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MEMORANDUM FOR DAVID CAMERON
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The Meaning of "Agreement"

Introduction

This note will attempt to clarify the meaning of "agreement" but it will not provide a precise measuring stick for determining whether there is or is not "agreement" in any particular circumstance. Where there are no rules accepted by all parties as to what constitutes "agreement", the concept becomes purely subjective and merely a strategic tool. Ultimately, the federal government will have to decide whether it is in its "strategic interests", given its desire for unilateral action, to judge the talks a failure or a "partial" success or a "total" success. Similarly, it will have to use the same criterion to decide whether the provinces were in "total" or "partial" or "substantial" agreement or disagreement with the federal proposals. With this somewhat cynical caveat, the following is an analytical breakdown of "agreement".

Components of Agreement

It is obvious that if all eleven governments were to accept all aspects of all items on the table then "agreement" would objectively exist. Putting utopia aside, one can envision a spectrum of levels of agreement. A number of elements should be considered:

Agreement

1. By whom? The federal government and:
 - (a) All provinces
 - (b) Almost all provinces (8 or 9)
 - (c) Almost all provinces, but not including Quebec and/or Ontario

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- (d) A small majority of provinces, containing a majority of the population
- (e) A small majority of provinces, containing a minority of the population
- (f) A small majority of provinces, representative of all regions
- (g) A small majority of provinces, excluding some regions
- (h) Fewer than five provinces, containing a majority of the population
- (i) Fewer than five provinces, containing a minority of the population
- (j) No provinces

2. On what?

- (a) All aspects of all twelve items
- (b) The general principles of each of the twelve items but not the details
- (c) All aspects (principles and details) of one or more of the "packages" but no acceptance of the other packages
- (d) On some items, but not the others in an individual package
- (e) Acceptance of isolated items

3. Strength of support or opposition:

- (a) Vocal support
- (b) Grudging but open support
- (c) Tacit acquiescence

- (d) Silent opposition
- (e) Vocal opposition
- (f) Walk-out

The concept could be "halved" infinitely - the point is that since there is no definition of agreement in a federal-provincial context (although some might assume that unanimity is the only form of agreement) all one can say is that since X number of provinces from X number of regions and containing X proportion of the population accept with X level of enthusiasm X aspects of X items, then there is agreement to this limited extent.

The next question: "Is there enough agreement to act on a measure?" is linked only to a limited extent to the question of whether there is agreement.

The following possibilities might be considered:

1. Only two provinces (eg., Ontario and New Brunswick) agree to almost all details of the items in the peoples' package - the federal government can say "agreement" is so remote, the items are so urgent and important, etc., that unilateral action is essential.
2. Only "equalization" in the peoples' package gets support from almost all provinces and the other items in the package are for the most part, rejected - the federal government can insist upon the "package" quality and act unilaterally on all items.

While obviously agreement by all provinces on all elements of at least this package is the most desirable result, this is unlikely. Any other "level of agreement" will be interpreted by all parties coming out of the talks to suit their ends. Perhaps that most dangerous position the federal government could find itself in, is if it chose to act unilaterally when almost all provinces are agreed that another few weeks of discussion would bring them to almost complete agreement on those items.

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Having stressed the "subjective" element of agreement, I will take a stab in the dark and suggest that the minimal level of support which could be called "agreement" on any given item, is (in the current context): a simple majority of the provinces; containing a majority of the population (including at least one province from the eastern and western regions) providing grudging but open support on the "principle" of the item and most of the details plus tacit acquiescence or silent opposition from at least two or three other provinces.


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