

**RAPPORTEUR'S REPORT ON THE
SOCIAL UNION FRAMEWORK AGREEMENT
ROUNDTABLES**

SASKATOON – SEPTEMBER 23, 2002

MONCTON – SEPTEMBER 27, 2002

OTTAWA – SEPTEMBER 30, 2002

INTRODUCTION TO THE ROUNDTABLES

The final section of the Social Union Framework Agreement (SUFA) calls for a review of the Framework Agreement in Section 7 as follows:

By the end of the third year of the Framework Agreement, governments will jointly undertake a full review of the Agreement and its implementation and make appropriate adjustments to the Framework as required. This review will ensure significant opportunities for input and feed-back from Canadians and all interested parties, including social policy experts, private sector and voluntary organizations.

To partially fulfil the requirements of Section 7, the Federal/Provincial/Territorial Ministerial Council on Social Policy Renewal organized three roundtables convened in Saskatoon, Moncton and Ottawa respectively. The participants invited to the three roundtables were drawn from non-governmental organizations, employer groups, labour, Aboriginal organizations, public policy research institutes and academia. Officials on the Federal/Provincial/Territorial steering committee created lists of possible participants. While officials from the federal/provincial/territorial governments attended the roundtables, they did not participate in the discussions. The time available was fully used for input and feedback from the invited participants.

The format for each roundtable was identical. In advance of the meeting, participants were provided with a copy of the SUFA and a list of questions to start them thinking about the Agreement. In addition, participants were referred to a web site containing background information and commentary on the SUFA. The roundtable discussion was structured to ensure that the principal focus of attention was the Framework Agreement itself and its implementation as opposed to specific policy or program areas.

At the beginning of each roundtable, the facilitator asked individuals to introduce themselves and to give an indication of their familiarity with the Agreement and which sections of the Agreement were of particular interest to them. Following this initial introduction, the roundtable participants examined and commented on the SUFA, section by section. At the conclusion of this detailed assessment, participants were asked to make suggestions regarding either the implementation of or modifications to the Framework Agreement.

GENERAL OVERVIEW OF THE ROUNDTABLES

At the beginning of each roundtable, the facilitator stressed that the purpose of the session was to hear the views of the participants and that no particular outcome or consensus was expected. The material included in this report is drawn from the diverse range of views, criticisms, observations and comments presented by the participants. On some parts of the Framework Agreement, such as the section on the federal spending power, there were fundamental differences of opinion on the appropriate roles of the federal and provincial governments. On others, such as citizen engagement, there was a considerable convergence of thought regarding implementation of that part of the Framework Agreement. On other provisions such as dispute avoidance and resolution comments were more limited. Participants varied considerably with respect to their knowledge of the SUFA. While this did not act as an impediment to the discussion, it did affect the number and length of interventions by a number of the participants.

A common theme across the workshops was the relative invisibility of the SUFA to the general public. As one person observed, to most Canadians it is a complete mystery. There are few, if any, references to it in the media. While acknowledging the importance of the subject matter of the Framework Agreement, many individuals indicated they were not fully aware of its specifics or that familiar with its implementation. Others noted that since its signing in 1999 they had not given the SUFA much thought.

Despite the lack of public awareness, participants for the most part appeared favourably disposed to and supportive of the Agreement. While there were specific concerns or

questions about the meaning or intent of particular phrases or sections, overall, one was left with the impression that, to this group of individuals, the SUFA had the potential to become a significant component of the continuing evolution of Canadian federalism, but had not yet reached that potential.

There was also recognition that the SUFA was a reflection of the years between the 1992 failed Charlottetown constitutional negotiations, when the concept of the “Social Union” first emerged, and 1999, when First Ministers endorsed the Framework Agreement.ⁱ It evolved after the rejection of the Charlottetown Accord and the subsequent abandonment of constitutional reform initiatives. From comments around the table it was perceived as an alternative to constitutional reform. It was also suggested that the SUFA owes its development to the introduction of the Canada Health and Social Transfer (CHST), provincial/territorial dismay about reductions in federal transfer payments and efforts on the part of all governments to reduce their deficits. As a result, it was seen as a creature of its time and rooted in the history of the 1990’s.

To many participants the SUFA was seen strictly as a document reflecting processes of intergovernmental relations. One person described it as a document “of the governments, by the governments and for the governments.” These perceptions, in turn, led to comments on the subject of “executive federalism.” Some concerns were expressed over the perceived veil of secrecy surrounding intergovernmental negotiations and processes and the exclusion of the public from deliberations. It was in this context that participants strongly supported and endorsed the inclusion of provisions in the Framework Agreement for citizen engagement. At the same time, words of caution were expressed about the processes of the Framework Agreement possibly undermining traditional sources of Canadian democracy such as political parties, circumscribing political dialogue and obscuring government accountability. There were several references to the usefulness and importance of legislative and parliamentary committees as mechanisms for public input into public policy debates.

The SUFA was also seen as another stage in the post WW II evolution of social policy in Canada and as part of the small “c” constitutional framework. Given the fact that the

SUFA is only three years old and that its implementation is still a work in progress, some participants felt that it is too early to make any definitive judgements on its future.

At each of the three roundtables, however, some participants commented on Quebec's non-participation in the SUFA. Some participants indicated that, if the SUFA is viewed as part of nation building, Quebec's absence is unfortunate. The concern manifested itself in different ways. Comments ranged from the fact that the Framework Agreement was incomplete without Quebec, to the view that the content of SUFA would likely have been very different had Quebec been a signatory, to speculation on what an agreement with Quebec's signature would look like. In addition, there was an expression of regret that other governments may not benefit from innovations in social policy originating in Quebec.

Some participants saw the references to Aboriginal peoples in the SUFA as a kind of afterthought. Attention was drawn to the fact that the Premiers met with the Aboriginal leadership after the Agreement had been signed as a way of including them in discussions on the social union and overcoming this criticism. Some participants mentioned the fact that the SUFA did not take sufficient notice of Aboriginal governments. Representatives from Métis organizations stressed that the federal government should include Métis within the meaning of Section 91(24) of the *Constitution Act, 1867*.

Although the SUFA was seen as a federal/provincial/territorial agreement, another theme that surfaced was the increasingly urban character of Canada. This theme manifested itself in a variety of ways. The view was expressed that there are concerns of importance to municipalities that are not reflected in the SUFA. Comments on differences in service levels between rural and urban centers were made. Concern was expressed that there was no recognition of the role of cities in the provision of social programs and municipal governments were excluded from the Framework Agreement.

COMMENTARY ON THE SPECIFIC SECTIONS OF THE SUFAⁱⁱ

1. Principles

Since the “Principles” section reflects the vision and objectives of the SUFA, it generated considerable discussion and comment. For the most part, participants felt that the principles contained in the Section reflected fundamental Canadian values and would be supported by the public at large. One person remarked that if governments had developed such a list in the 1950’s the list would look very different.

Some felt that the Section should include a definition of the Social Union. There were some expressions of concern that the Framework Agreement did not make reference to the full range of social policy issues, such as housing, the needs of people with disabilities, the elderly or the environment. Nor did the Framework Agreement make any reference to the tax system which one person referred to as the biggest social program. The view was expressed that the Framework Agreement should clearly identify what is in the social union and what is outside. A couple of individuals suggested that the principles outlined in the SUFA did not reflect the principles found in Section 36 (Equalization and Regional Disparities) of the *Constitution Act, 1982*. One person emphasized the fact that the intent of the Framework Agreement is to **improve** the social union as reflected in its formal title, “A Framework to Improve the Social Union for Canadians.” Others commented on the number of restrictive qualifiers in the “Principles” section, drawing attention to words such as “adequate,” “appropriate,” “affordable,” “essential” and “reasonable.” Each of these words, and hence the Framework Agreement itself, is subject to wide variation in interpretation. For example, one person suggested that, to governments, the word “essential” means, “spend as little as possible.” A few focussed on the use of the word “equity,” viewing it as a restrictive term. There was some concern that the “Principles” section might detract from the Charter of Rights and Freedoms.

A few people commented on the fact that there were no obvious links between the Principles section and the rest of the Framework Agreement. One individual used the

example of governments' accountability, found in Section 3, to make the point. Another compared the Section to a preamble and questioned whether or not it had any force and effect, since there were no references to the principles in the rest of the Framework Agreement.

One individual expressed surprise that the provisions of the *Canada Health Act* were incorporated into the SUFA. Throughout the roundtables there were several references to the Royal Commission on the Future of Health Care (Romanow Commission). More than one person suggested that the forthcoming Romanow Report and how its recommendations are addressed would be a major test of the SUFA.

To some, the Principles section places too much emphasis on the intergovernmental perspective and ignores the relationship between citizens and governments. One person drew attention to the fact that the Framework Agreement overlooks the existence of Aboriginal government as the third order of government. Some thought the section should include both Aboriginal and municipal governments.

One person viewed the Principles as suggesting a strengthened role for the federal government in the development of social policy. Another perceived it as diminishing the role of the federal government by treating it as one of 13 equal partners sitting around the table. Another saw this section as being anti-federalist.

2. *Mobility within Canada*

The facilitator introduced the Mobility section as being the most substantive section of the Framework Agreement because of agreed goals and deadlines for governments to eliminate any unreasonable residency-based policies or practices within three years of signing the SUFA. Government progress reports were available on the SUFA review web site for participants to review. This section was seen as one part of the Framework Agreement where empirical validation was possible and where the SUFA's effectiveness could be gauged.

One person noted that this section has served as a catalyst for governments to make sure their policies are consistent with the Framework Agreement. The time frames contained in the section served a useful purpose because governments had to pay close attention to their own policies. Another thought this section had worked the best because it was the most concrete. Another participant suggested that the restraints on governments in this section were comparable to the ones associated with the reluctance of governments to use Section 33 of the Charter of Rights and Freedoms, the “notwithstanding clause.” Any discriminatory practice was seen as attracting adverse publicity. There was general agreement that labour mobility had improved.

In one roundtable the Secretariat established under the Agreement on Internal Trade was referred to and was suggested as something akin to a best practice. Participants also took note of the progress in eliminating barriers to mobility in the self-governing professions through mutual recognition agreements. Conversely, the recognition of credentials of foreign-trained professionals, for example doctors or engineers who immigrate to Canada, was viewed as an impediment to mobility.

Participants did not really focus on discriminatory trans-boundary residency-based policies and practices but took a more general approach to issues associated with mobility, in particular impediments to mobility. Several participants raised the subject of mobility within provinces and territories. For example, the difference in the availability of social services between rural and urban communities was raised, as was the provision of services to status Indians on and off reserve. Another sub-theme was the relationship between access to services and its effect on mobility. Examples cited included provincial variations in waiting lists for admission to long term care facilities or for home care. Different standards of service across the country for people with disabilities were also given as an example of an impediment to mobility.

There were a few references to the Labour Market Development Agreements and their influence on mobility. One person thought that they had localized the labour market, thereby limiting the capacity of people to seek employment in other provinces. A perceived concern regarding the lack of financial reporting requirements under these

agreements was also noted. The view was expressed that there is no information to determine what skills are acquired or if the proper training is being provided.

Several comments were made on different aspects of post-secondary education and mobility. Although Quebec is not a signatory to the SUFA, note was made of its policy with respect to out-of-province tuition fee differentials for Canadians. The length of time to process student loans was seen as a possible barrier to mobility. Discrimination against out-of-province applications for restricted enrollment programs [e.g., medicine, dentistry, law, pharmacy and occupational therapy] was perceived as a barrier to mobility.

3. Informing Canadians – Public accountability and transparency

Given the background of many of the participants, one would expect that the provisions of this section would be of special interest to them. Here, participants identified a wide range of questions and concerns. The several interventions clustered around a few sub-themes such as a critique of executive federalism, mechanisms for citizen participation and difficulties associated with data collection and analysis.

It was also the one area where participants were especially critical of governments' efforts with respect to implementation of the Framework Agreement. In particular, a number of participants felt that implementation of this section was, at best, weak or, at worst, nonexistent. Some felt that no serious consideration has been made to involve third parties in the assessment of progress on social priorities. Some participants considered the reports on comparable health indicators (released by all jurisdictions on September 30, 2002) as government documents prepared without any input by other parties.

One of the recurring sub-themes in the discussion on this section was the availability of data, its analysis, problems associated with its collection and what is being measured. The following gives an indication of the range of questions and comments on this sub-theme. What goes into the measures is important. For example, is gender taken into

consideration? How will problems of comparability of programs be addressed? What is not measured is just as important as what is measured. Policy areas where there is no consensus may be excluded from analysis. Measuring programs might undermine them. Provinces may not want to include certain data or choose not to study a particular question. There will be differences of opinion as to what outcomes should be measured. What social programs will be measured? This question was linked back to the definition of the social union. There was a general concern about the lack of data or information available to citizens about health care. For example, while there is a lot of data on hospitals and doctors, the information does not indicate how the services are used or if the principles of the *Canada Health Act* are being adhered to.

Another sub-theme of this discussion was the linkage between executive federalism and mechanisms for Canadians to participate in developing social priorities and reviewing outcomes. Some saw the SUFA as a government response to a series of criticisms directed at executive federalism. The intergovernmental arena was seen as a closed-door secret process that obscured transparency and accountability. The challenge is to reconcile transparency and engagement with the secrecy of executive federalism. While a provincial government may report on outcomes, to which government does a citizen address questions if there are concerns? Can governments hold each other accountable? How are intergovernmental relations and processes monitored? One response to this question was a suggestion to ensure greater applicability of freedom-of-information legislation to intergovernmental relations.

It was noted that reporting was left to individual governments as opposed to a single agency that suggests there is no collective responsibility. The ability of each province/territory to report as it sees fit was seen by some participants as a limiting feature. The question of what happens in situations of non-compliance was raised. Other concerns about the reporting requirements included possible difficulties in obtaining access to the various reports, particularly for those who do not have ready access to computers. It was also recognized that the absence of a uniform system may lead to problems in comparing data between the several provinces and territories. One person wanted to know in what respects reports differed. It also led to a question about the

nature of the Government of Canada's role in the SUFA. To one person, the limited number of reports is one reason why the public has so little awareness of the SUFA. It was noted that reporting mechanisms are now built into new programs such as child-care and that SUFA applies to new programs. One person thought that ranking of outcomes was important, and used the example of the *Maclean's* ranking of universities. The annual rating has caused universities to review their policies and to make a determined effort to improve. On the issue of best practices, it was noted that one of the values of federalism is that it allows for experimentation. This in turn requires more information sharing and comparable measures to do effective outcome evaluations. There was also a word of caution that best practices in one part of the country may not work in another.

With respect to mechanisms, two separate issues were considered. The first pertains to measuring and reporting on results. Although terminology differed, there was a perceived need by some for a national body to collect, analyze and disseminate information and reports. Such a body could act either as an intergovernmental secretariat, presumably associated with the Ministerial Council, or as an independent monitoring agency. There was the view that the independent agency could more readily perform the role of a watchdog because it was thought unlikely that governments would be critical of themselves. The example of the Secretariat formed under the Agreement on Internal Trade has already been noted. It was suggested that third party advisory boards could be constituted to interact with this new organization on some ongoing basis. A variant of this suggestion was a proposal to establish regional secretariats. Another suggestion was to use think tanks to conduct investigations and prepare reports. One participant asked if provincial auditors looked at these matters while another felt that they had no role and that a national body with a watchdog function was a better idea.

The second issue was linked to methods by which Canadians could be involved in the policy making process. What was readily apparent from the three roundtables was that a significant number of the participants were either aware of or had participated in a variety of consultative processes with governments. Examples given included the Human Resources Development Canada (HRDC) consultations on student loan financing, Alberta's consultation efforts on the economy, a social audit undertaken by

Newfoundland, and the Environment Canada and Health Canada training workshops for public participation in Prince Edward Island. In particular, several participants were very conversant with the Romanow Commission and its efforts at citizen engagement, which included televised debates on CPAC, deliberative polling, citizen dialogues, focus groups and interactive web sites. These initiatives were seen as something that could be explored further as this section of the SUFA continues to be implemented. While there was an awareness of public consultation processes and efforts, there was also an element of cynicism that governments tend to use these initiatives as public relations exercises and were either reluctant or not prepared to act on recommendations from such consultations. There was also some criticism that specific individuals, as opposed to organizations that they represent, are often invited to such consultations.

Suggestions ranged from more extensive use of legislative/parliamentary committees, to joint federal/provincial/territorial efforts [as was done with the Canada Pension Plan review], to the establishment of Royal Commissions. To a certain extent, this latter suggestion may be partially attributable to participants' familiarity with the work of the Romanow Commission. There was some sense that the processes of executive federalism have reduced the use of legislative committees, although reference was made to the Senate committee on health care (the Kirby Committee). Given the fact that different interpretations may be attached to the same data, mechanisms for public involvement were considered important. It was stressed by some that the mechanism must be designed to ensure input from the most politically marginalized, vulnerable and disadvantaged people.

4. Working in partnership for Canadians

The objective of the discussion of this section was to assess the effect the SUFA has had on the intergovernmental approach to social programs. One person commented that Canadians, if they were aware of the SUFA, would like this section because its intention is to move intergovernmental relations in a more collaborative direction. The view was expressed that the public has grown weary of intergovernmental conflicts or "turf wars." A question was raised as to whether or not this section has in fact had a transformative

effect on intergovernmental relations and, by way of illustration, the questioner made reference to the current federal-provincial dispute over the Kyoto Protocol. There was no clear consensus on the answer. One person said that the SUFA has had no impact on promoting more respectful relationships. Another said that the federal government was not doing anything very different after SUFA than before and noted that consultation does take place but that consultation often means “we will talk but then do what we want.” One person thought that the issue was less one of improving partnership and more one of developing mutual trust between governments. That comment, in turn, prompted a remark that the SUFA had been born out of mistrust.

There were several references to health care and the apparent lack of joint planning in this sector. One person noted that there are two federal studies currently underway on health care as well as a number of provincial studies. Another made a reference to “political gamesmanship and competing commissions.” There was also reference to the establishment of the Premiers’ Council on Canadian Health Awareness. In this context one person asked how the \$1.8 million advertising campaign the Premiers’ Council on Canadian Health Awareness had just initiated would promote intergovernmental collaboration. However, at the Moncton roundtable the need for additional, sustainable funding was recognized.

When pressed for examples of effective intergovernmental collaboration or areas where things had improved, reference was made to the National Child Benefit, Early Childhood Development, student finances, building codes, and the effectiveness of a number of federal/provincial/territorial working level committees in the health area. The direct link to the SUFA, or to its spillover effects, was not always clear.

Two very positive references were made to the equitable treatment provision. This clause, which can be traced back to the Charlottetown Accord, was seen as adding considerable flexibility to the Framework Agreement. The example of Early Childhood Development was used to illustrate an instance where provinces were given latitude with regard to implementation that took into consideration their diverse circumstances.

To a certain extent, participants were unable to make a distinction between this section and the next section on the spending power. The two were difficult to separate because of a perceived power imbalance, or as one participant put it, “One government is holding the purse, the other the bill.”

5. The federal spending power – Improving social programs for Canadians

The discussion on the federal spending power reflected its centrality and significance to intergovernmental relations in general and specifically to the Framework Agreement. Participants were generally more familiar with this subject matter and the policy issues surrounding it. As one might expect, this section generated considerable discussion and was subject to widely differing interpretations as to whether it was the provinces or the federal government that gained most from this section.

An underlying theme in the commentary was the view that, by recognizing the federal spending power, the Framework Agreement has given it constitutional legitimacy. As a check and balance, before the federal government can exercise its spending power for certain new Canada-wide initiatives it must first obtain the support of a majority of provincial governments. Many participants saw the section as striking the right balance and thought that it went about as far as possible in steering a middle course between those who want the federal government to establish or safeguard national standards and the position of those provinces that want respect for provincial legislative jurisdiction. A few thought that the SUFA was a watering down of a national commitment. Some stated that most Canadians expect the federal government to play a role in social programs.

It was also noted that the SUFA does not cover all policy issues associated with the federal spending power. Reference was made to Quebec’s views on the spending power and the fact it is not a signatory to the Framework Agreement. A suggestion was made that at some point in the future, the question of the spending power will be raised and questions such as the ability of the federal government to penalize provinces and territories for violations of the *Canada Health Act*, penalties for early federal withdrawal and a binding dispute avoidance and resolution mechanism will need to be considered.

The view was expressed that, while SUFA may have “let sleeping dogs lie,” such issues will need to be discussed at some point.

The subject of vertical and horizontal fiscal imbalance came up during the roundtables. In the Moncton roundtable there was concern expressed about the increasing interprovincial inequality with respect to service levels in social policy areas. It was recognized that the Atlantic provinces benefit from a strong central government. While the option of increasing equalization payments was suggested, it was acknowledged that funds transferred under the equalization program would not necessarily flow into the policy fields covered by the SUFA. An alternative suggestion was to review the funding formula under the Canada Health and Social Transfer (CHST), for example calculating post-secondary education transfers based on the number of students in a given province as opposed to the provincial population.

The debate focussed on a number of specific issues regarding the exercise of the federal spending power. In this context, a number of references were made to the federal reductions in transfer payments to the provinces. One person thought that, as a result of the erosion of funding predictability, federal credibility had been damaged. Another person said that the spending power is more than sending a blank cheque and some rules were needed, including rules against unilateral federal reductions. Some participants saw the section as limiting the federal government’s authority over exercising the spending power. They wanted the federal government to be able to attach conditions to its transfers so it could achieve and defend national standards.

A distinction was drawn between accountability and conditionality. One participant supported strong federal direction in health and post-secondary education because of Canada’s membership in the World Trade Organization (WTO). As a result of treaty obligations, there is now a degree of risk associated with experimentation at the sub-national level. Another saw the SUFA as decentralizing. While it allowed for greater provincial/territorial efficiency and control over resources, are program goals being achieved? One participant stressed the importance of subsidiarity and opportunities for

experimentation in the federal system and emphasized that it was necessary to distinguish between the way programs are designed and the way they are delivered.

The inclusion and recognition of direct federal transfers to individuals or organizations was seen as a major change. Some participants welcomed initiatives such as the Canada Foundation for Innovation and the Canada Research Chairs. By way of contrast, another person viewed the Millennium scholarships as paternalistic and suggested that the policy issue was not about the spending power but about the restructuring of universities. Another person saw a potential contradiction or conflict between the two categories of transfer payments, those to provinces and territories and those to individuals and organizations. The former makes reference to working collaboratively with the provinces in identifying Canada-wide priorities and the necessity of obtaining a degree of provincial and territorial support for the initiative. If that support is not forthcoming, there is nothing to prevent the federal government from using the alternative of direct transfers. One person compared the consultation requirement in the direct federal spending provision as an early warning system where “there is time only to assess one’s fate.”

6. *Dispute Avoidance and Resolution*

The discussion on this section was relatively brief in all three roundtables because the section has not really been tested and participants were unfamiliar with the April 2002 agreement on a health dispute avoidance and resolution process for the *Canada Health Act*. One person saw inclusion of this section as a major win for the provinces/territories and viewed it as a way for the provinces to get around the *Canada Health Act*. The similarities to the dispute avoidance and resolution process in the Agreement on Internal Trade, referred to as “the shame factor” or the “sunshine” principle, were noted. Going back to the question of trust, one person indicated that the provinces would look at the fairness of any mechanism.

There was strong support for public involvement and the use of third parties in the dispute resolution aspects of the process. Some participants raised questions about how the process is triggered and whether the public had a role in that process. One person

thought a lack of public involvement would weaken the federal government's capacity for enforcement.

Most of the discussion focussed on the *Canada Health Act*. One person saw its provisions, other than those on extra billing, as being vague. Another said regulations under the *Act* are needed and noted that the federal government had done little to enforce the *Act*. Allowing intervention by third parties was seen as a way of encouraging the federal government to fulfil this responsibility.

There was recognition that disputes are inevitable in federal systems or as one person said, "if you have intense relationships you have conflict." Another person said there is a need for political dialogue, that disputes are a part of political life and did not think that everything should be put through an "intergovernmental sieve." A further comment was made was that maybe dispute avoidance is not the essence of democratic politics.

7. Review of the Social Union Framework Agreement

The roundtable agenda did not include this section for specific discussion. Participants in the first roundtable asked that it be added to the agenda. As a result, there was a brief discussion of this section in Saskatoon. Although section 7 was added to the agenda of the other two roundtables, participants did not choose to discuss it as a separate topic. Some participants at the Ottawa roundtable would have welcomed more discussion on social policies and their specific content. In addition, a few participants at the Ottawa roundtable did not think the consultation was credible without information and material upon which they could form judgements.

Some of the remarks focussed on the particulars of the review currently underway. One person thought that the individuals around the table were not fully representative of the large number of groups with an interest in SUFA. As a result, the views of those with disabilities, major service providers, anti-poverty groups, Aboriginal people, visible minorities and women's organizations and others were not presented. The short timeframe for the review and the convening of the roundtables was seen as unrealistic.

These concerns as well as the lack of funding for groups was not considered a satisfactory approach to citizen engagement as envisaged in the Framework Agreement. Another person thought the consultation should have focussed on what Canadians want from their governments to further the social union.

A more general comment was directed at how governments should interpret the results of the review. Since Canadians have little or no understanding of the SUFA, a non-response should be viewed as just that, a non-response, and not an indication of general satisfaction. More information on how SUFA has functioned from those involved with its implementation would have been useful. One person suggested that a further review be held in five years after there has been more experience with, and presumably public awareness of, the Framework Agreement. To another participant, five years was seen as too long an interval between reviews.

A final comment was that governments should look at the political theory upon which the SUFA is founded. An important component of that theory is located in the Charter of Rights and Freedoms and Aboriginal rights contained in the *Constitution Act, 1982*. In addition, one cannot overlook Canada's international obligations. The SUFA review should be framed in this context.

PARTICIPANTS' CONCLUDING OBSERVATIONS AND RECOMMENDATIONS

Following the detailed review of the various sections of the Framework Agreement participants were given the opportunity to put forward any specific observations or recommendations they might have. They were also asked if there were any other major issues that should have been raised and what advice they would give the Federal/Provincial/Territorial Ministerial Council on Social Policy Renewal. There was no intention of developing a consensus or expectation that one would emerge. Participants used this opportunity to emphasize points they had made earlier in the day, to offer suggestions for change to the Framework Agreement, to mention matters that had not been raised, or to comment on specific policy concerns. Thus what follows reflects

the key points from the concluding comments and observations as they pertain to the SUFA itself.

Although many of the people involved indicated that they did not have a good grasp of the SUFA, by the end of a given roundtable their level of awareness of the Framework Agreement had increased considerably. Perhaps the most significant observation is that there was no call for jettisoning the Framework Agreement, although a handful of people questioned its appropriateness and whether it had resulted in a better approach to social policy. While there were a few recommendations for specific changes, the principal thrust of the comments was that, in order to improve the social union, governments needed to improve their efforts on the implementation of the Framework Agreement. Participants focussed particularly on the provisions of Section 3 having to do with citizen engagement and monitoring, measuring outcomes and reporting to constituents. There was a sense that it is really too early to assess the SUFA, s experience with the SUFA is still very limited but that it clearly has the potential to be a positive force in developing the social union.

It was recognized that the notion of a social union is a very recent concept in Canada and represents a new discourse in Canadian society. More work is needed on defining values, determining what the social union includes and whether matters such as the environment should be added, and how all of this is linked to Canadian citizenship. To some, the document lacked a vision of the country. To others, it demonstrated a clear vision and is the end result of a long and complicated debate over federalism, the individual and social policy. Although questions were raised about the lack of the Framework Agreement's specificity, one person stated that the term is used essentially as a catchall reference to reflect post-WW II social programs. The SUFA document should not be viewed as a blueprint for specific policy making or for specific policy results. There was an understanding, as demonstrated by the roundtables, that differences over public policy and interpretations of the Framework Agreement will not disappear.

To some, the language of the Framework Agreement suggests that the country has not yet caught up to the changes brought about by the *Constitution Act, 1982*, in particular the

recognition of the Aboriginal peoples. Nor does it reflect the reality of urban Canada. Some suggested that municipal and Aboriginal governments should be included within the Framework Agreement and it was suggested that ways be considered for their greater participation and involvement.

The SUFA was seen by some as a threshold document that brings together a number of recurring themes in Canadian federalism, such as the start of an intergovernmental process to discuss outcome measures, citizen engagement, the federal spending power and an intergovernmental dispute and avoidance mechanism. Some described the SUFA as a demonstration program or historical event to show that federalism was still flexible even without constitutional change. In this respect it was seen as part of a wider constellation of innovation in Canadian federalism involving intergovernmental consultation and harmonization. Because it indicates governments' willingness both to function as a social union and to examine their social programs collectively and individually, when the SUFA is fully implemented, it can be viewed as a success.

The Framework Agreement was characterized by some as a formalization of the principle of intergovernmental cooperation and serves as a useful reminder of governments' need to co-operate. Some noted that it has already had a positive impact on improving labour mobility in Canada. There were several references to the fact that, to a considerable extent, social policy comes within provincial legislative jurisdiction. Canadians do not like to see governments fighting each other and, if the SUFA results in greater intergovernmental harmony and creates an element of trust among governments, it will be seen as a significant achievement. Some participants felt that, from a provincial/territorial perspective, the SUFA may not have been as successful as expected because segments of the federal government do not take it into consideration when developing policy. One person suggested that a directive from the Privy Council Office to individual departments could overcome this deficiency. Another suggested that the Framework Agreement include clauses to ensure that the federal government receives credit for the money it spends. That same person added that the federal government was not always given credit and that doing so would improve the intergovernmental climate.

Unfortunately, Canadians who were seen as keen about social policy are, for the most part, unaware of this initiative. SUFA is invisible to most citizens and, if evaluated from this perspective, it may be regarded as a failure. One possible explanation for this invisibility was that the drafters did not establish a clear linkage between the Principles section and how the social union is to be achieved. The federal/provincial/ territorial governments should strive to ensure that the principles and processes of the SUFA become part of the mainstream of social policy. As a consequence, the Framework Agreement would not be an object of criticism but accepted as part of the landscape. One way of overcoming this lack of awareness is for the Ministerial Council to identify the most important parts of the Framework Agreement and to publicize those provisions.

Several participants considered the fact that Quebec is not a signatory as a major failing and not an acceptable situation. How, when and under what circumstances Quebec will choose to participate in the Framework Agreement is unknown. It was suggested that, until Quebec is a signatory, the SUFA would be seen as inadequately reflecting the perspective of all Canadian. Some participants felt that now is the time to conceptualize what the Framework Agreement would look like with Quebec as a signatory. There was speculation that, for Quebec to accept the SUFA, consideration would need to be given to matters such as asymmetry, the opportunity to opt out of new initiatives and the transfer of tax points.

SUFA held out the promise of meaningful citizen engagement between elections but has failed in fulfilling its commitment to achieve it. Mechanisms for citizen engagement need to be effective, should ensure equal access to the political process and must include the most marginalized people. Some suggested that citizen engagement should be ongoing, not periodic. More progress is needed on reporting and measurement. The information generated will provide a base for detailed comment. Because of the effect of social programs on women, it is essential that views of women are sought and that gender-based analysis in measuring results is ensured. For full transparency, one person suggested freedom of information legislation should be extended to include intergovernmental relations and processes. The Ministerial Council should engage people more, possibly through the creation of non-partisan consultative bodies, as was

done for internal trade. Some form of annual reporting mechanism was suggested for consideration. The example given was the Canadian Centre for Management Development's annual university seminar on changes in public administration.

The importance of experimentation within the federal system was stressed. The SUFA should not constrain the federal government from making agreements with individual provinces. In this context there was also recognition that Canada is not homogenous and that provinces have different interests. A suggestion was made at the Moncton roundtable that, because provinces have different interests, consideration should be given to the regionalization of provincial responses to federal initiatives. More asymmetry is likely, as provinces develop different policies, choose to go in new directions, or become more integrated into the North American economy. The influence of cultural differences, such as the civil law in Quebec, acting as impediments to mobility was raised. There was some concern that there was less information sharing today among provinces and territories with the result that jurisdictions are unaware of best practices.

Participants made several comments on the dispute avoidance and resolution process developed for the *Canada Health Act*. The process could be applied in other policy areas. Although it is non-binding, there are very obvious political pressures that come into effect when intergovernmental differences become public. The use of third parties in the dispute avoidance and resolution process was also strongly encouraged and mechanisms must be fully transparent.

The above commentary provides a number of thoughts and suggestions for the consideration of the Ministerial Council. As the roundtables represent only one part of the three-year review, these ideas and comments will need to be considered in the context of the other components of the review. As part of this report, both the letter of invitation to participants from the Ministerial Council and the background questions have been attached as appendices.

ⁱ It should be noted that Quebec is not a signatory to the Social Union Framework Agreement.

ⁱⁱ This part of the report is drawn from the specific comments of the individual participants. The specific roundtable where the comment was made is not referenced in order to preserve the anonymity of the speakers.