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Chair

Mr. Lee Richardson

Standing Committee on International Trade

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•(1540)

[English]

The Chair (Mr. Lee Richardson (Calgary Centre, CPC)): Welcome.

We will commence. This is meeting 33 of the Standing Committee on International Trade.

Today we are going to start, pursuant to the order of reference, with Bill C-46, an act to implement the free trade agreement between Canada and the Republic of Panama, the agreement on the environment between Canada and the Republic of Panama, and the agreement on labour cooperation between Canada and the Republic of Panama. This is the next bill we have to deal with on the order of business. It has been referred from the House to this committee.

We are going to start the review with a briefing from the department. We have a number of officials here who are prepared to respond to any questions members have.

We will have an opening statement from David Plunkett, chief trade negotiator, bilateral and regional, Department of Foreign Affairs and International Trade. Before you start, Mr. Plunkett, I would like to introduce those who are with you today.

From the Department of Foreign Affairs and International Trade we have Jean-Benoit Leblanc, director of trade negotiations, 2 division; and Robert Brookfield, deputy director of market access and trade remedies law division.

Pierre Bouchard is back with us again. He is with the Department of Human Resources and Skills Development. He likes to answer Mr. Julian's questions.

From the Department of Finance we have Alain Castonguay, senior chief, tax treaties, tax policy branch.

Mr. Plunkett, maybe you can provide us with an initial background and opening statement. From there we'll take questions from the members.

Mr. David Plunkett (Chief Trade Negotiator, Bilateral and Regional, Department of Foreign Affairs and International Trade): Thank you, Mr. Chair, for the opportunity to appear again before this committee to speak to Bill C-46, an act to implement the Canada-Panama free trade agreement and parallel agreements on labour and the environment.

You've introduced my colleagues at the table. If needed, I have other colleagues here with me to fill in some holes here and there.

Normally for these sorts of exercises we like to bring forward the actual chief negotiator of the agreement itself. In this case it was our colleague Cameron MacKay, but he was posted over the summer, so you'll have to put up with us. We'll try to address your questions as best we can.

Before I begin I'd like to report that we have received word from our embassy in Panama that the Panamanian government has just completed its approval process for the free trade agreement, thereby passing this agreement into law in that country. I think this is a positive development that has literally just occurred.

[Translation]

As this committee has seen, Canada is pursuing an ambitious trade agenda to open more doors for Canadian companies in the Americas and around the world. Panama is another country where, by deepening our commercial and social relationship, Canadians stand to gain.

Panama is a like-minded country with a strategic position in the global trading system due to its location, connectivity, and role as a global logistics hub.

[English]

According to Export Development Canada, as a link between the Atlantic and Pacific Oceans, Panama today processes approximately 5% of global trade. Panama has also had one of the fastest-growing economies in the Americas.

In 2008 its real gross domestic product growth was 10.7%. It posted positive growth in 2009, during the economic downturn, and Panama's real GDP is expected to grow further for 2010.

Canadian companies are aware of Panama's potential and some have already been active in this market. This activity reached the point where on September 23 of this year Export Development Canada decided to open a regional office in Panama to more effectively facilitate the growing levels of trade and investment between Canadian and Panamanian companies.

In 2009 two-way trade in merchandise trade between Canada and Panama totalled \$132 million. This current figure may not be large compared to other partners, but that does not mean that it is not significant or that it cannot become more substantial in the future.

In the second quarter of 2009, Canada's merchandise exports to Panama were valued at approximately \$22 million. In the same time period of this year, our exports to Panama were valued at approximately \$60 million. So that's a threefold increase.

Key Canadian products driving our trade with Panama include machinery, motor vehicles and parts, pharmaceutical equipment, and pulse crops. Once the Panama agreement is in place, trade in these and other products will become easier for Canadian companies. For example, once implemented the agreement will eliminate current Panamanian tariffs on vehicles of up to 15%, industrial and construction machinery of up to 15%, pork products of up to 70%, wood products of up to 15%, and potato products of up to 81%.

In fact, this agreement will eliminate tariffs on 99.9% of recent non-agricultural imports from Canada and 94% of agricultural imports. Panama currently maintains tariffs averaging 13.4% on agricultural products, with tariffs reaching peaks as high as 260%.

Canadian investors will also see benefits from the implementation of a Panama agreement. It is already an established destination for Canadian direct investment abroad, particularly in areas such as banking and financial services, construction and mining. The stock of Canadian investment in Panama reached \$93 million in 2008.

Some of the companies with existing presence in this market include CARIS, which is a geospatial software firm based out of Fredericton; McGill University; Scotiabank; Inmet Mining; SNC-Lavalin; and Hatch Ltd., an Ontario consulting company specializing in engineering and construction project management.

The current investment figure is also expected to grow in the years ahead, in part due to the many infrastructure projects planned by the Panamanian government and the private sector.

• (1545)

[Translation]

Once implemented, the Canada-Panama Free Trade Agreement will set up a stable legal framework, ensuring that Canadian businesses can invest with predictability in Panama. It will ensure the free transfer of investment capital, and protect against expropriation. It will give investors access to transparent, binding and impartial dispute settlement processes.

[English]

In short, this agreement provides Canadian investors in Panama a higher level of stability, predictability, and protection for their investments.

Canada's service sector also stands to benefit from a free trade agreement with Panama. Right now Canadian service exports are approximately \$8 million a year, with room to grow. This figure is being propelled by Canadian financial engineering, mining and petroleum extractive services, construction capital projects, and environmental services. This agreement will provide service providers like these with a secure, transparent, and rules-based trading environment.

[Translation]

In addition, in keeping with Canada's approach to free trade agreements, the Canada-Panama Free Trade Agreement also covers environmental and labour aspects of economic integration through parallel agreements on labour cooperation and the environment. These are important agreements, and they contain strong obligations which clearly demonstrate that trade liberalization can go hand in hand with labour rights and the environment.

[English]

The members of this committee have no doubt already heard about Panama's current canal expansion project. This \$5.3 billion expansion project is expected to be completed by 2014, and it is estimated that the cargo flow will be boosted by roughly 35% through 2025.

With the Panamanian government investing in its country's growth and strategic importance, procurement opportunities were another key driver for the negotiation of this agreement. I am pleased to say that the government procurement provisions in the agreement guarantee that Canadian suppliers have non-discriminatory access to a broad range of government procurement opportunities, including those under the responsibility of the Panama Canal Authority.

Along with the canal expansion, the Panamanian government has recently announced a five-year, \$13.6 billion strategic investment plan. Under this plan, \$9.6 billion will be allocated to infrastructure investments and other economic programs designed to stimulate further growth. Some of the projects the government is looking to undertake include airport construction, expansions, and upgrades; a new water treatment plant; power generation projects; agriculture irrigation systems; and a \$1.5 billion metro system.

With metro systems and other projects similar to these, Canadian companies have proven to be world leaders in infrastructure.

• (1550)

[Translation]

These projects offer a number of opportunities for Canadian investors and service providers, and the Canada-Panama Free Trade Agreement is one way to ensure that Canadian companies can compete on a level playing field for these opportunities.

[English]

There is stiff competition in this dynamic market. The U.S. has recently concluded a trade agreement in Panama, and many strong interest groups in the U.S. and Panama are eager to see it implemented.

Panama's active trade agreement also includes partners such as the European Union and Colombia. The Panamanian government is currently exploring trade deals with the European Free Trade Association countries of Iceland, Switzerland, Norway, Liechtenstein, Peru, the Caribbean, Korea, and others.

Companies that conduct business abroad rely on a number of things. A few of these are access, security, transparency, predictability, protection, rules-based environments, and the ability to establish strong relationships before their competitors do.

In the case of Panama, Canadian companies have indicated that they want to increase their activity in this market. With the free trade agreement, we are looking to provide the elements they need to operate more effectively and take greater advantage of these opportunities.

By implementing this agreement, we not only contribute to the growth of a strategically significant country in Central America, but we help Canadian companies thrive and stimulate Canada's overall economy.

Thank you. My colleagues and I will be pleased to take any questions.

The Chair: Thank you, Mr. Plunkett.

There are quite a few new members on the committee since our previous study of this trade agreement. For those who are new, the committee did look at this agreement in depth some time ago. The committee visited Panama about two years ago to discuss the trade agreement there.

As Mr. Plunkett has mentioned, it has now been agreed to and passed into law in Panama. We are a little behind here, but I hope we can find agreement to conclude it and pass it in the House.

We're ready for questions now. If that opening has stimulated some questions from our committee members, we'll start now. We'll start with the Liberals' trade critic, Ms. Hall Findlay.

Ms. Martha Hall Findlay (Willowdale, Lib.): Thank you, Mr. Chair.

Thank you very much, everybody, for being here.

I have to admit that I am one of the new ones. A lot of work has been done ahead of time on Panama, so you'll have to bear with me a bit.

I have two sets of questions, and depending on the time, maybe I'll use the second round.

The first set has to do with a request for an elaboration on the financial services piece of this.

Can someone elaborate on the distinction between investment in financial services as opposed to provision of financial services, and how that will benefit Canada? If I could get a bit of elaboration on that and the distinction between the two, that would be great.

Also, I would like a bit of commentary on the concerns that have been raised by a number of people about the tax haven question. That has come up a few times.

Then at some point, if there's enough time, I'd like to have some thought on the fact that we're engaging in these bilateral agreements. There's much more of a concern about relative competitiveness between the participants and the parties to the bilaterals.

Given that there's a Panama-U.S. free trade agreement, is there any commentary you can provide on the differences between that one and what we're signing and where we may still have some competitive disadvantages or advantages vis-à-vis the United States?

Those are a lot of big questions, but if you could focus on the financial services one first, that would be terrific.

•(1555)

Mr. Jean-Benoit Leblanc (Director, Trade Negotiations 2 Division, Department of Foreign Affairs and International Trade): Thank you.

With respect to services, I'll give an answer that focuses on services in general, because it's applicable also to financial services. The provisions are generally very similar.

The first thing we should mention is that Panama is, as you mentioned, a services-oriented economy that offered opportunities for Canadian service providers in financial services, engineering, and a few others.

What the agreement does is ensure secure, predictable, and equitable treatment of service providers from both countries, including for financial services. It includes a basic obligation on national treatment, and most favoured nation, to ensure what I would call non-discrimination treatment for service providers. Again, that includes financial services. That also means that they will get the same treatment as third-party countries. That is, again, the issue of having similar treatment, a level playing field, for financial services providers.

In terms of market access, from a general point of view, we have obtained, including for financial services, access beyond what we had with Panama through the World Trade Organization General Agreement on Trade in Services. That also covers financial services.

So in general, we have more than we had previously through that agreement. So we have improved our situation.

One thing that exists is a working group, which obviously has not met, that will be established to look at further issues in the future, including financial services, if both parties feel that this is needed.

Ms. Martha Hall Findlay: In terms of the distinction between investment in financial services and the provision of financial services, is there a view that in opening it up to the provision of financial services, for example, there would be less inclination to then invest in financial services? I'm trying to get a handle on the benefit for us, given the distinction between those two approaches.

Mr. Jean-Benoit Leblanc: The investment rules also apply to financial services. So in a sense, whatever type of investment is done for Canada is protected. It has the same protection most sectors will have, generally speaking. So it will provide for better transparency and a more secure environment in terms of predictability and the legal framework. In that sense, we would think that it would be beneficial and useful for Canadian companies. Scotiabank, for example, is already there.

Ms. Martha Hall Findlay: Are there any other examples of companies? Not to disclose anything that might be confidential, but are there any other examples of enterprises that have been waiting for this to happen and are now going to be able to do more than they would have?

Mr. Jean-Benoit Leblanc: There are none I'm aware of that I could mention publicly.

Ms. Martha Hall Findlay: How are we for time, Chair?

The Chair: You have two minutes.

Ms. Martha Hall Findlay: Could somebody speak a little bit to the tax haven issue that has come up a number of times?

Mr. Alain Castonguay (Senior Chief, Tax Treaties, Tax Policy Branch, Department of Finance): Good afternoon.

To make it short, Panama was singled out as a tax haven by the OECD in 2001. In 2002 it made a commitment to the OECD that it would put in place an arrangement to exchange tax information with anyone who wants to get an agreement.

In the last two years, Panama has been very active negotiating comprehensive double taxation agreements that include the OECD standard for the exchange of information. To my knowledge, they have signed ten up to now.

Panama has not been willing to negotiate tax information exchange agreements, which, unlike double taxation agreements, focus only on the issue of exchange of information. Panama has expressed to us their willingness to negotiate a comprehensive double taxation agreement. Our response to Panama has been that at this point in time, we are interested only in negotiating a tax information exchange agreement, an agreement that deals only with the exchange of information. This is where we stand as of today.

• (1600)

Ms. Martha Hall Findlay: Could somebody speak briefly on the last question I had about any comparative advantages we may or may not have, or may now have, given the American deal?

Mr. David Plunkett: It's an interesting question, because we went through this in the development of some of the recommendations for the global commerce strategy, where we looked globally to try to figure out where our efforts should be placed in terms of this bilateral and regional activity. There was a whole range of factors that were in play. Sometimes it was—as in the case of Peru and Colombia, for example—the business stakeholders saying the playing field needs to be levelled with, in this case, the United States. Frankly, the United States is often the benchmark that's used for many of our agreements.

So in terms of this agreement compared to the American agreement, we are quite comfortable saying that this agreement is equal to or even better in many instances than what the Americans were able to achieve in their agreement. We think that the percentages are in the high nineties, and even in those areas where there was less ambitious market access in a couple of areas they were offset in the global picture by some superior outcomes in other areas of commercial interest to us.

The American deal reflects U.S. interests and our deal has to reflect Canadian interests. So there is never going to be a one-to-one alignment, but we are quite comfortable that the deal we got can stand up to inspection against the deals that are usually used as benchmarks by our business stakeholders.

Ms. Martha Hall Findlay: Perfect. Thank you to all of you.

The Chair: Thank you, Ms. Hall Findlay.

We'll go now to the Bloc and welcome Monsieur Plamondon to our committee today. It's nice to have you sitting in as an expert witness on Panama.

[*Translation*]

Mr. Louis Plamondon (Bas-Richelieu—Nicolet—Bécancour, BQ): Thank you, Mr. Chair.

[*English*]

The Chair: But the first question I think is going to come from Monsieur Laforest.

[*Translation*]

Mr. Jean-Yves Laforest (Saint-Maurice—Champlain, BQ): Thank you, Mr. Chair.

Good afternoon. At the beginning of the last parliamentary session, we requested a meeting with public officials. Mr. Leblanc, among others, came to my office. He was asked a few questions regarding topics like Panama being a tax haven. You told us at that time an agreement would eventually be concluded—I'm not sure whether this is what you were referring to, Mr. Castonguay—that would cover the exchange of tax-related information between the two countries.

The minister was asked a question in the House. The Parliamentary Secretary, Mr. Keddy, answered that a letter had been sent by the minister to his Panamanian counterpart. However, to our knowledge, no response to that letter has been received.

Has the agreement you talked about been signed? Will it be signed before we vote on this bill? Does the minister really intend to implement the agreement? We have consulted various websites and found no information about this, despite all the statements made regarding the agreement.

Mr. Alain Castonguay: The minister did write to his Panamanian counterpart. We have still not received a response. We are not in disagreement over concluding an information exchange agreement, but over what mechanism we should use. We would prefer to have an information exchange agreement similar to those negotiated with a number of other countries over the last year and a half. Panamanians would prefer to have a more comprehensive double taxation agreement. We don't believe that this is the opportune moment for such an agreement. So, we disagree over the means to achieve our stated purpose. Panama has “committed in principle.” Unfortunately, our attempts to bring Panamanian representatives to the negotiating table have so far been unsuccessful.

• (1605)

Mr. Jean-Yves Laforest: Panama is “committed in principle,” but as you say, nothing has actually been negotiated so far. We are still a long way from having an actual agreement. Since the minister intends to conclude this agreement, does he also intend to stall the bill until the agreement is signed? After all, the agreement is a rather important one. Since it was important to conclude other trade agreements, I assume that it is even more important to do so in Panama's case, since that country is recognized as a tax haven.

Mr. Alain Castonguay: Your question is a good one, but I don't think I can answer it.

Mr. Jean-Yves Laforest: I understand. I still want to remain on the subject of what the chair said earlier about the legislation having been passed in Panama. It's as if, to them, concluding the agreement is not nearly as important as it is to us. This turn of events creates even more doubts about the issue. It's as if the government were saying that it was going to conclude this agreement, it was going to go ahead with it, that it has passed the legislation and that, even though the agreement is not...

For me, this development sheds some light on the positions that are currently being defended by our government. I understand that you can't answer my question, but we will ask other people questions, including this one.

I do have another question. A rather controversial bill was passed in Panama in June 2010. As a result, several fairly violent protests erupted. The passing of this bill even resulted in some deaths. It's something of an omnibus bill. There were protests because certain provisions of the bill were, among other things, restricting union freedom and posing an environmental threat.

The Government of Panama has announced that it would revise the bill in question. Do you intend to follow these developments closely? Is a process being followed, or has the department inquired about this situation?

Mr. Pierre P. Bouchard (Director, Bilateral and Regional Labour Affairs, Department of Human Resources and Skills Development): Thank you for your question.

In this case, a process was followed. The Panamanian President even publicly admitted that the government had made a mistake, that it should have done things differently and held proper consultations before passing the legislation. Tripartite consultations were held over a 90-day period.

As you said, we're talking about a wide-ranging bill. I'll stick to the amendments made to the legislation on labour, which were the most controversial elements. Very intense negotiations took place, and an agreement was concluded around October 10 of this year. The agreement was a tripartite one among the unions, the employers and the government. Following these lengthy negotiations, a consensus was reached and the legislation was subsequently amended in compliance with the tripartite agreement. So, the issue has finally been resolved.

Mr. Jean-Yves Laforest: Could you send us some documents regarding the issue?

Mr. Pierre P. Bouchard: Yes, all of the documents are publicly available. We could definitely send you information on the subject.

Mr. Jean-Yves Laforest: Excellent. Thank you.

I have no further questions at this time, Mr. Chair.

[*English*]

The Chair: Thank you. We'll get back to you for further questions if you have them.

We'll turn now to Mr. Julian for seven minutes.

Mr. Peter Julian (Burnaby—New Westminster, NDP): Thank you very much, Mr. Chair.

I beg to differ with you on just one matter: this is actually the first testimony we've heard on the implementation act and the Panama trade treaty itself. We did have a couple of years ago some hearings on the principle of having an agreement with Panama, but this is indeed the very start of the witnesses, and we're glad to have them here today talking about this particular agreement and what is in it. So we're starting and we'll certainly be submitting witnesses, because I know there'll be lots of people who want to speak to this.

I think the primary concern, as both Ms. Hall Findlay and Mr. Laforest have raised, is the issue of money laundering, particularly from the drug trade. There's an excellent book, which I'm sure you've read, that came out from Cornell University just a few months ago. It mentions that about 75% of all sophisticated drug trafficking operations use offshore secrecy havens, and states that it is evident to all who have studied the offshore banking business that its growth has been fueled by the phenomenal increase in cash from the U.S. drug trade. Moreover, it says that of the criminal cases cited by IRS investigations, 29% have involved the Cayman Islands and 28% Panama. So they are the two worst countries in the world as far as laundering of dirty drug trafficking money is concerned. And one of the authors states that organized crime tends to use techniques of concealment in tax havens and that their professional services are used by individuals and corporations there. So it's not a minor issue.

What I'd like to find out from you is what parts of this bill actually deal with money laundering and the use of drug money. If you could lead us through that, I think it would be helpful.

Secondly, what consultations were held with the RCMP and CSIS about drug money laundering and the use of Panama tax havens for this?

So could you lead us through the consultations that were held and the opinions that came back from the RCMP and CSIS, and tell us whether there were consultations abroad with the Drug Enforcement Administration in the United States?

•(1610)

Mr. David Plunkett: Let me start by saying obviously some of the issues you've raised are of concern to us, and not just here but more broadly.

With respect to the agreement itself, if you look at article 20, which is part of the overall transparency chapter of the agreement, you'll see there are anti-corruption provisions that use language that tries to address some of these corruption issues more generally. In terms of specific negotiations with the RCMP and/or CSIS, I'm not aware of that. I'll have to double-check on that side of things.

Mr. Peter Julian: So you're not aware of any consultations—

Mr. David Plunkett: I just need to check, because I was not the negotiator on this particular agreement. So we'll need to check with our colleagues to see whether there were specific consultations with the RCMP during this period about the issues you have raised.

Mr. Peter Julian: Yes, but what you are telling us is you're not aware of any consultations that were held. It's not as if you're—

Mr. David Plunkett: I'm saying I'm not personally aware and that we commit to get back to you once we've looked into it.

Mr. Peter Julian: To say you're not personally aware of that is helpful for us to know, and as you cited, anti-corruption measures are not at all what we were talking about.

Are there any other parts of this agreement that deal with dirty drug money laundering at all, aside from that aspect? I was familiar with article 20, but it doesn't deal with that.

Mr. David Plunkett: I think that's as close to it as we have.

Mr. Peter Julian: I think, Mr. Chair, this obviously then begs the question. We should have the RCMP, CSIS, and the Drug Enforcement Agency coming forward as witnesses. I think that would be helpful for the committee of course to find out what the process is, particularly if there is nothing in the trade agreement that deals with dirty drug money laundering.

I wanted to come back to the tax information—

Mr. David Plunkett: If I might, Mr. Chairman, many issues are not covered in a trade agreement. A trade agreement is limited to the key issues: goods, services, trade, investment. So the fact that an issue is not addressed in the trade agreement doesn't necessarily mean it's not being addressed elsewhere.

Mr. Peter Julian: That is a very good point, although we have heard from the minister that it was dealt with by a letter going from Canada to Panama. I think on balance—I'm sure my Conservative colleagues would agree with me—if you have an anti-crime agenda, then you have to walk the talk, and it would certainly take more than a letter to deal with that.

But thank you for that. I wanted to come back to Panama's refusal to sign a tax information exchange agreement, because of course that's the other issue. If we're not dealing with dirty drug money laundering in the bill itself, it's worrisome to all of us who believe in a solid legal tax system that the government is refusing to sign a tax information exchange agreement. That should be a matter of some concern.

I just wanted to get that on the record then, that Canada did officially approach the Panamanian government, and there was an official refusal.

•(1615)

Mr. Alain Castonguay: There was an official approach by the Government of Canada and there was no response. So we're still waiting for a response on this. Panama even said at a recent meeting at a global forum where peer review takes place that they have never refused to enter into a tax information exchange agreement. What they have been doing so far is negotiating with countries that were prepared to sign a comprehensive double taxation agreement, but I think there are several countries like Canada that are only interested in a tax information exchange agreement.

So the issue of Panama is much broader than just Canada. A lot of countries will say to Panama that they want a tax information exchange agreement. Panama must be reflecting on that right now, because I think they will run out of countries that are prepared to sign the comprehensive double taxation agreement.

Mr. Peter Julian: I understand, Mr. Castonguay, but when did the federal government make a proposal to the Panamanian government? Do you know?

Mr. Alain Castonguay: First of all, we had informal contact for over a year, and the minister wrote at the end of July.

Mr. Peter Julian: Was it July 29 of this year?

Mr. Alain Castonguay: Yes.

Mr. Peter Julian: So there was no approach prior to that, even though the agreement had been negotiated.

Mr. Alain Castonguay: No. They were approached at the official level before that. Panama kept telling us it preferred to negotiate a double taxation agreement. And we said we preferred a tax information exchange agreement. Panama had written the minister in November 2009, and then the minister decided to write in July to record that we preferred to negotiate a tax information exchange agreement. We're still waiting for an official answer from Panama on this.

The Chair: Okay, I think we got the gist of that one. We're going to have to move on.

Mr. Keddy.

Mr. Gerald Keddy (South Shore—St. Margaret's, CPC): Thank you, Mr. Chairman. I will be sharing my time with Mr. Cannan.

Welcome to our witnesses.

To flesh this out a little further, from the testimony I've heard, it seems there is a negotiation in process over taxation. We're looking for one thing; Panama is looking for something slightly different. Negotiations take time. There was a letter written three months ago. Government to government, 90 days is not an inordinate amount of time not to have an answer. I'm not looking for any secret agenda here. I know some of the members of the committee are looking for a secret agenda, but I think this is pretty straightforward stuff.

To me, the issue here is quite simple. We have an agreement that we've signed with Panama. We have a very small country in Central America that has 11% growth, handles 5% of the world's trade, is expanding the Panama Canal, which will increase its share of world trade beyond 5%—I wouldn't pretend to know the number, but it will certainly increase—and is the gateway to much of Asia for the east coast of North America. It only makes sense that we would apply some rules to trade that would benefit Canadian companies.

I do have one question. I've noticed this in other agreements, and I think it would be beneficial if we could do it. That is, to break down the real advantage it gives to Canadian companies. For instance, we know that on some commodities we'll reduce tariffs by 5%, some by 15%, and some by 70%, but those also can be translated into real dollars. So does that mean, for instance, on agriculture commodities, on wheat or on pulses, that it's a \$10 million gain to the producers? In the pork industry, if we reduced the tariffs by 70%, would that mean it's a \$5 million gain to the farm gate? I think it would benefit us as a trade committee, and it would benefit all Canadians who are watching this, to understand what it gives back to our exporters, in terms of real dollars.

Do you want to touch on that?

• (1620)

Mr. David Plunkett: Yes. It's a good question. And I think it is something we'd probably have to do some homework on.

Mr. Gerald Keddy: It would take some time.

Mr. David Plunkett: We can tell you quickly that the tariff on X has gone from 15% to 5% or whatever. So based on current dollars, current amount of trade, that can be translated into a saving of whatever that happens to be. That's sort of looking back. It doesn't necessarily take into account potential growth. One of the advantages of getting in before the Americans is that there might be opportunities of being first into a market, at least ahead of some of our American competitors, which might have a potential growth factor. But certainly we can look and see and try to translate some of the key products, if nothing else, into some real examples to show you what that could mean to individual sectors—

Mr. Gerald Keddy: At least at couple of commodities broken out would give us a substantially better idea of what it's worth. A 15% tariff on \$10 million worth of product coming from a hundred different farm gates is a substantial amount of money going back per producer. And I think it does make a difference in Canadians' understanding what this agreement is all about.

The only other issue I have is maybe just a closing comment before I hand it over to Mr. Cannan. Absolutely, I will never be able to understand opposition to free trade agreements. You use a list of terms here that are absolutely perfect: access to markets, security, transparency, predictability, and protection of rules-based environments. I think every agreement we sign that promotes these activities promotes and protects trade for every manufacturer and every producer in the country. So for your part in that, thank you.

Ron.

Mr. Ron Cannan (Kelowna—Lake Country, CPC): Thank you, Mr. Chair.

Thanks to our witnesses.

I did have a chance to travel with the committee a few years ago to Panama and was very impressed by the opportunities there. I know I have constituents who have bought property there and are looking to retire there, or use it as a recreational location as well.

An hon. member: Not for money laundering.

Mr. Ron Cannan: No, they're stalwart constituents, outstanding people.

I just think the opportunities for Canadian businesses, as Mr. Keddy alluded to, have levelled the playing field.

Just to clarify this, 94% of the agricultural products will have tariffs eliminated, but what are the 6% that aren't protected?

Mr. David Plunkett: Panama excluded some agricultural products from tariff elimination, including some dairy, poultry, and egg products, as well as some other products, such as certain vegetables, rice, and coffee products. A lot of these areas aren't of potential strong interest to us.

It reflects the fact that everybody going into these negotiations has certain sensitivities that have to be addressed in one way or another.

Mr. Ron Cannan: I have a strong agricultural community in my riding—cherries, apples, the orchard industry, and of course our wines—so we're looking to open markets for these.

The agreement that the United States has in place does not yet have congressional approval, but as of last night it looks like it's more likely to happen sooner than later.

Just comparing the U.S. agreement with Canada's, does the U.S. have in its agreement a taxation information exchange agreement or a double taxation agreement?

Mr. David Plunkett: No.

You raised the matter of the election last night in the U.S. Obviously we're keeping an eye on that, because there are a number of agreements that are hung up in the American system right now, and it's going to be of interest to us to see whether the change of the guard in the U.S. plays a role in movement of any of these agreements down there. It's day one, so it's a little early to say, but we will obviously be asking our embassy and others for their best assessments as to what this election means to the trade agenda more broadly.

• (1625)

Mr. Ron Cannan: I would say, regarding the players who are being brought back into the House, it's more likely that time is of the essence for the Canadian government to get our agreements in place if we want to have a competitive advantage for our Canadian businesses. I'm very sure that this type of economic analysis in the United States will be front and centre for the newly elected officials going back to Washington. I think they got their marching orders from their electorate.

Mr. David Plunkett: I suspect many of the businesses that see potential benefits here would share your view.

Mr. Ron Cannan: Thank you, Mr. Chair.

The Chair: Thank you, Mr. Cannan.

Thank you, Mr. Plunkett.

I don't wish to be presumptuous here, but as we have finished the first round I would like to do another round. We have interest from members in that. We normally ask you to be here for an hour of questioning, and I'm going to beg your indulgence to perhaps go another 20 minutes to half an hour, if that works for you.

Mr. David Plunkett: We're in your hands, Mr. Chairman.

The Chair: Thank you.

I think everyone would like to do that, and I hope you're getting well informed with all the information you're getting here today.

We're going to go back to the Liberals and hear from Ms. Hall Findlay again.

Ms. Martha Hall Findlay: Thank you very much, Mr. Chair.

I would just caution that the American electorate tends to be pretty protectionist, and I am not at all convinced that this new batch of Republicans is necessarily any stronger in terms of free trade. Maybe they might have been in other circumstances, but right now I'm not holding out a whole lot of hope that the new batch is going to be any more in favour of free trade than before. However, I couldn't agree more with my colleague that time should be of the essence anyway, so we want to make sure that we take advantage of the opportunity of pushing this through from a Canadian perspective as much as possible.

[Translation]

Mr. Castonguay, could you tell us a little more about this? First of all, is there a double taxation agreement with the United States only? We need to know if an information exchange agreement was concluded along with the trade exchange agreement. Is there a double taxation agreement in place with the United States?

Mr. Alain Castonguay: Are you talking about Panama and the United States?

Ms. Martha Hall Findlay: Yes.

Mr. Alain Castonguay: No.

Ms. Martha Hall Findlay: Okay.

Mr. Alain Castonguay: No.

Ms. Martha Hall Findlay: If Panama would prefer to conclude a comprehensive double taxation agreement, but Canada decides to go with an information exchange agreement, it appears that it would be simpler.

Why is that? Why would Canada prefer not to conclude a double taxation agreement with Panama?

Mr. Alain Castonguay: That's a good question. Generally speaking, the purpose of a double taxation agreement is to reduce the tax barriers our companies face when they invest in other countries. The idea is to eliminate double taxation and to reduce the rates of withholding tax, which is payable on dividends, interest, and so on. However, since the agreement is bilateral, we consent to do the same thing and to reduce our withholding tax rates, among other things.

In this case, taxation in Panama is already extremely competitive. Its withholding tax rates are similar to what we would obtain by negotiating a double taxation agreement. For our part, the advantages are already there. Panama also has in place certain tax regimes through which companies can earn tax-free profits. We're not convinced that double taxation will make enough of a difference to justify a double taxation agreement with Panama.

Ms. Martha Hall Findlay: Okay, thanks.

[English]

Could somebody describe a little bit what the advantages would be for Panama? Is there anything that we will see in the near future once this is passed that we will see in this country in terms of just examples? I mean, we're dealing with numbers and sectors.

As my colleague said, you have all of these numbers grouped together, but it's kind of hard to see anything specifically. For somebody out on the street there, we want to go out and say that this is why it's going to have an advantage. An example would be a

Panamanian company that would benefit from this and maybe correspondingly an example of a Canadian company.

Again, I don't want confidential information, but I want a more graphic example of this is a really good idea because...

● (1630)

Mr. David Plunkett: We have undertaken to immediately eliminate tariffs on over 99% of current imports from Panama, so it's probably easier to work from the exceptions than from the other end. The remaining tariffs will be eliminated over 15 years, and those would include refined sugar and certain sugar-containing products, some prepared foods such as ketchup and prepared pizzas, some alcohol and tobacco products, and animal feed. Plus, of course, we exclude any over-accessed supply management products, just as a given.

In looking at how we do this with any country, we will consult closely with Canadian industries to see what are their sensitivities—where they are nervous about certain products—and we will try to come up with a package that takes into account these sensitivities as best we can, recognizing as always that you have to give to get. We try to be as comprehensive and as ambitious as possible in all these agreements.

Ms. Martha Hall Findlay: Thank you very much.

The Chair: Next we go back to the Conservative Party. Mr. Holder.

Mr. Ed Holder (London West, CPC): Thank you very much, Mr. Chair.

I'd like to thank our guests for coming today, and certainly in the case of Mr. Plunkett for providing additional information and guiding us through the free trade agreement with Panama.

It's rather interesting. We talked a little earlier about U.S. elections and the impact on the U.S. trade deal with Panama. From my perspective, I tend to be more of a "homer"—frankly, I look at Canada's advantage more than anybody else's in the rest of the world as it relates to our deals with countries. If we get a strategic advantage by being ahead of other markets in a country like Panama, or for that matter any country, I say we should take advantage of that.

I was looking at some of the statistics, and something struck me as interesting; I think it's worth mentioning. Right now we have a balance of trade advantage that is almost two to one in terms of our exports versus imports in Panama. Secondly, I see, with great interest, that the largest exporter from Canadian provinces is Quebec—good for them—with Ontario being right behind. I think that's good for us.

I'm trying to get a sense, from your perspective, gentlemen—whoever is the most appropriate person to respond—what you would imagine could be the strategic advantage for Canada getting ahead of the United States in putting our free trade deal into place and getting it done. If we can get this done, to me, that's where the urgency on this may have some potential. We've certainly had this discussion in relation to other countries with which we've passed free trade agreements.

I think the United States is in a bit of flux right now by virtue of their circumstances. But it strikes me that if there is going to be a party that's probably more inclined towards free trade, it might well be the Republicans, with the Republicans now holding the balance of power in the House. What emphasis that gives at this stage, I don't know.

I'd like to get a feeling for what you might feel is the advantage, if any—if there isn't one, please say so—of us getting ahead of the Americans in putting a free trade agreement in place with Panama.

Mr. David Plunkett: I think each industry, each situation, is different.

Speaking fairly generally, we would argue there is certainly an advantage to getting ahead of a trading partner. Some products are very price-specific: you eliminate all the other issues, you don't get a lot of bells and whistles. There are some products that are determined pretty well on price alone. If you can get a quick price advantage ahead of your competitors, that may be the reason people will choose your product over another. That's in the trading goods.

As Jean-Benoit was saying earlier, in the area of services and investment you can get some advantages in being able to acquire or set up operations in a given market. You might have a slight advantage over your competitors. It might in effect neutralize any differences between the local competition, as well. It's not just with other third parties, but you are maybe levelling the playing field, in this case, with the Panamanians.

I've had a number of our ambassadors remind me that you can't just qualify this in terms of economic numbers. Issues like this get a lot of profile in countries; you raise the profile of the country. That reminds business people and others out there that we exist.

It's a very competitive market. The Canada brand is enhanced by this. There are both tangible and potentially intangible benefits that are both short term and potentially longer term.

I think you have something to say, Jean-Benoit.

•(1635)

Mr. Jean-Benoit Leblanc: To complement what David was saying, you have this advantage, let's say, on tariffs, which allows you to start selling your products at a better price. But if you look at the American deal, assuming that in a few years it will come into force, then maybe they will catch up on some tariffs. There is a great advantage to being there first.

From a very practical point of view, when you have built a relationship as a supplier or consumer, then you have built trust and you know you can rely on that supplier. If at some point in the future the prices are similar or close, the fact that you have established that trust relationship, that you have shown repeatedly that you are able to sell in time, with good quality, because you were there first, that relationship can help you.

Mr. Ed Holder: And I think anyone who has worked in business would understand how important the issue of relationships is. I think, Mr. Leblanc, that's the point you're making. I think for us to have that advantage, by doing something that's fair, that's reasonable.... Look, it's clear that we do trade with Panama. And as we've said with every deal we've looked at, since we already do business with these

various countries—Panama included—what's wrong with having a rules-based system that articulates a proper labour arrangement, that articulates a proper environmental arrangement, and that at the same time moves products duty-free, or tariff-free? I would suggest to you that when we look at the products Canada is now exporting to Panama, I think that's significant.

Do I have time for one quick question, Mr. Chair?

The Chair: No, but go ahead.

Mr. Dean Allison (Niagara West—Glanbrook, CPC): You can use part of my time.

Mr. Ed Holder: You indicated in your testimony, Mr. Plunkett, that Panama currently has already put this through their legislature. They have signed off on this deal. What is their urgency? I could imagine what Canada would see as our benefits, and I'm sure members of this committee around the table see the great benefits for Canada in all of this. My question to you then is why the urgency from Panama? Why have they moved as quickly as it appears to me? I hope we'll do the same, but could you explain that to us, please?

Mr. David Plunkett: I'm always leery about trying to explain the rationale of why other people or other countries do anything, but you know, not everybody has the domestic procedures that we do in terms of putting things into effect. In fact, in some areas an international treaty becomes part and parcel of the domestic law, whereas we, as you know, have to change our domestic laws to bring them into conformity with the international treaties we've undertaken.

So the Panamanians might say that there was no haste involved and this is just their normal pace for doing these things, because once the agreement, the negotiation, is concluded, as you know, the next phase is to go into the so-called “legal scrub” to get the English, French, and in this case Spanish all lined up, at which point the ministers will sign the agreement. At that point, it's up to the domestic procedures of the countries involved as to how fast it comes into effect. Some just go more quickly than others.

•(1640)

Mr. Ed Holder: So hopefully we can thoughtfully expedite this agreement as well. Thank you.

Thank you, Chair.

The Chair: Thank you, Mr. Holder.

Monsieur Laforest, *pour cinq minutes*.

[Translation]

Mr. Jean-Yves Laforest: Thank you, Mr. Chair.

Mr. Castonguay, you said earlier that there is currently no agreement, and that a letter from the minister was sent to explicitly state Canada's wish to conclude an information exchange agreement.

To your knowledge, has the department or the minister taken other steps to move towards reaching an agreement?

Mr. Alain Castonguay: I attended a meeting of the Global Forum, an entity whose member countries are committed to following international standards on information exchange and must undergo very strict peer reviews. That meeting gave me the opportunity to informally reiterate our interest in negotiating with Panama.

It should be noted that one of the conditions imposed by the peer review for a country to fulfill its obligations is that it must accept to negotiate and conclude agreements as requested by another member country. Based on this, I am very hopeful that this issue will be resolved, sooner rather than later, and that we will be able to begin negotiating with Panama.

Mr. Jean-Yves Laforest: In 2002, the OECD put Panama on its tax haven list. Things have not changed since. Have any tax information exchange agreements been concluded between Panama and other countries since 2002?

Mr. Alain Castonguay: If we're talking strictly about tax information exchange agreements, the answer is no. Panama has only negotiated international double taxation agreements that include standards on information exchange.

According to what we have been told, Panama is interested in concluding more comprehensive agreements rather than agreements that are limited to information exchange. We disagree over this issue.

Mr. Jean-Yves Laforest: Could you tell the committee what kind of repercussions we can expect from a double taxation agreement?

Mr. Alain Castonguay: A double taxation agreement contains provisions under which the country of residence must eliminate double taxation when the same income is being taxed by two countries. Usually, these kinds of agreements reduce withholding tax rates. Our withholding tax rate on dividends, interest and royalties, as set out in the Income Tax Act, is 25%. In our treaties, this rate is reduced bilaterally, based on payment, to 5%, 10% or 15%. There is also a provision for settling cases of double taxation that cannot be resolved through consultations between the two tax authorities. That's it in a nutshell.

Generally speaking, double taxation agreements reduce the taxes one country imposes on the other country's investors or taxpayers.

Mr. Jean-Yves Laforest: In your opinion, how many tax information exchange agreements between two countries are needed for the OECD to take Panama off its tax haven list?

Mr. Alain Castonguay: The answer is twofold. I think that the actual list from 2002 is frozen in time and will not change. More recently, in 2009, a black/grey list was created. The black list consists of completely uncooperative countries. At this time, Panama finds itself on the so-called grey list. To be taken off the grey list, 12 agreements are needed. Panama is currently at 10.

I would say that they are halfway there. It's not just a matter of going from the grey list to the white list. The country in question must show that it has not only the potential, but also the ability to exchange information under current agreements. That's something Panama should have to prove in due course when the Global Forum reviews its case more closely in a few years.

The country is obligated to conclude a certain number of agreements, but also to show that it's actually exchanging

information according to the spirit and the letter of the negotiated agreements.

• (1645)

Mr. Jean-Yves Laforest: Does Canada already have agreements of this nature in place?

Mr. Alain Castonguay: We have signed 9 such agreements and 16 more are currently being negotiated. And there will also be additional negotiations.

Mr. Jean-Yves Laforest: Will the same model be used?

Mr. Alain Castonguay: We always use the same model, the OECD model, more or less.

Mr. Jean-Yves Laforest: So then, this model is recognized by the OECD?

Mr. Alain Castonguay: Yes, it is a model first used in 2004. All countries use the OECD model. Of course, in the case of bilateral negotiations, minor adjustments must always be made, but generally speaking, all of our agreements include OECD standards for the exchange of information.

Mr. Jean-Yves Laforest: You said that you were very hopeful that the negotiations would resume shortly. When do you think that will happen?

Mr. Alain Castonguay: I can't say. We will have to continue trying to convince Panama to negotiate an information exchange agreement. I don't know what the next step is. Obviously, we can expect a response from Panama at some point, but I can't say when that will be.

Mr. Jean-Yves Laforest: Thank you.

[English]

The Chair: Thank you, Monsieur Laforest. That was very helpful.

We're going to wrap with Mr. Allison. You have five minutes.

Mr. Dean Allison: Thank you, Mr. Chair, and thank you to our guests for being here today.

I wanted to start out with a question on the FIPA. I realize there was one in place in 1998, and this one is going to be updated. Could you explain a little, specifically in terms of the updates? I know they talked about some provisions that would be enhanced. Could you explain them a little more to us, in terms of what that would look like? I know that part of it involves expropriation and things like that. Do you have any specifics for us in terms of how it will be different or how it's strengthened in relation to the original FIPA of 1998?

Mr. David Plunkett: I'll start, but if I don't give you enough then we can come back to you with more information. You're now into the bowels of this stuff, which is a bit tricky.

My understanding is that the agreement replaces and improves upon the provisions of the 1998 agreement by further locking in and expanding market access. We get a right to establish, acquire, and operate investments in Panama on an equal footing with the Panamanian investors. This investment chapter builds on the strength of the NAFTA provisions, which is largely the model we use. Each provision has its own twists and turns, but that's the base for a lot of our activities. It clarifies that non-discriminatory measures applied by a party to protect legitimate public welfare objectives, such as health, safety, and environment, are consistent with the objectives of the treaty.

The investment chapter urges parties to promote corporate social responsibility principles with investors, recognizing the important contribution that enterprises can make to sustainable development. It promotes greater transparency by making publicly available all documents submitted and issued to the tribunal. It recognizes the right of non-disputing individuals and organizations to make submissions to arbitral panels in order to make their views known on matters of issue. Specific provisions are made for consultations prior to arbitration and, as I said, parties are urged to promote corporate social responsibility principles with investors.

It touches on a number of areas, but basically we would normally go back to look at the existing agreement. Often the case is that it will be just tweaked or modified to make the language consistent with what we're doing elsewhere, because my legal friends always hate when there's different language in different treaties. They're constantly trying to harmonize language. Some of it may be more form than real, but that's the objective here.

• (1650)

Mr. Dean Allison: Going to the actual free trade services, I know that when we were down there, we noticed there were a number of Canadian banks—Scotiabank being one we had a chance to meet with. When you start talking about provision for trades and services, I noticed a chapter on financial services, hopefully to enhance them. What would that enhancement look like? Would that benefit the banks already there or is it going to benefit new banks trying to make investments there? What does that look like?

Mr. Jean-Benoit Leblanc: It's a bit similar to what I was mentioning to your colleague, Madam Findlay, a few minutes ago. In a nutshell, it promotes and puts in place rules that ensure more transparency and predictability of the legal regime. In providing for these articles and the right of establishment—so that banks can establish themselves—it provides for what we call national treatment and most favoured nation. We essentially ensure that Panamanians wishing to establish a bank are treated on the same level playing field and that there is no discrimination in how foreigners will be treated. That's essentially what it does.

Mr. Dean Allison: All right, thank you.

Sure, go ahead.

Mr. David Plunkett: If I can fill in a bit here with some supplementary information, it includes comprehensive disciplines for financial services including banking, insurance, and securities; provides access to markets for cross-border financial service providers and financial institutions established in each jurisdiction; includes obligations to provide for right of establishment, to ensure

non-discrimination, and to promote regulatory transparency, as Jean-Benoit was just mentioning.

Mr. Dean Allison: Okay, thank you, gentlemen.

Mr. David Plunkett: If I might come back to Mr. Keddy's question, I can give him a couple of examples based on 2007 exports, just a quick-and-dirty-assessment from the back row here.

For motor vehicles, we'd be looking at around \$250,000 worth of tariff savings. For malt, it's around \$150,000. This is based on immediate access. Pulses would be around \$250,000 immediate access; frozen french fries around \$750,000. Again, it depends on the volume of trade and what not. I don't know how many more examples you would like, but we can give you as many as you'd like.

Mr. Gerald Keddy: I appreciate that. I think it's important just so we can put it in real dollars, because those dollars are going back to the businesses supplying that product.

The Chair: We have concluded, but with the unanimous consent of the committee, in the interests of cordiality, I'm going to allow Mr. Julian one more short one, and then let Ms. Hall Findlay wrap up.

Ms. Martha Hall Findlay: I just wanted to add that's really helpful information. That's where I was going too, with some more specifics. So if that can be provided to the committee as a whole, the more the better. So if you're not sure about whether we would like it, please, that would be great.

That's all I wanted to say, Mr. Chair.

The Chair: Thank you for that.

All right, Mr. Julian, the floor is yours for a question, and we'll get the seat belts fastened at the other end.

[*Translation*]

Mr. Peter Julian: Thank you very much, Mr. Chair.

I'd like to come back to you, Mr. Castonguay. You talked about the double taxation agreement and the tax information exchange agreement, a subject that Mr. Laforest touched on.

If I understand correctly, a double taxation agreement relates to declared income. In the agreement, however, it is specifically noted that in the case of financial institutions and the treatment of certain information, one of the two parties is under no obligation to supply the information listed. That includes confidential information the disclosure of which would hinder the legitimate commercial interests of a given company.

What does it mean if we put the two together? If I understand correctly, there is no way to obtain confidential information, the very essence of a tax haven, even with a double taxation agreement.

Mr. Alain Castonguay: The standards are virtually the same for double taxation agreements and tax information exchange agreements.

The difference lies in the extent of the details in the latter compared to the former. In both instances, the standards are the same and the authority to request and obtain information is very broad.

The taxpayer can protect information, if trade secrets are an issue. Otherwise, if the information is relevant to determining a company's taxable income here in Canada, then the taxpayer must disclose that information to tax authorities in the country who in turn convey that information to tax authorities here in Canada.

Obviously, certain basic considerations must be taken into account, such as protecting lawyer-client privilege, trade secrets and so forth.

Even if a country has bank secrecy rules in place, under double taxation agreements, such policies are not relevant. Despite the existence of bank secrecy rules, information must be disclosed under information exchange provisions. That is the benefit of negotiating these types of agreements with many countries that have bank secrecy rules in place. They cover a broad area.

• (1655)

Mr. Peter Julian: Mr. Chair, I don't know if you'll allow me to continue. If not, I can ask a question later.

[English]

The Chair: Yes, we'll get to it at a subsequent meeting. I think it's been a pretty good round today, if you will, but thank you for your questions, Mr. Julian.

To our witnesses who appeared today, thanks for a great start and some good information. We have noted a couple of cases where members have asked for additional written material, and I thank you for your agreeing to forward that through the clerk to the committee. Thank you again for your visit. I'm sure we'll be chatting again throughout the course of this review of the bill.

So with that, I think we've concluded today. I don't have any further business. I think we concluded everything we needed to on Monday with regard to our next trip. So we'll see you in ten days.

Thank you.

The meeting is adjourned.

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