quinquennial cycles of renewal was recently completed. Bill C-65, which renews the program until 2003-4, was introduced in Parliament in February 1999 and received Royal Assent on 25 March 1999. The legislation reflects federal acceptance of demands from the poorer provinces for increased payments, made at meetings between federal and provincial Finance Ministers in 1998. The renewed program will transfer a projected $50 billion to provinces over its five-year life. This is $5 billion more than they received under the previous arrangement. Provincial reaction to the new arrangements has been generally positive.

- For details see: Richard Domingue, *Bill C-65: An Act to amend the Federal-Provincial Fiscal Arrangements Act*, Parliamentary Research Branch LS-333E.

MISCELLANEOUS

National Child Benefit (NCB) and Related Issues: Discussions on a co-ordinated approach to child poverty, integrating federal tax benefits and provincial welfare assistance, commenced in late 1996. By early 1997, governments had reached agreement on the parameters of the benefit and federal and provincial roles. The level of federal funding proved more controversial, and provincial pressure for increases persisted until the February 1997 budget fixed the federal commitment at $600 million per annum, in addition to the $250-million Working Income Supplement announced a year earlier. During the remainder of 1997 and into 1998, governments jointly established implementation arrangements (including an innovative accountability regime, which will involve annual publication of performance data). The National Child Benefit went into effect on 1 July 1998 in all provinces except Quebec (which will administer its own child income support regime).

A meeting of the responsible Ministers on 14 May 1999 provided the occasion for the release of the first NCB Progress Report, giving details of the number of beneficiaries,

amounts invested, reinvestment strategies and potential indicators of progress. Discussion of plans for the next phase of the initiative also took place, the only dissenting note being provided by the Government of Quebec, which affirmed its continuing non-participation and desire to retain full control over income support for children.

On 12 July 1999, Human Resources Development Minister Pierre Pettigrew and his provincial counterpart jointly announced a phase two of the NCB. The federal contribution was increased by $425 million immediately, and a second $425-million increase was announced for July 2000. The provinces (aside from Quebec) undertook to reinvest an estimated $400 million in welfare savings to help meet local needs and priorities relating to children and families. At a meeting on 26 October 1999, provincial and territorial ministers welcomed the increased federal commitment, and reaffirmed their intent to channel savings towards complementary programs.

More broadly, in May 1999, Ministers launched a wider discussion process in order to increase public participation in a common intergovernmental agenda relating to children, for which the governments had prepared a vision document during the preceding year. The National Children's Agenda (NCA) will provide a basis for coordinating initiatives relating to children's health, safety, education and socialization. As with the NCB, this initiative continues to reflect general harmony among participants. The major exception is Quebec which, while affirming the objectives of the Agenda, announced that it would not be participating because of its objection in principle to federal involvement in provincial social policy jurisdictions.

Manpower Training: The process of discussions and agreements on the devolution to the provinces of responsibilities in the area of manpower training, which was launched by the federal government in the wake of the Quebec referendum, has continued. Agreements have now been reached between the federal government and 11 provinces and territories. The most recent is the Canada-Saskatchewan agreement of 6 February 1998, which, like the others, focuses on giving the province responsibility to design and deliver employment programs and services funded through the Employment Insurance Account.

On 7 April 1998, formal negotiations were announced between the federal government and Ontario; agreement has not yet been achieved, however. As of December 1999, the two governments remained at loggerheads over several unresolved issues, including federal

concerns that Ontario might eliminate delivery by a public sector entity and contract out labour market training to the sector, and the same province's refusal to accept lower federal contributions (on a per capita basis) than have been provided to other provinces.

- For details see: Kevin Kerr, *Employment Insurance Reform: The First Monitoring and Assessment Report,* Parliamentary Research Branch BP-463E.

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KEY LINKS

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