

Creating Energy or Frustration: The Use of Consensus Building By Governments to Attack Sustainability Issues

Tammy Praskach

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Introduction

A consensus process is one in which all who have a stake in the outcome aim to reach agreement while holding opposing opinions on how best to protect the environment while still permitting economic growth and social diversity. The use of consensus processes by Canadian governments to allow the stakeholders to create a solution to these complex problems is becoming increasingly more popular.

The purpose of this paper is to flesh out the necessary elements for a successful consensus process, and see if they are being incorporated into those consensus processes that are facilitated by the government. Alberta Agriculture, Food and Rural Development recently endorsed the use of a consensus process group whose purpose was to create new legislation governing the establishment and regulation of intensive livestock operations within the province. This dispute began with a conflict among those who desire to raise beef cattle in huge operations, versus the concern others had about the effects these operations have on our water supply, the air we breathe, and the overall health of humans. Since then, the dispute has grown to encompass hog and dairy productions, and has pitted farmers against health advocates, environmental proponents, and their own communities.

In examining the process used by the consensus group faced with creating this new legislation, we will be able to see consensus building in practice. We will also be better equipped to answer the question; is consensus building an appropriate method of dealing with problems in our increasingly-complex society?

Intensive Livestock Operations - the Development of the Dilemma

Agriculture has always been a huge mainstay of the Alberta economy, currently accounting for five percent of our gross domestic product [\(1\)](#). Grain production is important, but the number of operations engaged in raising cattle, hogs, sheep, chickens, turkeys and buffalo is also astonishing. Nowhere is this more evident than in a 50 by 10 kilometre swath of land near Lethbridge. It is known as 'Feedlot Alley', and has the densest concentration of livestock anywhere in Canada. The nickname is hardly a surprise, for this 500 kilometre area was home to almost 520,000 cattle and 180,000 hogs in 1998 [\(2\)](#).

It was in 1998 that the clashes between different interests in this area came to a head. In the past 20 years, livestock operations have grown three times in size [\(3\)](#). While this expansion has been good for the economy, it has also led to concerns about the contamination of the air, soil, and water. This, in turn, has led to a debate about the effects this potential contamination has on the health of humans. The Chinook Regional Health authority, which services Feedlot Alley, reported one of the highest rates of gastro-intestinal illnesses in Alberta in 1998. Indeed, their rates were one and a half times the provincial average [\(4\)](#).

While no one then (or since) found a link between the waste products of these feedlot operations and

adverse affects on human health, communities began to be concerned. In the county of Lethbridge in 1998, citizens launched close to a dozen appeals against the expansion or creation of livestock facilities (5). The town of Picture Butte, which has 1500 residents, had gotten so sick of the smell and orders to boil water that a petition containing 1300 signatures was passed to the province and the county, calling for them to do more to manage these operations (6).

Despite the increased public concern, studies indicated that ratepayers in the County of Lethbridge were split 50-50 on whether or not feedlot expansions should be allowed. There were similar divisions of opinion throughout the province (7). Outside sources were also criticizing the Alberta government, stating, "Alberta Agriculture, the province's keenest livestock promoter, can't be trusted with enforcing livestock rules." (8)

At this time, the provincial government was not regulating the livestock industry. There was a Code of Practice in existence, but the province did not require compliance with this. Any rules that had to be complied with were those that had been established by the municipality, and there was no requirement on municipalities to do so. Therefore, although many municipalities did adopt the Code of Practice and require livestock operations to comply with it, standards varied widely across the province.

This was the context in early 1998, when the provincial government issued a policy paper, stating that provincial rules which would regulate these operations needed to be put in place. The rules, it stated, would have to be standard across the province, and strike a fair balance between the rights of the operators to expand and the concerns of those worried about the affects on human health. With a view to designing these new rules, the government hosted 18 open houses across the province in April, May and June of 1998. Rather than solving the problem, these open houses demonstrated the need for parties with diverse interests to get together and try to reach some consensus on the issues. Hence, the government's desire to create a consensus group was born.

The Principles of the Consensus Building Process

In 1996, the National Roundtable on the Environment and the Economy held a series of roundtables that were designed to determine the essential elements for a successful consensus process. These roundtables culminated in the publication of Building Consensus for a Sustainable Future: Putting Principles into Practice (9). In this book, the ten guiding principles for consensus building are expanded upon, and through this, a prototype is provided. To date, this book is unparalleled in its methodology or comprehensiveness.

Since the consensus group is supposed to not only create an agreement but also design the parameters under which they operate, these principles are really the foundation upon which the groups members can start talking to each other. But their usefulness does not end there. If negotiations become difficult or members feel frustrated, they can always return to the guiding principles to regain their bearings. Therefore, these principles really operate as values that all members of the consensus group must keep in mind when working within the group, or the process is destined to fail.

While the application of these principles will be examined in the context of the Intensive Livestock Operations Consensus Group (which will hereinafter be referred to as the ILO group), first stating them in the abstract will give those new to the process a sense of the foundation below it. The following is a summary of the discussion in Building Consensus for a Sustainable Future for why it is so essential to follow the ten principles the book enunciates, and the best ways for how to put these principles into practice.

The first principle is that the organization must have a valid reason for wanting to participate. This requires that the members of the organization first sit down and determine what they want and value, how they think they can best go about achieving their wants, and what the best and worst case results would be of their participation in the consensus process.

'Valid reason for participating' has a broad meaning in this context. It can extend from a desire to avoid the public limelight to a fear of leaving resolution of the issue to an outside third party. It is much easier to instead state when an organization should not be participating. These invalid reasons include: just wanting to delay the matter; a desire to create an appearance of openness, without sincerity; believing that defeat would be better than any sort of compromise; believing that an agreement can be reached and the organization's interest satisfied without the organization being present; and, being an organization that is deeply split or newly formed, and hence unable to state an exact interest.

While some of the reasons for participating may seem negative, in that the organization appears to consider participation in the consensus group a 'do or die' alternative, the reason for participating is only the foundation for coming to the table. It is believed that after the organization has decided to participate and realized that they do have the ability to voice their opinions and be involved in the resolution, the reason for participation will shift from 'do or die' to a belief that the process offers them the opportunity to learn more while educating others and coming to an inventive and workable agreement.

The second principle is that the process must include everyone who is affected by the agreement. If the process is exclusive, the agreement will either not meet all interests or implementation will be impossible. Therefore, 'inclusive' covers the participation of those that would be affected by any agreement reached, those that are needed to implement the agreement, and those that could undermine the agreement if not included.

Arguments are often made that participation should be restricted, either because allowing the group to grow too large will make effective discussion impossible, or that certain organizations are just being 'difficult' and would add nothing to the process. In response to both of these arguments, it must be remembered that those who are excluded from negotiations will still be able to sabotage the final agreement.

There are ways to get around both of these problems. Large numbers of participants can be dealt with through the division of the large group into smaller working ones, or the forming of coalitions between organizations with parallel interests. 'Difficult' participants can be asked to sign an agreement at the beginning of the process that they are truly working towards a consensus settlement. As well, experience has shown that people are usually being difficult because they have concerns that have not been addressed. Allowing them to sit at the table and raise them dissipates this problem.

One must also remember that not all interested organizations may want to be directly involved. However, they will have to be kept informed through other means. This could be as simple as media releases, but may require a more direct method, such as update meetings. Keeping these organizations informed is crucial, for without their input, they could end up opposing the final agreement.

The third principle is that all participation must be voluntary. This is the only type of acceptable participation if the members are to form good working relationships and be committed to the outcome. If organizations feel they have to be at the table, they may not fully support the process and may not invest the time to make it work. While it may be difficult to get organizations to the table because they feel their interests will be threatened, the key is to convince them that the process will instead serve those interests.

This principle is not just important at the beginning of the process, but must be present throughout. If any party suddenly feels that it cannot raise another point or argument, or dissent to part or all of the agreement, the benefits of the consensus process have been lost.

The fourth principle only applies once all the representatives have been assembled. Because there are an infinite number of problems that the consensus process could be used to solve, there can be no set method of how it should be carried out. In addition, parties always work better within self-designed parameters rather than imposed ones. Therefore, this fourth principle of self-design is crucial.

What does self-design entail? As with many other situations, it means sitting down and answering the tough questions - what, who, why, how, when and where. The answers are referred to as the 'ground rules' of the process.

In this context, the 'what' refers to determining the specific issues the group must address, and deciding whether or not the consensus process is the appropriate method for dealing with all of them. During this, the representatives will also have to undertake another examination of 'who' should be at the table, in order to ensure that no interests have been left out. In assessing the issues, the representatives may also realize that there is potential for a change in the focus of their negotiations, and may wish to include in their ground rules a method for admitting later representatives, if the need so arises.

While the representatives know 'why' they are there - to reach consensus - it may be useful to frame rules that allow for partial disagreement on certain issues, or that allow representatives to agree to disagree on certain parts of the overall agreement. The representatives may also decide to defer certain technical decisions to experts. The ground rules should state which method of 'consensus' will be acceptable for each issue.

The ground rules on 'how' are the rules governing interactions between representatives and with others. For example, the rule 'only one person speaks at once' may be imposed. There should also be a rule that regular attendance is expected. But the 'how' goes much further than this. The representatives must decide how they are going to handle disseminating information to the media, confidentiality issues, the sharing of expertise and information, whether or not there will be records kept of the discussions, and how resources of each of the representatives will be used. At this time the representatives must also decide the extent, if any, to which a mediator will be used, and should also determine his or her roles and duties.

Lastly, the rules of 'where' and 'when' focus mainly on deciding when the representatives will meet, how often, and where. But there should also be a discussion of deadlines at this time.

The fifth principle may appear to fly in the face of the fourth, for it encourages the process to maintain a fair degree of flexibility. But as it is impossible to anticipate everything that will happen, the representatives must be ready to deal with change. While it is not known whether these changes will occur, there can be a fair prediction of what they might be. For example, an organization's representative can change, new interested parties can emerge, peripheral organizations may have to become included in the round table discussions, the issues may change or broaden, disputes can arise over previously agreed-upon facts, there can be developments outside the process that hinder it, deadlines may not be met, impasses can arise, or there can be doubts about the feasibility of the settlement or problems with implementation. While these changes sound daunting, there are provisions that can be included in the ground rules to allow the representatives to be able to meet all changes head-on with a plan, rather than scrambling to stop each other from becoming frustrated or making detrimental public statements and watching the loss of the gains already made.

The sixth principle requires that all representatives be equal in both access to the information and the opportunity to participate. Much like voluntariness, the benefits of the process will be lost if the representatives do not feel that each is able to contribute equally in a meaningful way.

Equal opportunity boils down to an equal distribution of three essentials: financial resources; technical information and specialized expertise; and negotiating skills and acumen combined with basic organization. Equality of financial resources can be achieved through the use of intervenor funds. Technical information and specialized expertise can be shared, for example, by putting all the information in one pool to which all representatives have access, or having sessions that mix the experts with the non-experts. As for negotiating skills, anyone can teach themselves the basics, but developing a negotiating savvy is more difficult. This can be alleviated by having a mediator work with the inexperienced negotiator. Organization often just means combining those with similar interests into coalitions.

A power imbalance is never easy to fix, and more problems may arise when trying to do so. However, when a weaker party is included as the representative in a consensus process, they are immediately given legitimacy, which goes a long way to developing power. Further, the requirement that consensus is needed to reach agreement also gives the weaker representative the ability to say no. This is an answer to which the more powerful representatives must listen if they want to achieve a final agreement. Therefore, the focus on voluntariness and equal opportunity within the consensus process go a long way to negating the importance of power in negotiation.

The seventh principle requires a respect for diverse interests. This too is essential, for if it is not accomplished, the representatives will never be able to move beyond bargaining over positions to dealing with each other's needs and interests.

The key for representatives is they must realize that respect does not require conversion, just an acknowledgment that other parties are different and an acceptance of their right to be so. Forcing representatives in the negotiating setting to develop this necessary respect is not the proper approach. Instead, having a workshop on interest-based negotiation before the actual negotiations begin, or allotting plenty of time for social interaction and informal exchanges, enables the representatives to develop respect outside of the negotiating setting.

The eighth principle is probably the one that places the representatives in the greatest difficulty, for it requires them to be accountable to their fellow representatives, the process, the public and their constituents. The biggest fear is that representatives will end up playing their constituents and the other representatives off one another in order to get an agreement.

The most important relation is that of the representative to his or her constituents. The representative must keep them informed in order to ensure there are no surprises, that he or she is acting within his or her mandate, and that the constituents will support the agreement. But the constituents have a duty to be there for their representative as well. When he or she needs feedback, they must be there to provide it. As long as a high level of reciprocity is maintained and the other representatives are aware of the time and resources that the representative will need for informing constituents, the fear of having to play one off the other is alleviated.

Accountability to the process means abiding by its principles. When the parties agree to accept a majority decision or push the dissenting minority, they are compromising the integrity of the process and hurting the public's acceptance of it. Similarly, the representatives must try to make the process as open as possible; this is the best means of being accountable to the public.

The ninth principle is that it is necessary to have time limits to provide structure. If there is no deadline, the consensus group typically does not plan its work process in sufficient detail. On the other hand, if deadlines are too close together and the representatives are forced to rush everything, many other elements of the process suffer, such as the laying out of ground rules, keeping constituents informed, or dealing with unexpected changes.

Time limits can be imposed by a variety of situations or factors. One way they often arise is through factors over which humans have no control. For example, if the plan is to harvest fish stocks, agreement must be reached before the fish migrate into the area. The more common way time limits come into existence is through the human factor. Often, groups may have to provide a decision within a period fixed by law, or they want to have a decision made before the next election, thereby negating the need to have to deal with new officials. An ultimate decision-maker may also set the deadline, but if this is the case, the representatives must tell the decision-maker if they think the deadline is impossible. Time limits can also be self imposed.

There are ways to make deadlines both firm and flexible. First, it must always be remembered that one cannot anticipate all the factors that will affect the time things will take. So while it is important to have real deadlines and take them seriously they must be accompanied by the reality that if time runs out, the parties will discuss why it ran out and the significance of the failure to meet their deadline. An important part of this is determining whether time ran out because of the failure of one representative to do something, or because of factors beyond the group's control. Secondly, the group can set interim milestones to guide them in the process. This allows them to better understand all the steps they will have to take, and can also give them a sense of accomplishment when they meet some of those deadlines relatively early in the process. Third, time must be spent talking about the deadlines from the very beginning.

The tenth principle reminds us that the work of the consensus group does not end when an agreement is reached; the agreement is of little use if it is not capable of implementation. Often, groups will overlook implementation issues, thinking the hard part is coming to an agreement. But if the consensus group does not deal with implementation issues as part of their process, they may have unrealistic assumptions about funding, regulatory approvals, and the cooperation of others who were not directly engaged in formulating the agreement but are essential to its implementation.

One of the best methods for not encountering implementation problems is to include those who will be responsible for implementation in the discussion process. If this is done, these implementors can provide reality checks on impractical solutions and propose workable ones. Including them in the process also increases their confidence in the agreement, and can result in less delay when the time for implementation comes.

An official ceremony that celebrates the signing of the agreement by all organizations involved can provide a real sense of accomplishment, and invoke public confidence in the agreement that was reached.

A post-agreement mechanism should also be established to monitor the implementation and deal with any future problems. These may include surveillance, mediation, arbitration or processes for renegotiation. It should also determine where the resources for future monitoring will come from. The representatives must remember that events can occur that make it difficult for one or more organizations to meet their commitments. Rather than becoming frustrated, the post-agreement mechanism can be used to deal with these problems so the agreement does not fall apart.

In summary then, the principles which provide the foundation for any successful consensus building are as follows [\(10\)](#):

- a) The parties are *purpose driven*, in that they have a reason for being there.
- b) The process is *inclusive, not exclusive*, for every party that has a significant interest in the outcome will be at the table.
- c) The reason for participation cannot be coercion; every party at the table must be *participating voluntarily*.
- d) Because every problem addressed by the consensus process is unique and requires that the parties want to reach an agreement, the process they use must be one of *self design*.
- e) While there must be a structure for the members to follow, unanticipated problems can arise, so the process must be *flexible*.
- f) Consensus requires that all agree with the final outcome. This can only occur if all the parties have both an *equal access* to all relevant information, and *equal opportunity* to participate throughout the process.
- g) The process can also not be successful without all members having a *respect for diverse interests*.
- h) *Accountability* must exist in a variety of forms. The representatives must be accountable to both their constituencies and the process; representatives must also be accountable to the authorities, the public and each other; and the constituencies must be accountable to their representatives, giving them the support they need.
- i) The group members must have structure in the form of *time limits*.
- j) While any agreement may make the consensus group feel they have accomplished something, the agreement is not very useful unless it is capable of *implementation*.

So are the consensus processes that are being used by our governments incorporating these principles, or are shortcuts taken and principles ignored so as to create an agreement quickly, and quietly? Is the government using the process to avoid making difficult and contentious decisions that it could be criticized for? An examination of the process used by the ILO group offers an interesting insight to some of these questions.

Consensus Building Applied to the Intensive Livestock Operations Dilemma [\(11\)](#)

As previously stated, the ILO group was formed after a series of open houses revealed that there were highly charged opinions on how livestock operations should be allowed to expand and operate. The Alberta government, through the department of Agriculture, Food and Rural Development, decided that it was not possible to compress all the opinions that had been expressed at the open houses into some sort of legislative scheme. So the Minister of the department issued invitations to various interest groups, asking if they would like to participate in a consensus group.

This 'participation by invitation only' raises grave concerns about the legitimacy of the ILO group right from the beginning. First off, is being asked to participate a valid reason for choosing to do so? If we

recall the first principle, it is that organizations should sit down and think about what it is they hope to gain from the consensus process, and whether or not their interests can still be met in their absence. If the organization is asked to participate, one must question whether or not they will still undertake this examination, or instead, just jump at the invitation.

Another problem that arises is whether or not an 'invitation only' consensus group will be sufficiently inclusive, in accordance with the second principle. What if the government only chooses to ask those organizations which have so far been cooperative, and chooses to leave out invitations to those that have been vocal in their opposition to government actions? What if the government wishes to maintain a degree of control over the group, and therefore keeps it small and includes a lot of government representation, so as to enable it to do so?

These issues of inclusion also demonstrate a wariness of whether or not participation is truly voluntary. The organization may feel honoured by the invitation, but may also not feel that it is the best one to represent a particular interest. However, they may be reluctant to express this, for fear that the next time there is an invitation to participate in a consensus group they will not receive one. As the discussion of the third principle illustrates, if the organization does not feel they are involved voluntarily, this can taint the entire process. For example, they may not work as hard to reach an agreement, they may not make the necessary time commitments, and there may be a breakdown in communication between the organization and their representative, making it very difficult to get the organization to ratify any agreement.

With all these concerns, is it still possible for a consensus group formed by invitation only to adequately represent all interests and have true voluntary participation by all organizations?

In this situation, the government contacted the organizations which they thought represented all the interests in this dispute. These organizations were asked who they thought would be a good representative of the group. However, they were also told that the best people to serve as representatives were those who were knowledgeable, credible in their community, and had skills at negotiating, discussing and coming to agreement. The organizations then nominated their representatives, and these individuals had to be approved by the Minister. It is unknown why the Minister wanted to approve all individuals, but it is known that none were rejected. Interestingly, none of the organizations that were asked to participate refused.

This process of picking the consensus group does seem rather exclusive. However, the government had already been working on this issue for quite awhile. They had held open houses and issued numerous public statements explaining that the open houses had not produced an adequate solution, and therefore, a consensus group was going to be constituted. Because they had seen who had come to the open houses, and encouraged responses to the public statements, it is possible to argue that the government had a very good handle on what the different interests were, and which organizations were best suited to represent them. As well, the first thing the ILO group did when they met was assess whether or not all the interests were represented. They found that all were not, and subsequently invited another organization to the table. The fact that the group considered this, and then acted upon their assessment, indicates that the government had made an honest attempt to try and include all interests, and was willing to approve others that the group thought were necessary.

Whether or not the consensus group did adequately represent all interests and have true voluntary participation from all organizations is probably the most difficult question to answer in this case study, for it is the most important. I believe that the government used a process which is questionable, but which in the end did adequately represent all interests. I think they also managed to have a consensus group that was inclusive, not exclusive. A large reason for this is they spent a lot of time and effort

disseminating information to other interested groups who were not directly involved in the discussions, and gave them the opportunity to respond to that information. This will be discussed in more detail below.

Whether or not participation by the organizations was truly voluntary is difficult to assess. However, several times the group had to go back and discuss issues they had already apparently decided. There were also issues upon which they agreed to disagree, and everyone, while not happy, was tolerant of this decision. In addition, at times there were stalemates. But the group did not give up. Instead, they returned to their guiding principles to help them through the stalemate. I believe that if everyone felt they had the right to re-try decided issues and to dissent rather than agree just to have an agreement, this is an indication that they were all acting free of constraint. As well, the return to guiding principles indicates the group had a commitment to success; they could have just quit. Discussions with one representative also indicated that all representatives were committed to the task at hand. If representatives had not felt that they were participating voluntarily in this process, it is hard to imagine why they would be so committed to it. He also spoke of the trust they developed in one another. There is no need to develop trust in your fellow comrades if you are being forced to do something with them. For all these reasons, I feel that even if the organizations did not feel like volunteers in the process at first, they eventually came to realize that they could effect change, hence becoming purpose-driven, and their eagerness to do so made them voluntary participants in the ILO group.

The list of organizations that was invited to participate is included so that as this case study continues, the reader can make their own assessment of whether or not the ILO group did include all interests. The included organizations were: Alberta Chicken Producers; Alberta Association of Municipal Districts and Counties; Alberta Urban Municipalities Association; Provincial Health Authorities of Alberta; Environmental Law Centre; Alberta Pork Producers Development Corporation; Alberta Cattle Feeders Association; Alberta Milk Producers; Alberta Cattle Commission; and Grain Producers. The four government departments that had been involved in the preparation of the 1998 policy paper were also available to assist the representatives. These departments were Alberta Agriculture, Food and Rural Development; Alberta Health; Alberta Municipal Affairs; and Alberta Environmental Protection.

Once all the representatives were established, they had to sit down and come up with a design for how to fulfill their mandate. Recall that this means establishing the ground rules, and answering the questions of what, who, why, how, when and where.

The first thing the ILO group did was to examine their interests. They also had before them the comments which had been made in the open houses, and looked at these to determine what interests were being expressed. It is important to note once again that at this time, they discovered an interest was missing, and added another representative.

After this was complete, the ILO group came up with a list of ten guiding principles. They were as follows [\(12\)](#):

- a) the production system must be environmentally sustainable
- b) human health must be protected
- c) land use decisions must remain with the municipality
- d) drinking and recreational waters must be protected

- e) the system must allow the industry to prosper
- f) technical requirements must be based on consistent scientific based standards
- g) the process needs to build public confidence
- h) the process must be effective, streamlined, timely and consistent across the province
- i) existing operations must be included and they should be provided a reasonable amount of time to comply
- j) the industry must be able to continue to farm and ranch in a responsible and practical fashion

The ILO group knew what it was supposed to be doing because it was set out in the mandate it received from the government. It consisted of three components [\(13\)](#):

- a) to assist the government in reviewing input received from the public consultations
- b) to provide recommendations on the legislation and policies for the future development of an environmentally sustainable and economically sound livestock feeding industry
- c) to encourage communications between various stakeholders

Combining this mandate with the list of guiding principles gave the ILO group a very good framework. At this stage, they had also established all representatives. They had been told that this was a consensus process, so it is no surprise that they decided agreements had to be by consensus, and there would be no voting. They also decided that if they could not agree on certain issues, they would submit what they had agreed upon to the Minister.

All issues of when and where the meetings were to take place were handled by the government assistants.

The rules on how the ILO group was to govern its interactions were relatively sparse. The representatives did agree that there would be only one representative from each organization. They could bring others to the meetings, but only the representative could be a spokesperson. As well, all issues were to be dealt with at the table; the representatives were not to have any discussions outside the process. Third, the meetings were to be co-chaired by the two chairpersons that the group agreed upon. At the beginning, the government assistants did lead some of the discussions, but the chairpersons quickly became comfortable with their roles, and assumed leadership. Fourth, it was agreed that all media requests would be handled by one of the chairs.

These were all the ground rules, and none of them were written. There were no rules on how stalemates would be dealt with, how new interests would be admitted (if necessary), how the group would handle any representative that chose to withdraw, or how missed deadlines would be dealt with. As can be seen from this list, the group did not deal with the possibility of contingencies. Hence, their process did not meet the fifth principle, in that it was not very flexible. As one of the government assistants stated, "We didn't have too many problems, but I can see that working out some clear terms of reference at the beginning would have been helpful. It takes awhile to do that - and at the beginning many groups just want to get at the task."

This quotation gives the classic reason for why ground rules that deal with potential problems should be set out. If the ILO group had encountered a change, such as a necessity to include a new interest, it had no way of coping. This quotation also demonstrates the classic reason why ground rules may not be adequately laid out - the group just wants to get started. In order to give itself a better chance of success however, a consensus group must avoid the urge to ignore preliminaries and jump right into the issue.

One of the main reasons why the lack of ground rules did not hinder the ILO group was because they had such a good base of guiding principles and a very specific mandate, both of which they could refer back to when problems arose.

Another thing that is interesting about the ILO group is they did not use a mediator to assist their discussions. However, as mentioned, they did have government assistants, one of whom referred to herself as a "process person". When asked exactly what this meant, she gave a very thorough description:

I was involved in designing the stakeholder group model and the public participation methods - how could we make sure that everyone was heard. I led the design of open houses, public meetings, consultation documents, as well as facilitated discussions at meetings. When drawing up agendas I was involved in how discussions were formatted, design of questions, processes for coming to agreement, etc. I was also involved in compiling public input that was received.

I would be tempted to call a person with this role a "support person", and I suggest that some of her roles, such as designing processes for coming to agreement, were roles that a mediator would fill. Regardless of the title, these people are essential to the consensus process.

Once the process is underway, the question becomes whether all representatives had the opportunity to participate fully in discussions, and had equal access to all information, in order to permit their contributions to discussion to be meaningful.

There was no issue of inequality amongst representatives due to financial resources because the government provided expenses for all the representatives and the gathering of technical information (one major benefit of having an 'invitation only' consensus process!). As the government had also requested that organizations nominate representatives who had skills in negotiating, discussing and coming to agreement, there was also no concern that one would have an unfair negotiating advantage over the other. The third benefit of the government inviting who they desired was they could choose organizations that were well run, well established, and had their interests in order. This would avoid the need to assist with basic organization. This comment is merely speculative, but as problems within the organizations was never an issue, it is a point that should be brought to the reader's attention.

The previous discussion demonstrates how beneficial choosing the stakeholders can be. However, the

ease of ensuring that everyone has equal opportunity does not negate the importance of making sure the process is inclusive and voluntary.

At one point in time, the ILO group did hit a 'snag'; none of the representatives nor government assistants would go so far as to call it a 'stalemate'. The problem was over the details of the "Standards Document". Rather than passing regulations to govern the construction and regulation of livestock operations, the ILO group chose instead to create this document, because it would be easier to amend than any regulations. The Standards Document was to specify the requirements for such things as earthen manure storage facilities, the transportation of manure, manure application, and the construction of confined feeding facilities.

The problem was that the group began to bog down over these details, and it became very difficult to get agreement on them. This was a stage at which the group could have stalled. They did not have the ground rules to deal with this problem, but they were able to refer back to their guiding principles. The sixth one stated, "technical requirements must be based on consistent scientific based standards". It was at this stage that the ILO group decided that an expert committee should be created to deal with these more technical issues, and to set the standards that they didn't feel qualified to undertake. The key was these recommendations had to be 'science-based'. When the expert committee came back with their proposals, the group was able to accept most of them. A few could not be agreed upon, and this is where the agreement to disagree became very useful. The fact that the group was able to work through this snag demonstrates that a commitment to the process can allow the representatives to find a solution, even without ground rules in place.

The expert committee had representation in 12 areas of speciality. The cost of such a committee cannot be insignificant. This demonstrates how great it can be when the process is being sponsored by the government, who is footing all the bills.

In the consensus process, there is also an emphasis on the representatives acquiring a respect for diverse interests. In the ILO group, there were no cultural differences to contend with. There were however, opposing views which did cause tempers to flare. While the representatives spoken to did not speak of developing respect for opposing views, one did talk about the importance of building trust. "You need to be comfortable with the people to be comfortable with the process. It is only then you begin to let loose a little", he stated. This demonstrates a deep respect amongst the representatives, for it is difficult to imagine that a person could trust someone to make good judgments on something that both really cared about, unless they had a mutual respect for each other.

If the representatives trust one another, it is not a great leap to state they probably also felt accountable to each other. Indeed, it was this accountability that enabled the representatives to be honest with each other, namely going back to the table and saying, "I can't get agreement from my organization on this issue. I'm sorry, but we're going to have to go back to square one." It is a good thing that there was accountability between representatives, because there was a bit of a breakdown between some of the representatives and their organizations. One of the government assistants stated, "In my opinion it would have been helpful to have had more resources to assist the stakeholders with bringing the messages back to their respective groups. They could have helped the representatives present the material to their groups, build consensus at that level, and bring any concerns back to the main table." When asked what was meant by 'resources', she responded that mainly she meant 'people and time', and continued:

I think it would have been helpful if we could have assisted the stakeholder representatives with taking the messages back to their

respective groups. While we did supply newsletter articles they could use and printed information - opportunities to meet with those who had concerns would have been beneficial - in my opinion. For example - many municipalities had concerns about how the proposals would affect their approval process. While we met with some municipalities - there wasn't the manpower to meet with them all.

This lack of resources did at times lead to a low level of reciprocity between the representative and their group, and at times, the representatives did have difficulties 'selling' the ideas to their organizations. When this occurred, the representative would have to try to convey the whole discussion and the many perspectives that were around the table. As well, feedback was lacking in some groups, for it was not until near the end of the process that the organization really stood up and took notice of what was being agreed to. When they did stand up and take notice, they were at times unhappy with what was occurring, and told their representatives there would be no agreement. This is when the accountability between representatives became incredibly important.

Perhaps one the reasons why there was this difficulty with getting feedback at times was the fact that the organizations had not just picked their representatives based on who they thought was best to represent them, but also had the government requirements for the representatives and the fact that all had to be approved by the Minister in the back of their minds. While the representative must have credibility within the consensus group, the organization they are representing must have faith in them as well. If people were picked as representatives with a view to pleasing the government instead of the organization, this could be why maintaining the required level of reciprocity between representative and organization was difficult.

I believe the ILO group did an excellent job of being accountable to the public, in large part because of the hard work that was done by the government assistants. First, there were three opportunities for the public to participate. The first was in the open houses held in 1998. While these were not part of the consensus process per se, the comments received from them were used by the ILO group to come up with their guiding principles. The second opportunity for participation was in January of 1999, when the ILO group had created a framework which they hoped the Minister would introduce into the spring sitting of the legislature. Comprehensive packages of the proposed framework were created, and distributed to the public in a variety of ways. One was through the 52 district offices of the department of Agriculture, Food and Rural Development. Not only did these offices distribute packages to people whom they knew were interested, they also made public statements so that others would know they were available. The packages were also distributed to every county, city and town in the province. They received some for their own review, and others they could distribute. The government assistants also had a mailing list of everyone who had responded to previous questionnaires, or who had phoned or written with concerns. These people had the package mailed to them. After all the packages were distributed, there was a time for people to get in their responses.

These responses revealed that more work needed to be done. It was, and this led to the third opportunity for public participation. Again, the packages were distributed in the methods described above, but before the public had to respond, information sessions were held to describe the contents of the package in further detail. Throughout, there were also media interviews, radio spots and press releases.

When asked whether or not there were any complaints about the ILO group being too closed, neither the government assistants nor the representatives talked to were aware of any such complaints. There were reports of a few individual farmers who did not know about the process, and the government assistant responded, "It seemed hard to believe to us who were involved, but considering the number of people to reach - it certainly was possible." In spite of these few individuals, I think the ILO group, through the work of their support staff, maintained accountability with the public very well.

As may be apparent from above, the ILO group had to deal with externally-imposed deadlines. Indeed, the first deadline was created even before the group was in existence. That deadline was that the group was being formed with the plan to introduce legislation it created at the 1999 spring sitting of the legislature. But as responses to the framework that had been sent out in January of 1999 came in, it became apparent that this would not happen. So the ILO group aimed for introducing the legislation in the fall of 1999. Again, this deadline could not be met, as there was not sufficient consensus among the larger group of stakeholders. After this round of public input, the ILO group did more work and presented its final package to the Minister. However, he indicated that he wanted to get more consensus from all those with a stake in the process before introducing it, most likely on the issues that the ILO group agreed to disagree on. It now appears that the legislation may be introduced in the spring 2001 sitting.

While one may suspect that the continual deferral of the time for introduction of the legislation caused problems between the group and the government authorities, it appears that such was not the case. One of the government assistants stated;

So while there was some disappointment at not completing the task earlier, as we went along the complexity of the task became more apparent and everyone knew that we weren't there yet. After the last round of consultations, summer and fall of '99, the group agreed that once that was complete they would take their recommendation forward even if there were outstanding issues.

The agreement to disagree on some issues helped to get unstuck.

Comments from one of the representatives also indicate that there wasn't a lot of frustration within the group about extended deadlines. He stated that people have to understand that you can't compress the time that is needed to reach these agreements, because if you put out a hard and fast deadline, people feel forced. However, having the deadline is essential, because if you don't, the entire process just 'becomes tiring'.

While the ILO group seemed able to convince the Minister that more time would be needed to create a framework that would meet everyone's interests, I think they did rush at the beginning. This is probably one reason why ground rules were not sufficiently discussed, and may also be a reason why organizations did not always have sufficient information. This rushing is also evidenced by the fact that the first package was distributed to the public early in January of 1999, and comments were to be in by March 1 of 1999. This gave only about a month and a half to the public to respond to complex proposals, and there were no information sessions to help them understand the legislation, as there were

when the second package was released in September of 1999. Fortunately both the ILO group and the government did not see the need to pass something as having priority over the need to make sure what is passed adequately responds to the concerns of all interested.

While everyone agrees that livestock operations need to be regulated, the big problem here is agreeing on how. Therefore, how the legislation and Standards Document will work in practice, or be implemented, is an absolute key to this agreement. The ILO group realized this when having their discussions. At various stages, all proposed ideas were ran past provincial government employees working in the field. Those at the municipal level, such as county development officers, were also asked for their opinions. One of the examples given for how the group bogged down at one point demonstrates that they were considering not only the guiding principles, but also the practical implications of their proposals:

While they could all agree that waterways need to be protected from any run off from manure applied to fields, does this mean that spreading on frozen ground should be forbidden, or is OK if the farmer can provide evidence that there is no run off from the field? This stipulation (not spreading on frozen ground) would affect each commodity differently - as some operations typically have much less manure storage and need the capability of spreading manure throughout the winter. *Yet the practicality of inspecting every field to see if there would be run off might cause problems for those in charge of investigations.*

(Emphasis mine)

If this level of attention, in such great detail, was given to all the problems of this sort, it is no wonder that there were issues upon which the ILO group had to agree to disagree. However, in this context, agreements to disagree are not such a bad thing. The points upon which agreement could not be reached are isolated ones, such as the example above. Therefore, going to the Minister without total agreement on all these isolated issues is better than requiring total consensus on everything, and not being able to supply the Minister with any sort of recommendation.

The ILO group had a dinner to celebrate the conclusion of the ILO group's mandate and everyone was sent on their way. They are not to be responsible for seeing how their proposals work when put into force, and are not to be involved in any further discussions that may need to take place before legislation is passed (at least, their further involvement is not contemplated at this stage). I thought this was unfortunate. While it is true that the ILO group really can't do anything more until legislation is passed, I did think they would be the best group to propose changes in response to problems that will arise on implementation. However, one of the group representatives does not think this is the case. Much like the book which this discussion is based upon, he stresses the fact that the consensus process is only one step

in the resolution of this situation. The consensus group, he said, couldn't think of everything. Indeed, when responses start coming in, some of the representatives may even change their thinking on what they agreed upon. This is fine, because their role was just one part of the process. Therefore, the dissolution of the ILO group does not mean the end of their involvement.

Conclusion

Hopefully, this discussion of the ten principles and the case study of the ILO group have demonstrated that any consensus process involves a great deal of work by the representatives, their organizations, and all support staff.

The government appears to be using consensus building with the purpose of finding solutions that will work, rather than just deferring difficult decisions. While there were some problems with the operation of the ILO group, such as the invitation only constitution of the group; the lack of ground rules dealing with contingencies, the problems with reciprocity between the representatives and their organizations, and the rushing to meet deadlines, no group that undertakes a project of this magnitude is going to be perfect. The ILO group dealt well with the problems they faced.

One of the representatives stated that part of the role of the ILO group was to create a framework for the establishment and regulation of livestock operations, thus leading to "a creation of energy through controversy". This may indeed be one of the best ways of allowing stakeholders to create solutions to problems in our increasingly-complex society.

1. Angie Rumpf, "Farming the Next Millennium", (2000) vol 3 no 2 Alberta Views 9.
2. Mary Nemeth, "Raising a Big Stink", (August 10, 1998) vol 111 no 32 Macleans 16.
3. AB Views, *supra* note 1.
4. Macleans, *supra*, note 2.
5. Macleans, *supra*, note 2.
6. Macleans, *supra*, note 2.
7. Nick Paladino, County of Lethbridge Development Officer, as quoted by Philip Hope in "When the Cows Come Home", (Jul 6, 1998) vol 25 issue 29 Alberta Report 16.
8. Andrew Nikifiruk, "Deep Doo-Doo", (June 12, 1998) vol 71 issue 10 Canada Business 24.
9. G. McCormick, N. Dale, R. Emond, S.G. Sigurdson, and B. Stuart; Ottawa, National Roundtable on the Environment and the Economy; 1996.
10. This table is derived in large part from that on page 7 of Building Consensus for a Sustainable Future: Putting Principles into Practice, *supra*, at note 9.
11. I am greatly indebted to one of the employees of the four government departments involved for the assistance she gave me with this project. Not only did she respond to my questions in a thoughtful and

comprehensive manner, she was also forthright in admitting things she thought the ILO group could have done differently. Two of the representatives from the ILO group were also very helpful in providing comments.

12. "A Proposed Regulatory Framework for Livestock Feeding Operations in Alberta"; <http://www.agric.gov.ab.ca/archive/ilo>.

13. "A Proposed Regulatory Framework for Livestock Feeding Operations in Alberta"; *supra*, note 12.

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