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## **Standing Committee on Foreign Affairs and International Trade**

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**EVIDENCE**

**Tuesday, April 5, 2005**

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**Chair**

**Mr. Bernard Patry**

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## Standing Committee on Foreign Affairs and International Trade

Tuesday, April 5, 2005

• (0910)

[Translation]

**The Chair (Mr. Bernard Patry (Pierrefonds—Dollard, Lib.)):** Good morning.

[English]

Welcome, everyone.

We are meeting pursuant to the order of reference of Tuesday, December 7, 2004, Bill C-25, An Act governing the operation of remote sensing space systems.

As witnesses this morning we have, from the Department of Foreign Affairs, Mr. Robert McDougall, director, non-proliferation, arms control and disarmament division; Mr. Phillip Baines, senior adviser, science and technology, non-proliferation, arms control and disarmament division; Mr. Bruce Mann, senior counsel, justice legal services division;

[Translation]

Ms. Myriam Roberge, from the Space Development, Policy, Strategy and Cooperation Directorate of the Department of National Defence, and Mr. Luc Brulé, Director, Earth Observation Projects, Space Programs, Canadian Space Agency.

[English]

Welcome, everyone.

We'll resume with clause 20. It was amendment NDP-16 on page 29 of your package.

The floor is with Ms. McDonough, please.

(On clause 20—*Regulations*)

**Ms. Alexa McDonough (Halifax, NDP):** Thank you, Mr. Chair.

Members of the committee will no doubt remember there were several helpful suggestions from some of our earlier witnesses around the importance of ensuring that raw data, in order to make it publicly accessible over time, needed to be properly archived, and this is just a simple amendment to incorporate that into the bill.

I would move the amendment to clause 20 by adding, after line 21 on page 16, the following, so it becomes:

(g.1) respecting the archiving of raw data, including the public access to the archived data;

**The Chair:** Thank you, Ms. McDonough.

Mr. McTeague, go ahead, please.

**Hon. Dan McTeague (Parliamentary Secretary to the Minister of Foreign Affairs):** As was suggested earlier, Mr. Chair, there are a number of concerns here, but they are not enough, in my view, to prevent the motion or the amendment by Ms. McDonough from proceeding.

I just wanted to point out for colleagues here that Bill C-25 currently does—as it is proposed—handle specific terms in the disposal plan under section 9:

(2) A licensee and, in the case of a licence that has terminated, the former licensee, shall

(a) ensure that the following things are disposed of in accordance with the system disposal plan approved by the Minister:

(i) every system satellite,

(ii) the things used in connection with the cryptography and information assurance measures of the system,

(iii) any raw data and remote sensing products from the system that are under the control of the licensee or former licensee, and

(iv) anything else prescribed; and

(b) put into effect the guarantee arrangements approved by the Minister under paragraph (1)(b) and keep them in effect until the system disposal plan has been carried out.

And of course it is here where Canada's access control policy offers the Government of Canada, at cost, the reproduction and transmission of any data acquired by the system prior to the destruction of that data.

Section 8(4)(c) says:

(c) that raw data and remote sensing products from the system about the territory of any country — but not including data or products that have been enhanced or to which some value has been added — be made available to the government of that country within a reasonable time, on reasonable terms and for so long as the data or products have not been disposed of, but subject to any licence conditions under subsection (6) or (7) applicable to their communication or provision;

This section also envisages a minimum archival capacity to fulfill this obligation of the licensee because long-term storage of vast quantities of data can be very expensive to carry out. It is therefore preferable to treat the issue of archiving on a case-by-case basis. But the committee, Chair, has come back several times. There have been two complementary amendments, and I'm not averse to seeing this supported.

**The Chair:** Mr. Sorenson, go ahead, please.

**Mr. Kevin Sorenson (Crowfoot, CPC):** I would like to question the department on this. Just in our going through these amendments, it looked like we could support this NDP amendment. But my question to the department is whether there is any concern regarding including the public access to the archived data.

**The Chair:** Mr. Baines, you're the lucky one.

**Mr. Phillip J. Baines (Senior Advisor, Science and Technology, Non-Proliferation, Arms Control and Disarmament Division, Department of Foreign Affairs):** I'm the lucky one to take this one so early in the morning.

I guess here the concern would be that a commercial operator would like to have a period of time in which he remains in control of releasing data to his client base. After a great amount of value has been extracted during this period of time when the operator has this access, the data will lose its value over time, and at some point in time a commercial operator would be willing to release data more widely available through the public, under such a phrase as proposed under this amendment.

**Mr. Kevin Sorenson:** Do you foresee in any way that the archiving of this raw data—because there are already some conditions under which they archive it or they keep it—will become a major added expense to the commercial interest there?

**The Chair:** Mr. Baines.

**Mr. Phillip J. Baines:** I think archiving data can be very expensive; it can take a lot of hardware in order to execute this. It would be difficult, and more so in the future, when instead of having one satellite you possibly consider having a constellation of satellites, so that you're collecting far more data than you otherwise would.

What we would want to do here is to make sure we don't keep data for a period of time that's unnecessary. For example, there's not much point in keeping data over open ocean areas. So we'd have to be very careful here with this type of clause to strike the right balance and meet our minimum needs for archival, to satisfy the sensed state requirements, and to satisfy the public good interests in storing long-term data over land. But we should not require everything to be kept for a long period of time.

**Mr. Kevin Sorenson:** Basically, what I hear from the department is that there are some minor concerns but that overall it's quite acceptable.

**Mr. Phillip J. Baines:** Overall, we think we can handle this.

**Mr. Kevin Sorenson:** Okay. Thank you.

[Translation]

**The Chair:** Mr. Paquette.

**Mr. Pierre Paquette (Joliette, BQ):** I'd just like to say that we will be supporting this amendment, particularly as it merely invites the minister to make regulations "respecting the archiving". Obviously then, the analysis process referred to as well as the archiving will be done on a needs basis and public access to the archived material will be restricted, depending on national security and other concerns. I really see no problem adding this additional power to the range of powers already provided for in the bill.

[English]

**The Chair:** Does the amendment carry?

(Amendment agreed to)

[Translation]

(Clause 20 as amended agreed to)

● (0915)

[English]

**The Chair:** Between clauses 21 and 35 there are no amendments.

(Clauses 21 to 35 inclusive agreed to)

[Translation]

**The Chair:** The next item is amendment NDP-17 on page 30.

(On clause 36 - *Debts to Her Majesty*)

[English]

Ms. McDonough.

**Ms. Alexa McDonough:** Thank you, Mr. Chair. We're off to a really good, positive start this morning. I hope we can keep going on this positive path.

**The Chair:** It's been a good week for you.

**Ms. Alexa McDonough:** The next amendment is to clause 36. It is proposed that we amend clause 36 by replacing line 37 on page 22 with the following: "may be commenced later than seven years after".

This is a fairly straightforward amendment, which just recognizes that it is our responsibility to protect the public interest as much as humanly possible and to protect Canada's investment in RADAR-SAT technology, and RADARSAT-2 in particular. It therefore makes it somewhat tougher for a licensee to be able to evade meeting its financial obligations by delaying.

It seems to us there is a sound argument that we should extend from five years to seven years the period during which government can in fact enforce financial obligations by a licensee, which are owed essentially to the Government of Canada, the people of Canada, who have made this very major investment.

I so move.

**The Chair:** Merci.

Mr. McTeague.

[Translation]

**Hon. Dan McTeague:** The government side has no objections.

[English]

**The Chair:** Are there any other comments?

(Clause 36 as amended agreed to [See *Minutes of Proceedings*])

(Clause 37 agreed to)

(On clause 38—*Contravention—section 5, 13 or 14 or subsection 16(1)*)

**The Chair:** Bloc Québécois amendment 12.1.

[Translation]

This amendment is consequential to amendment BQ-11.1 on page 25.1. That particular amendment was negated. Accordingly, the question cannot be called on amendment BQ-12.1.

[English]

Is that agreed?

[Translation]

Are you alright with that, Mr. Paquette?

**Mr. Pierre Paquette:** I'll take you at your word.

**The Chair:** Thank you very much.

(Clause 38 agreed to)

**The Chair:** There are no proposed amendments to clauses 39 to 45.

[English]

(Clauses 39 to 45 inclusive agreed to)

[Translation]

**The Chair:** The next item is the new clause 45.1 proposed by the Bloc Québécois. It's listed as amendment BQ-13 on page 31.

Mr. Paquette.

**Mr. Pierre Paquette:** I think it's worthwhile reading the amendment. We're proposing the addition of a new clause which would read as follows:

45.1 (1) The Minister shall cause an independent review of the provisions and operation of this Act to be conducted from time to time in order to assess, in particular, its impact on technological development and on the implementation of international agreements and treaties.

(2) The Minister shall cause the report on a review conducted under subsection (1) to be laid before each House of Parliament within two years after the coming into force of this Act, and within every three-year period after the tabling of a report under this subsection.

In the case of legislation that applies to a new field, namely remote sensing, it's not at all unusual to proceed with an independent review from time to time and to report formally to both Houses. In this instance, we're proposing that within two years of the coming into force of the act, a review be conducted to see how things have gone and if any adjustments need to be made, and that every three years, a report be tabled to both Houses.

In our discussions in recent weeks, we've come to realize that much has been learned about this new field, but that the next few years could bring many more developments. Therefore, it's entirely appropriate to ask the minister to regularly conduct independent reviews and to report to both Houses.

• (0920)

**The Chair:** Thank you, Mr. Paquette.

Mr. McTeague.

**Hon. Dan McTeague:** I understand very well the underlying principle of the Bloc's proposed amendment. However, I do have a few comments of a friendly nature to make.

[English]

The activity being regulated under this bill is not of sufficient magnitude as to require such an elaborate periodic procedure. The licensing structure of the bill is sufficiently flexible to adapt to changing circumstances over time.

The proposed industrial factors lie, in essence, outside the mandate of the Minister of Foreign Affairs. They also reside well beyond the security defence and foreign policy provisions that have guided the development of this bill.

[Translation]

I would, therefore, like to move a subamendment to Mr. Paquette's amendment on behalf of the Bloc Québécois. I move that this review be conducted five years after the coming into force of the act, and every five years thereafter.

[English]

The amendment to this would be to change the times in subclause (2) of this proposal to five years for the first one and every five years thereafter.

[Translation]

**The Chair:** Mr. Paquette.

**Mr. Pierre Paquette:** I'm trying to grasp the scope of the subamendment. If the timeline is the only issue, I'm willing to be flexible, provided there would still be an independent review and reports tabled to both Houses. I don't have a problem with that.

[English]

**The Chair:** Are there any other comments?

Mr. Sorenson.

**Mr. Kevin Sorenson:** We looked at this. We said we would be supporting this amendment, but those concerns had been brought out as to the frequency of it. If the Bloc would accept the friendly amendment of the government for five and five years, we would support that.

[Translation]

**The Chair:** Ms. McDonough.

[English]

**Ms. Alexa McDonough:** We continue to be on a very positive course here, so I don't want to do anything that would derail it.

This pertains to an independent review, but it doesn't spell out what that means precisely. Are we all of the understanding that we're talking about an arm's-length review by an independent agency, expert, or whatever? I see everybody nodding in agreement.

The final amendment that the NDP is putting forward does not pertain to that independent review, which it's now proposed, with the suggested amendment, would take place every five years. We would support that. I think it's a very good idea to have done this. I'm sorry that Francine Lalonde isn't here to argue further on the case for this because she has done so much good work on it. My amendment pertains to an annual departmental report to Parliament.

Are we of the common view that one does not preclude the other? In the Bloc amendment before us, it's an independent review every five years. The proposal in my next and final amendment is for there to be an annual report to Parliament on, basically, the operation of this RADARSAT-2.

**The Chair:** Ms. McDonough, we cannot discuss two motions at the same time. We'll discuss this motion. If this amendment with the subamendment by Mr. McTeague is accepted, we'll deal with yours after.

**Ms. Alexa McDonough:** I'm just trying to get an understanding of the government's point of view, to be as constructive as possible.

**The Chair:** I know.

It's five years; that's the subamendment of Mr. McTeague.

**Ms. Alexa McDonough:** But for an independent review...and my question is specifically to the effect that this does not in any way preclude the importance of reporting annually to Parliament. Is that...?

**The Chair:** If you want to answer now, go ahead.

**Hon. Dan McTeague:** I'd like to give an opportunity to our guests here as well to comment as far as the independent review is concerned and on the comment by Ms. McDonough on something year to year.

**The Chair:** Mr. McDougall or Mr. Mann.

**Mr. Robert McDougall (Director, Non-Proliferation, Arms Control and Disarmament Division, Department of Foreign Affairs):** I look at the amendments and I see the motions. They appear to me to be referring to two somewhat different processes. I can state that just as an observation. I don't know whether my colleagues have any views on it from a personal, legal point of view.

• (0925)

**Mr. Bruce Mann (Senior Counsel, Justice Legal Services Division, Department of Foreign Affairs):** I agree they appear to be two completely different processes, and you need to discuss the second one.

**The Chair:** I fully agree with this.

Any other comments?

Mr. Paquette.

[Translation]

**Mr. Pierre Paquette:** I merely want to say that the independent review would be conducted periodically. The minister would make that decision, based on the current situation. However, the review would be conducted no later than five years after the coming into force of the act, because of the need to table a report.

I'm confident that if any particular problems arise in connection with the application of the act, we won't necessarily wait five years before asking independent experts to suggest some corrective action. But at least we would have the assurance that a full report would be tabled within the five-year period.

**Hon. Dan McTeague:** Five years would give us ample time, Mr. Chairman. More than likely there would be nothing to report after only one year.

[English]

**The Chair:** I'll go with the subamendment of Mr. McTeague to change two years and three years to five years in proposed subclause 45.1(2).

(Subamendment agreed to)

(Amendment agreed to)

**The Chair:** We'll go to another issue, still clause 45.1 but NDP-18, on pages 32 and 33 in your package.

Ms. McDonough.

**Ms. Alexa McDonough:** Thank you very much, Mr. Chairman.

This is the final NDP amendment, on page 25. It is proposed that clause 45.1 be added after line 7, and it would read as follows:

The Minister shall cause to be laid before each House of Parliament, on any of the first fifteen days on which that House is sitting after September 30 next following the end of each fiscal year, a report that contains the following information with respect to that fiscal year:

- (a) the number and cost of images purchased by the Government of Canada;
- (b) the number of orders in council issued under subsection 2(2);
- (c) a description of each violation referred to in section 23 that was committed, including the amount of the penalty that was imposed and the name, address and telephone number of the person who committed the violation;
- (d) the amount of the outstanding penalties;
- (e) the amount of the penalties collected; and
- (f) a description of the regulations made under this Act, including a description of any amendments to these regulations, their enforcement and any decisions made by the Minister in accordance with the Act.

Again, Mr. Chairman, this is a response to the concern that I think has been raised again and again by committee members themselves and also by a number of witnesses about the issue of how the public interest is fully protected and reported upon. What we're talking about here is increasing the transparency and the accountability of the government itself in terms of its transactions with RADARSAT-2. This amendment tries to respond to those concerns, building in greater public reporting on Canada's role and participation, dollars spent, actions taken, and any amendments to regulations that may be made from year to year, to bring them fully to light in an accountable way.

I so move.

**The Chair:** Thank you, Ms. McDonough.

We'll go to Mr. McTeague.

**Hon. Dan McTeague:** Chair, we have accepted and amended Bloc amendment 13, which provides a modicum of accountability. The proposing member, Ms. McDonough, will know that Parliament does have, by way of these reports now under the intended bill should it pass Parliament, the ability for the minister to provide reports to the House. So there is a very direct link and nexus between the review and the presentation, as it is tabled in the House of Commons.

My belief is, given what we've done in Bill C-13, this would not be necessary, and my advice to my colleagues here would not be to vote in favour of it.

• (0930)

**The Chair:** Are there any other comments?

Monsieur Paquette, s'il vous plaît.

[Translation]

**Mr. Pierre Paquette:** What is the purpose of Ms. McDonough's amendment calling for a report on the number and cost of images purchased by the Government of Canada? Shouldn't the provinces be included, to get an idea of how often provincial governments use such images?

Why do we need to have information on the number and cost of images purchased by the Government of Canada?

[English]

**The Chair:** Ms. McDonough.

**Ms. Alexa McDonough:** I'm not opposed to such information being divulged or shared. But to try to elaborate on what our thinking was behind this amendment, it was really to ask, what is the Government of Canada doing with the money it is spending on your behalf in utilizing this technology in which there has been a major public investment? So it's really about the accountability of the Government of Canada in relation to public expenditures and utilization of this investment, which now is no longer really in public hands.

I would think the kind of amendment you're perhaps proposing, and you may want to either propose a subamendment or another amendment, would be of interest to people—the persons in the respective provinces—who might want to ask, how much money is my province spending and what is it getting for that investment? That would be around the provincial accountability that one might want to push for within one's respective province. That was the thinking in not actually setting that up. It's not because I'm opposed to it, but it's not really directly related to the objective here, which was the accountability by the Government of Canada to Canadian taxpayers for what it is doing with public dollars that are an investment of Canadians.

[Translation]

**Mr. Pierre Paquette:** Thank you.

[English]

**The Chair:** Fine.

Because we already have a new clause 45.1, I cannot call this new clause 45.1. For the purpose of this discussion, I'll call it clause 45.2.

Now I'll call the question about the amendment of the—

**Ms. Alexa McDonough:** May I just respond to the parliamentary secretary's comments?

**The Chair:** Sure, you can respond. Go ahead, Ms. McDonough.

**Ms. Alexa McDonough:** I think what Mr. McTeague has said is that in the previous amendment we adopted, it's clear that we have created the ability of the minister to report, and that's absolutely true, but we have not created a clear obligation to report on an annual basis. That's why I was looking for clarification, frankly, when we were discussing the Bloc amendment. That is about an independent review every five years.

What you have said in opposing this amendment is the government has the ability to report. Of course, it does, but it doesn't have the clear obligation to report on an annual basis, which seems to me to be in keeping with all of the attempts for us collectively to create greater accountability of government, greater transparency. That's what the Auditor General often has a lot to say about, and I would think in this case—not that I can read the mind of the Auditor General—from a public accounting point of view, there would need to be an obligation, and this is an attempt to create that obligation.

**Hon. Dan McTeague:** Chair—

**The Chair:** Mr. McTeague.

**Hon. Dan McTeague:** I understand, and I think my very brief commentary during your previous intervention on the other motion, on the amendment, talked to the need to ensure that there was

actually something to report. On the very topical subject I'm glad you raised with respect to the Auditor General, it's clear, Mr. Chair, that this information would likely be reported in the Auditor General's examination of the Department of International Trade and Foreign Affairs. This information is also likely to be reported in the Auditor General's examination in terms of its accounts, so I think there are several lines. We of course understand that there are limitations to what access to information can reveal. Some of this information, as has been expressed before, is commercially sensitive and confidential. Given that we want to ensure that there's a modicum of disclosure that is consistent with other laws, I think the penultimate accountability will be the minister's report, as it is tabled upon review to Parliament. That, in my view, would be more than an adequate protection for the kind of scrutiny you seek, Madam McDonough.

● (0935)

**The Chair:** Thank you.

Monsieur Paquette.

[Translation]

**Mr. Pierre Paquette:** To my mind, this type of report would be entirely appropriate. Ms. McDonough's statement refers to very specific areas. As Ms. Lalonde has indicated on several occasions, we want to be certain that the Canadian government, the provinces, the industry as a whole and the academic community get their money's worth, that the regulations are followed and that the public is informed when violations occur.

Such a report would be entirely in keeping with the principle of transparency that must apply, particularly in a new field like remote sensing. Therefore, we will be supporting Ms. McDonough's amendment.

[English]

**The Chair:** Merci.

I'm going to call the question on clause 45.2.

(Amendment negated)

**The Chair:** We'll go to clause 46.

(Clauses 46 and 47 agreed to)

**The Chair:** We'll go now to clause 1, the short title. Shall clause 1 carry?

**Some hon. members:** Agreed.

**The Chair:** Shall the title carry?

**Some hon. members:** Agreed.

**The Chair:** Shall the bill, as amended—there are four amendments—carry?

**Some hon. members:** Agreed.

[Translation]

**Mr. Pierre Paquette:** On division.

[English]

**The Chair:** Shall I report the bill as amended to the House?

**Some hon. members:** Agreed.

[*Translation*]

**Mr. Pierre Paquette:** On division as well.

**Hon. Dan McTeague:** You want to defer that until later.

**Mr. Pierre Paquette:** We certainly don't want to waste Parliament's time on that.

[*English*]

**The Chair:** It's fine.

Shall the committee order a reprint of the bill, if necessary, concerning the four amendments?

**Some hon. members:** Agreed.

[*Translation*]

**Mr. Pierre Paquette:** On division. I wouldn't want us to waste any paper.

[*English*]

**The Chair:** Anything else? We're done.

I must thank, first of all, our witnesses for their patience all the time they've been here. I must also—I forgot at the beginning—welcome our new clerk, Mr. Andrew Chapman.

**Some hon. members:** Hear, hear!

**The Chair:** It was very easy for you this morning. Welcome to working with us.

**Hon. Dan McTeague:** It was a good precedent: nice, short meetings.

**The Chair:** Now we have an hour and fifteen minutes free for you.

[*Translation*]

**Mr. Pierre Paquette:** I've just learned that a committee meeting is scheduled for tomorrow afternoon. The Subcommittee on International Trade, Trade Disputes and Investment is also meeting at the same time.

That creates a big problem for me. Mr. Chairman, would it be possible for you to ask the Subcommittee chair to postpone the meeting?

**The Chair:** Yes, I can do that.

**Mr. Gerry Schmitz (Committee Researcher):** A well-known economist is slated to appear before the committee.

**The Chair:** Mr. Sachs is one of today's most eminent economists. We understand that. It's the only day that he can make it here.

[*English*]

The meeting is adjourned.

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