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Chair

Mr. Lee Richardson

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● (1535)

[*English*]

The Chair (Mr. Lee Richardson (Calgary Centre, CPC)): With quorum, we're going to begin.

I have a couple of quick housekeeping items to take care of before we begin. I'll beg the indulgence of our witnesses. They're both used to this, in this case, so that's good.

First, I will ask the committee to consider an operational budget request. This would be for Bill C-46, an act to amend the free trade agreement between Canada and Panama. In the event we have witnesses from across the country, there will be requests for recovery of expenses. I think the clerk has circulated a budget that will contain any need for financing, so we don't have to go back each time.

May I ask someone to move that motion?

Mr. Cannis moves that the committee adopt the motion to provide expenses for witnesses on Bill C-46 to the tune of about $33,000.

(Motion agreed to)

The Chair: Thank you.

The other one is a quick one. I need authorization for the clerk to purchase gifts for those we will visit in Europe. That is:

> That the Standing Committee on International Trade be authorized to purchase up to $600 in gifts to be presented to foreign hosts during the trip to London, United Kingdom; Strasbourg, France; Budapest, Hungary; and Rome, Italy.

Mr. Cannis.

Mr. John Cannis (Scarborough Centre, Lib.): Mr. Chairman, I'm giving my approval. I know $600 sounds like a lot, but there are a lot of visits and a lot of people. I don't want people here to say “$600!” It's $600 spread through many visits, many people, Mr. Chairman.

I support it.

The Chair: That's okay with you.

Mr. John Cannis: That is very much okay.

The Chair: Perfect. I think it's unanimous.

(Motion agreed to)

The Chair: Thank you.

We will continue with Bill C-46. We have two sets of witnesses coming today.

I'm going to wrap it up at about 5:15 to return to EU business. I hope by that time to have briefing books for everybody. I think by now you should have all received your tickets, travel arrangements, etc. We can discuss that further at 5:15, for those who have any questions.

Now let us proceed to the matters of the day, that is, to Bill C-46, an act to amend the free trade agreement between Canada and the Republic of Panama. This was a reference to the committee from the House of Commons.

We have, as our first witnesses today, returning to the committee, Andrew Casey, who is the vice-president of public affairs and international trade for the Forest Products Association of Canada; and my old friend, Robert Blackburn, who's now senior vice-president, SNC-Lavalin International.

Welcome back. I've asked that you both begin with brief statements, and then we'll proceed to questions. I think we'll go for about 40 minutes today.

Mr. Casey, would you like to begin?

● (1540)

Mr. Andrew Casey (Vice-President, Public Affairs and International Trade, Forest Products Association of Canada): Thank you, Mr. Chairman.

I see a number of new faces around the table at this meeting, so by way of a brief introduction, Forest Products Association of Canada is the national voice for Canada's wood, pulp, and paper producers. It's an industry in Canada that accounts for about 12% of Canada's manufacturing GDP. We directly employ 230,000 Canadians and we are the economic lifeblood for over 200 communities from coast to coast in this country.

I almost have to check myself now. This is the third or fourth time I've been invited to appear before this committee, and I have to make sure that my ego doesn't get too out of control and realize that it's not about me. I may be an interesting witness, but as I'm sure the committee has been finding out, every time one of these free trade deals gets signed or is sort of in the process of being negotiated, Forest Products pop up. The reason for that is that an enormous portion of what we produce in Canada is sent abroad. In fact, we're the number one forest products exporting nation in the world. We send about $24 billion worth of our product annually to markets outside of this country. Obviously, the lion's share of that goes to the U.S., but we're also very active in other markets around the world, specifically in Europe and Asia.

That's sort of a brief introduction. I've also bored this committee before, but maybe I'll spend a little bit of time saying that this industry, as many parliamentarians are more than familiar with, has faced some very challenging times over the past couple of years. We're emerging from those challenges, and one of the keys, as we look forward to ensuring a strong, stable industry in this country that will continue to support the jobs that we support, is to expand and diversify existing and new markets around the world. It's in that context that these types of free trade agreements are extremely important to the industry.

I'm sure you've already been given some sense of the numbers involved here, and they're not big. If you look at a $24 billion export industry, in our case, we are looking at a marketplace in Panama of only about $120 million worth of imports. Of that, we only have about $8 million, and that's broken down into two primary products: paper, which is the bulk of it, about $6 million; and about $2 million worth of wood products. That's a fairly insignificant number when you put it up against the $24 billion, but it's a very significant number for probably two mills in this country. I don't know which ones they are, but I do know that wood products come out of B.C. and the paper products that we ship to Panama come out of Quebec. I would guess, without knowing it, that they probably come from one or two mills. For those particular mills, this is a very important deal. And I'd like to remind parliamentarians that this is an important part of all these free trade deals. While they may not seem big on the surface, they are very important to a number of specific regions and specific mills.

This deal will get rid of up to about a 15% tariff on our products. It'll make us competitive with our main competitor, which happens to be, in this particular case, the U.S. They tend to supply the rest of the products to the Panama market. They've recently signed a free trade agreement with Panama, so this at least keeps our pace with them and allows us to compete with them. For that, we are very supportive of this deal. We were very supportive of the government continuing to sign and look for new free trade agreements in other markets, and it certainly will help to solidify our export potential going forward, and an important part of the industry going forward.

I thank you, Mr. Chairman, and thanks to the committee for the time.

[*Translation*]

As always, I am prepared to answer your questions in French, if you wish. Thank you.

[*English*]

The Chair: Thank you, Mr. Casey.

I'll now turn to Robert Blackburn, senior vice-president, SNC-Lavalin International.

Mr. Blackburn.

Mr. Robert Blackburn (Senior Vice-President, SNC-Lavalin International, SNC-Lavalin Inc.): Thanks, Chairman.

Thank you for inviting us to this committee. I think Andrew has made the case for why free trade agreements like this are important to Canadian business. I would say they're particularly important at a time like this, when we're seeing the vulnerability of our uni-market south of the border. With the intensified security and the border thickening and economic slowdown, we can see the importance of other markets.

There are some new people whom I haven't seen around this table before, so let me say that SNC-Lavalin doesn't have as many employees as Andrew spoke about in his industry. We have about 22,000 people worldwide. We're currently implementing—getting actually paid for now—about 9,500 projects in 100 countries. We are an engineering and construction company; 15% of our total revenues last year were in Africa, 10% in the Middle East, 9% in Europe, 5% in Latin America, and 4% in the United States. As you can see, we're already well diversified internationally.

When I looked at your bill, I was interested to see that it looked as though it was all goods being dealt with. So I went to the agreement itself, and it covers services quite thoroughly and provides for the temporary entry of business people, which is a very important factor. It's a thorny problem for us constantly, getting business people with whom we're negotiating—and to whom we want to show something we've done in Canada—a Canadian visa. It's a time-consuming and burdensome process. This isn't going to help that, but I can't help mentioning it.

We've worked in Panama since 1975 and have completed 18 projects there in a number of areas, mostly in the power sector and mostly supported by the development banks or—really, the most interesting project—by CIDA, which was working with the six Central American countries to build a regional power grid to get the most efficiency out of their power assets. This is something we're working on in east Africa and have done in the Middle East, in former Yugoslavia, and now we're working in Central Asia as well; that is, a way of maximizing efficiency of power grids.

We see a lot of opportunities in Panama: in the power sector, obviously, where we've been working, and in all kinds of infrastructure—roads, water, sanitation—and in institutional strengthening, notably in the mining sector.

I don't know whether you noticed, but about two weeks ago it was announced that we would lead a consortium—we have 70% of it—to build a $4 billion copper mine in Panama, owned by Inmet, a Canadian mining company. We're going to build it and all of the surrounding facilities. It's about half mine and half surrounding infrastructure, including ports and roads and things. There will be a second phase too, building the concentrator, which is almost another billion dollars.

We succeeded in doing that without the free trade agreement, but the free trade agreement will provide a good framework for further business.

Basically, in Latin America, a region of government concentration, a number of these free trade deals are emerging. We have one in Peru; there's now one in Colombia, in Panama, and Chile. This really facilitates Canadian businesses, including ours. It provides an increasingly secure framework for doing business in Latin America, so we welcome it.

One thing I'll mention is that we have a business approach whose initials are LRDI, which is for “local resources development initiative”. When we go in on a project like this, we use local labour and train thousands of workers and work to develop and mentor local businesses also. This is something that's part of this contract as well. We're doing it now in Madagascar on the Ambatovy project, and it's what we've done in South Africa and Mozambique on our smelters, which we built there for BHP, the famous BHP Billiton that didn't buy Potash. This is a local development. We don't take a lot of our own people in; we use local partners and develop local partners, labour, and suppliers as an intricate part of the project.

● (1545)

Thanks very much. I'm happy to take questions in any language except Spanish.

The Chair: Thank you.

We're going to start with questions.

It's not that it's an entirely new committee; it's just coincidental today that we have a few absences. I want to welcome the Honourable Gurbax Malhi to the committee today, who's replacing the Liberal critic, Martha Hall Findlay; and my old friend Louis Plamondon, the dean of the House, representing today his colleague Claude Guimond for the Bloc Québécois. And—oh my gosh—we have Malcolm Allen here representing Mr. Julian, which will be to the delight, no doubt, of Mr. Casey; and Lois Brown, representing our own Ron Cannan.

We're going to start off today with Mr. Silva for the Liberal Party.

Mr. Silva.

● (1550)

Mr. Mario Silva (Davenport, Lib.): Thank you.

Thank you, Mr. Casey and Mr. Blackburn, for being here.

I realize, Mr. Blackburn, that you don't take questions in Spanish, but half of Latin America is Portuguese-speaking. Do you also take questions in Portuguese?

Mr. Robert Blackburn: No, but we've made a lot of investment in Brazil in the last little while. We have 2,000 people in Brazil now.

Mr. Mario Silva: That's one of the questions I wanted.... First of all, I think SNC is one of our marquee companies of which we're very proud. We're losing some of them, unfortunately. But SNC certainly carries the brand across the world in a very positive way for Canada.

You said you do 5% of your business in Latin America. I know there are many investments in Brazil, particularly with the new subway system. Are you bidding on that? Are you going to be getting it? And also, there's the fast train system in São Paulo.

Mr. Robert Blackburn: Of the two investments we've made in Brazil in the last four years, one was for their main mining engineering company in Belo Horizonte and the other is a power company in São Paulo. But our construction group has just made a joint venture with a major Brazilian construction company. We're really focusing on Brazil right now, because they have the World Cup and the Olympics both coming up in, I think, 2014 and.... I think the next World Cup is there, so there's a terrific amount of infrastructure to be built there.

I don't know about that light rail system you're talking about, but there's a ton of stuff to be done, and we're determined to be part of it.

Mr. Mario Silva: Okay.

So you would agree that we should pursue a free trade agreement with Brazil.

Mr. Robert Blackburn: Of course, if it is doable.

Mr. Mario Silva: I've been pushing for that, so I ask the question.

I want to get back to the issue of Panama and overall free trade agreements. Both you and Mr. Casey have made some good arguments, and I think overall we have, from our party's perspective, been very supportive of these trade agreements, because we see that there is a framework for further business, as you said, and I think it's a very positive thing as well.

But we also want to know—and maybe you could explain to members of the committee—whether, where there have already been free trade agreements, it has been easier for you as SNC or as the forestry products industry to go into those particular countries. I'm speaking of the agreements with Chile and Israel and all the other agreements there have been in the last little while. Have these actually helped overall in terms of getting further access?

Mr. Andrew Casey: I'll try to avoid the obvious softwood lumber discussion.

I think it's still early days for most of those deals for us, for sure. We were already present in those marketplaces, so they weren't exactly frontier markets for us. Certainly what we would expect to have happen as the tariffs come down is that the agreements will make our companies more competitive and will open up probably new potential for the companies. But I would suggest that it's probably too early for most of those deals.

Mr. Mario Silva: Okay.

Mr. Blackburn?

Mr. Robert Blackburn: Like the forest products industry, we were in most of these markets already—not in Israel, actually. A deal like this warms up relationships between governments and provides agreed frameworks for doing business, so it's helpful in a generic kind of way. I can't trace specific advantages.

I see you're having Canada Revenue Agency people here next. It's helpful to have trade treaties, tax treaties, and investment protection agreements as well associated with these things. I'd be glad to see movement of people. It would be great if we could get our immigration and our border controls to do something specific that would second these trade agreements. How are you going to do business with people if you treat them like potential refugees or criminals when they try to visit your country? That's the biggest challenge we have.

Mr. Mario Silva: Just on that issue of visas, I know that some countries have been extremely frustrated in terms of getting the visas. Maybe what we should do, particularly for countries with which we do have trade agreements, is to set up a framework. Maybe part of the framework could be a note between both countries that they would give a two- or four-year visa extension to those doing business, because I think business leaders sometimes get very frustrated at having to constantly get these renewed for a longer term. I think in some cases it could even be up to 10 years, but that's certainly something I think you're advocating for.

● (1555)

Mr. Robert Blackburn: Yes. You would have received...but maybe your staff didn't give it to you. About last May, we circulated a report we had done on business visas and the need for business visa facilitation. We had seven of the main business associations in the country—chief executives, CME, CCC, Canada-China, Canada-India—all behind this need for business visa priority treatment simplification.

In India and Mexico it now exists. They have a list of trusted companies in India and in Mexico that get 24-hour to 48-hour service. For the rest of the world it's still...who knows?

Mr. Mario Silva: In your report, did you also specify how many years it should be for?

Mr. Robert Blackburn: No, but multiple-entry visas obviously make sense, and we're working with Immigration, with Minister Kenney, right now to see what progress can be made on this. It's very important.

Mr. Mario Silva: Thank you very much.

The Chair: Thank you, Mr. Silva. You're doing well today.

Monsieur Laforest.

[*Translation*]

Mr. Jean-Yves Laforest (Saint-Maurice—Champlain, BQ): Good afternoon, Mr. Casey and Mr. Blackburn.

To a certain extent, you both made the same presentations to inform us that both the Forest Products Association and SNC-Lavalin are in favour of a free trade agreement with Panama. But you also know—Mr. Blackburn, you alluded to this as well earlier—that representatives from the Revenue Agency are going to be appearing later on.

The OECD views Panama as a tax haven. In the assessment that you undertake before you decide that you are going to make an investment and establish yourselves there, and before you say that it will be easier to do so with a free trade agreement, do you look at the positive or negative impact that this could have on your employees and the senior managers of the business? Do you do this type of analysis initially? Could you both please respond to the question.

Mr. Andrew Casey: We sell products to Panama. We do not employ any staff. We simply sell softwood lumber and pulp and paper. This may be more—

Mr. Jean-Yves Laforest: So this question is more for Mr. Blackburn.

Mr. Andrew Casey: —up to him to answer.

Mr. Robert Blackburn: Before we initiate negotiations we do a very detailed analysis of the tax consequences. In our opinion, Panama sells goods and we sell services. This mine will not belong to us, it will belong to Inmet. We employ the engineers who will design and build the mine. Consequently, we have representatives and a project office there. We pay very close attention to the economic circumstances of the staff that are there.

Mr. Jean-Yves Laforest: We heard that there is a project to enlarge the canal, I believe.

Mr. Robert Blackburn: Yes, but we are not participating in that project.

Mr. Jean-Yves Laforest: Do you intend to participate in this project?

Mr. Robert Blackburn: No, we are not participating in it.

Mr. Jean-Yves Laforest: Would this not be a rather attractive opportunity for you?

Mr. Robert Blackburn: Perhaps so, but this expansion project is already underway, and there are other companies that are involved.

Mr. Jean-Yves Laforest: So this project does not fit in with your area of expertise.

Mr. Robert Blackburn: No, it does not fit into our current planning. But there are numerous other opportunities in this location in the mining, transportation or port sectors. For example, there is going to be a port close to this mine, and the other ports will have to be modernized to be able to import Canadian lumber as well.

Mr. Jean-Yves Laforest: So you work in cooperation with—

Some hon. members: Oh, oh!

Mr. Jean-Yves Laforest: Mr. Casey, earlier, you said that you were always interested in free trade agreements given that forestry products are among the most sought after raw materials and that exports of such products will tend to increase.

● (1600)

Mr. Andrew Casey: Currently, we are talking about paper and lumber.

Mr. Jean-Yves Laforest: It varies.

Mr. Andrew Casey: Yes.

Mr. Jean-Yves Laforest: How much do you think these exports will increase?

Mr. Andrew Casey: Currently, the market is worth $120 million. We sell only $8 million worth of products. So there is a potential for another—

Mr. Jean-Yves Laforest: There is a market worth $120 million there.

Mr. Andrew Casey: At present, yes. However, this figure increases by 10% every year. So there is potential there. In addition, as I stated, we are almost certain that a Quebec plant is selling the paper and a British Columbia plant is selling the lumber.

Mr. Jean-Yves Laforest: In your opinion, is there currently a free trade agreement between Panama and countries that are competing with you—either you or SNC-Lavalin—in the forestry products sector? Are there any agreements between Panama and countries that are able to provide the same services or products?

Mr. Andrew Casey: Currently, there is an agreement with the United States. This is the other country that sells lumber and paper to Panama. Our share of the market is $8 million and the United States has a market worth $112 million.

Mr. Jean-Yves Laforest: Could you tell us whether or not the American products sold to Panama cost less as a result of this agreement?

Mr. Andrew Casey: This is not obvious at present, however it is clear that if we were able to remove the 15% tariff that is in effect, that would give us a leg up.

Mr. Jean-Yves Laforest: With respect to the United States?

Mr. Andrew Casey: Exactly. This would be with respect to the United States.

Mr. Jean-Yves Laforest: Mr. Blackburn, is this more or less the same situation for you?

Mr. Robert Blackburn: It is the same scenario. Hence it is a good reason for us to have an agreement when our competitors already have one. In Chile, we are ahead of the game because we got there before the Americans. It is an advantage for us to have agreements that provide us with the same level of access, and I cannot see any drawbacks.

Mr. Jean-Yves Laforest: Mr. Chair, I have no further questions.

[*English*]

The Chair: Mr. Allen.

Mr. Malcolm Allen (Welland, NDP): Thank you, Mr. Chair, and thank you, gentlemen.

The chair said earlier, Mr. Casey, that perhaps I wouldn't be as forthright as other members who have been here before, but from our perspective, free trade has not been kind to your industry when it comes to the American market. It seems to me you're facing another battle that has just raised its head in the last couple of weeks, when it comes to the pine beetle, cutting that timber down, and trying to find a market when the U.S. is resisting once again—albeit for me to remember how many times it is...quite frankly, it's been too many to remember.

From the perspective of folks I know who work in that industry, through my association with the union, they've not done well when it comes to workers in this country and softwood lumber. I hear you say that free trade is a good thing for the forest products industry; I'm not so sure that workers on the ground.... You pointed to two mills, one in B.C. and one in Quebec, and I'm not sure which one makes paper to send to Panama. I think you would find the majority of mill workers across this country are not in step with you in believing that the free trade system has done them a great deal of good. I think a lot of them say it's done them a great deal of harm, and a lot of communities would probably say the same thing.

I've made the statement and I'll let you make a quick comment. Where do you think the free trade agreement will have an impact, specifically with the latest irritant that's come up between the softwood lumber companies and what we see? It leads to a bigger question about whether free trade really works or not, in the sense of where you see this going when it comes to this most recent irritant you have with the U.S. market.

Mr. Andrew Casey: Absolutely. Thank you.

I think the latest irritant.... Let me rewind the clock a little bit. We ship $24 billion worth of our product outside of our borders. About 70% of that goes to the U.S.; the U.S. remains our most important marketplace. However, it's also one of great dependence, and as the softwood lumber dispute highlights, sometimes it's a little dangerous to be too dependent on one marketplace.

There are a number of factors that go into the softwood lumber dispute, and I don't think we need to go into that. I would also note that softwood lumber was exempted from NAFTA, so it's not really part of the free trade agreement. But let's just move on from that for a second.

The deals we sign outside of this country and the markets we open up outside of this country—even if we forget about free trade agreements and we look at markets like China and India—alleviate the pressure or the need for the industry to depend so heavily on the U.S. marketplace. It's all a function of supply and demand, and that's what's driving the dispute between ourselves and the U.S.

When the market prices go up to a certain level, there is no dispute anymore. Once they reach $350 per thousand board feet, there is no dispute anymore. The only way to do that is to broaden the market, so that the supply is going elsewhere and we're less dependent on that U.S. marketplace. These types of agreements help us to broaden our marketplace in that regard.

● (1605)

Mr. Malcolm Allen: Fair enough. I recognize that.

That is the position that has being articulated by business groups quite clearly from the time this started, and that hasn't changed, nor has our position that we don't believe they're of a net benefit to Canadian workers. I think that's the differential, and I think it is a bridge that needs to be found and built. Perhaps Mr. Blackburn's company can help us build that. I say it tongue firmly planted in my cheek, Mr. Blackburn.

I have just one last comment, Mr. Casey. You actually said—and I'm sure you didn't mean it—that there was a free trade agreement with Panama. It's not ratified actually at this point in time. The U. S.—

Mr. Andrew Casey: Sorry. Yes.

Mr. Malcolm Allen: I just simply wanted to make sure I put that on the record.

Mr. Andrew Casey: Absolutely. I was not presumptive of the committee—

Mr. Malcolm Allen: I know you were being accurate. I know you knew that. We all do that from time to time; it doesn't get wholly accurate. I just wanted to make sure it's on the record.

Mr. Blackburn, I was interested when you talked about LRDIs, which are local resource development initiatives, where you're actually training workers in the host country where you're developing projects.

This leads me back to the free trade agreements, where there are two side agreements, one on environment and one on labour. As both of you are well aware, as you both quite ably pointed out in the beginning—and you've been here many times—you've heard it over and over again. I'm certainly not pointing fingers at any one particular company. Your company has a great reputation, by the way, and I would be the first to acknowledge that.

That doesn't mean that all companies have great reputations in countries where they go. It is one of the things that I have been very clear about, based on my background as a trade union leader. When you develop contracts, which is basically what we do in collective bargaining, we have a contract...that it be in the body of the contract. When things are set aside beyond the contract, and the time comes to actually sit down and resolve those disputes, they tend to have less weight.

We can argue yes or no, but the bottom line is that that actually happens in a lot of cases around the world. Seeing that you've taken the initiative independent of this—because we don't have a free trade agreement and you're doing this now—can you see a sense of why we shouldn't just simply adopt the labour agreement and put it inside the main body rather than having it outside the text? Would you agree that perhaps if it's equally important to mention it outside, we should just simply put it inside, as the U.S. is now doing? It's not like they're not.

Mr. Robert Blackburn: I'm not a treaty lawyer. I don't know why they structured it that way. Whichever way it's structured, we'll live by whatever the provisions are, and I think we're already probably exceeding a lot of the generalities that are usually said in agreements like that.

I'm sorry. I really can't answer your question with any particular knowledge.

Mr. Malcolm Allen: I appreciate the answer, but I guess I'm going to push this.

You asked for other specific things in the agreements that are helpful to your company. What I'm saying to you, sir, is since you have a company that is, I would say, ethically minded when it comes to its workers around the world, I would ask you to then push back on that as well and say that as part of your push to have a free trade agreement. You're here to actually ask for that, so you should simply say, “You know what, we're going to do well as a company. We want to ensure that workers we hire do equally well as well, so why not, as part of that deal, insert it into the contract?”

That's really what I'm asking you to now ask the government to do.

● (1610)

Mr. Robert Blackburn: You mean inserting in our commercial contract that we make with our client?

Mr. Malcolm Allen: No, no, in the free trade agreement, sir, not in your commercial contracts, because you're already doing good work, Mr. Blackburn. I acknowledge that.

That would simply ask corporations to push for it. You push for the other pot. You push for the chapter 11 piece to make sure it's a level playing field and it's in the box, it's legal, and it has the rules. So if something goes amiss, you have an opportunity to basically sue for compensation. What I'm saying is, you're asking for certain things. To say that you can't ask for the labour component seems a little off balance to me, but then again, I acknowledge where my background lies.

The Chair: I'm sorry. We're out of time there.

Mr. Keddy.

Mr. Gerald Keddy (South Shore—St. Margaret's, CPC): Thank you, Mr. Chairman. Welcome to our witnesses.

My first question is to Mr. Casey. It was an interesting discussion on the potential to increase dimensional lumber sales and paper sales, certainly. It's also interesting, our market share vis-à-vis the Americans. On paper, in particular, we know that the Americans have subsidized their industry to a much greater extent than we have. That's really the imbalance in the export there.

I want to look at another part of it. That was your point about seeking foreign markets. Traditionally, in eastern Canada we used to export, prior to NAFTA, about $900 million worth of dimensional lumber to Europe. That dried up overnight because of pine bore nematode, which I'm sure you're familiar with, and some poor practices on behalf of the mills, quite frankly. Because of the dollar and because of a whole bunch of issues, that dimensional lumber that was going east overnight went south, and the mills became dependent on that. Since softwood lumber, as you correctly pointed out, is not under the NAFTA agreement—it's a separate agreement totally—I think we've suffered from that. Every one of these free trade agreements that we sign worldwide opens another door to lessen our dependency on a sole market that occupies 70% of our exports. We've seen that with our increased paper sales to China, increased paper sales to India, and the ability to export dimensional lumber.

Would you like to expand on that a bit? Ms. Brown, who is sharing my time, has a question, so perhaps you could be brief. The ability for that new market to help the industry is critical for our future.

Mr. Andrew Casey: There's not much more I can add. You're exactly right. It goes to the point I was making with Mr. Allen before, which is that we've got to grow the pie, and it's a global pie.

The other factor that came into the equation of your story of how the product shifted south of the east coast is that over the years a significant number of new players came onto the market. We used to be kind of unique out there and we were able to dominate the marketplace and dictate the terms of where we were going to send our product and at what cost. Certainly, when the dollar was low, we were able to do that, and energy prices were low. The world has changed. We now have countries like Chile, Brazil, and of course Russia, which is a lot closer to Europe. They're sending a lot of product around the world, so we're competing with those countries.

One of the things we're finding as we seek out these new marketplaces is that we need some sort of competitive advantage. If we're going to avoid subsidizing the industry—as you pointed out, that did happen in the U.S., and we don't want to get into that game. The only other way to do it is to knock down the trade barriers that are out there. Most of them are in the form of tariffs in other countries, and that's what these deals do.

Ms. Lois Brown (Newmarket—Aurora, CPC): Thank you, and thank you, Mr. Chair. Thank you, gentlemen.

I am a new face here, just filling in for my colleague, so thank you for obliging me. I appreciate it.

Just so you know, my riding is called Newmarket—Aurora. I am pleased to be here, because I think it aptly says what we need to do for our corporations.

I just have a question for you, Mr. Blackburn, if I may.

And, Mr. Casey, if I may say, prior to my election, my company had a very large contract with one of the members of your association who worked in the softwood lumber area, and we had a great rapport with them. It was a great contract. We got to know a lot about the softwood lumber industry, and I have great respect for the people in your industry.

Mr. Blackburn, if I might ask you, last year I had the opportunity to be in Africa and I visited Zambia, Botswana, Benin, and Burkina Faso. When I was in Zambia and Burkina Faso, I met with people who were in the mining industries, Canadian companies working in the extractive industries there. One of the things they talked to us about was the incredible number of infrastructure projects that went on as subsidiaries to the mining industry. What I saw in Burkina Faso with IAMGOLD up at the Essakane mine was an enormous project to provide roads, hospitals, and schools for many of the people around there. So we're talking about the corporate social responsibility that goes along with these industries.

I wonder if you can speak to your experience specifically in Panama with the projects you've done, and just about your experience globally. Will a free trade agreement enhance what Canadian companies are doing in these other areas?

● (1615)

Mr. Robert Blackburn: As I was saying before, this project in Panama has just been won and was just announced. It was a competitive project. Part of that will be our local resource development. We're doing that consistent with labour and also environmental objectives in the agreements that accompany the free trade agreement. As I mentioned, I think it's also true in Madagascar, where we're working right now on a very large nickel mine for Sherritt Gordon. We have a 5% part of it. About half the cost is the mine itself and the crusher or concentrator. The other half is infrastructure: a power plant, roads, port, slurry lines. A terrific amount of infrastructure goes around a project like this, and they tend to take place in fairly remote areas, so it opens up the area. If you've gone to Guinea, there's a lot of negotiation going on among various companies to develop iron mines there, and part of the development will be a major railway development in the country, which will serve other purposes as well. So it always happens.

Whether a free trade agreement impacts directly on this, I would say that one of the things you observe immediately when there's a free trade agreement—we saw it in Mexico, we saw it in Chile—is that all of a sudden you have a lot of interest from Canadian businesses. Government tries to develop more SME exporters. A terrific attraction goes along with negotiating and signing a trade agreement. All kinds of Canadian companies that never thought of it before now think of it. So you could say you would hope that in most cases these companies are going to take Canadian business practices and values with them when they start working abroad. In that sense, it provides an advantage.

Whether it has a specific impact on deal by deal is hard to identify.

Ms. Lois Brown: Thank you.

Thank you, Mr. Chair. I think I'm out of time.

The Chair: Thank you, Ms. Brown, and thank you, Mr. Blackburn.

Considering the hour, I think what we'll do here is try to get in a quick round, so if I could have just very short questions, maybe two-minute questions, beginning with Mr. Malhi....

Hon. Gurbax Malhi (Bramalea—Gore—Malton, Lib.): Thank you, Mr. Chair.

My question is for Mr. Blackburn. You mentioned that you have already accomplished many projects in Panama. Have there been any problems on the ground or with the people or with the unions?

Mr. Robert Blackburn: As I was saying, the 18 projects that we've actually completed there since 1975 were relatively small consulting contracts. They weren't construction. The answer is no, not that I've ever heard of. We haven't encountered any problems on the ground because they weren't that kind of project.

● (1620)

Hon. Gurbax Malhi: Thank you.

The Chair: Mr. Keddy, did you have any further questions on this side?

Mr. Holder.

Mr. Ed Holder (London West, CPC): Thank you very much. I'd like to thank our guests for being here today. Both of your sets of comments and responses were very insightful.

Mr. Blackburn, you talked about your local development focus, specifically in Panama, and I presume you take this approach when you deal in other countries as well, where you use local firms, local people, and you provide skills.

Certainly, from my perspective, it's important that whatever we do has to be good for Canada and it also has to be good for the other country we're involved with. Could you define a bit more clearly how that works? How would you provide such an undertaking to involve people in some form of mentoring, whether it be business, creation of industry? It wasn't really clear to me. Could you just elaborate a little bit, for my purpose?

Mr. Robert Blackburn: Okay. I'll tell you about the project that I saw in great detail on the ground in Mozambique.

First of all, we do this, in good part, to be competitive, because we couldn't possibly be competitive if we took thousands of workers from Canada to go and build an aluminum smelter in Mozambique. So we trained 9,000 workers. I visited the training site. We were training them to be welders, bricklayers, crane operators, and this was done under contract with our client in that case, which was BHP Billiton. We also set an objective in that case—this was phase two that I saw—of 25 good local supply contracts, and we divided the project into five sections,. The manager of each section had to find five good real contracts, and the deal was if they couldn't find a local supplier for one of them, they could go internationally, but then they had to find something else.

In the end, we had 28 specific local contracts. We taught people to do an internationally competitive bid, and we then mentored them through the delivery of what it was, whether it was concrete or whatever, and it was enormously successful. I visited that project the week they had poured first metal, six months ahead of schedule and tens of millions of dollars under budget. The World Bank used the project as an example of good resource development in the developing world, of what could be done. The BHP side of that project was going off to the World Bank the week after I was there, to explain how it had been done.

In Ambatovy, similarly, we have trained workforces. One of the pictures that sticks in my mind is a local company of women that was set up specifically to provide mats that they use for blasting and for putting on a muddy site in order to be able to work on it. A whole industry like that has grown up to supply us with those things, and also, in the area of agriculture, to provide food supplies to the site.

Mr. Ed Holder: I understand that. I've heard that example before that you've used with Mozambique.

Mr. Robert Blackburn: Yes, sorry.

Mr. Ed Holder: No, no. I think it's good enough. It bears repeating.

My question is with the $4 billion copper mine that you have in place now. With the additional billion dollars of spending, have you taken that same type of what I would call a progressive approach with local labour, local industry, in Panama?

Mr. Robert Blackburn: Well, the project is just at the beginning, and obviously we need our client to be aboard as well and to agree to proceed that way, which our client in that case has.

Sorry, I've just forgotten for a minute the name of the Canadian mining company whose mine that is, but yes, we've agreed to that approach, and really we put the initials around it after we had done it a few times, and it seemed like a good way to proceed.

Mr. Ed Holder: I appreciate your comments, and I appreciate your corporate social responsibility. I'd like to make that as a broad comment.

Finally, I think to Mr. Casey, you made some very compelling comments that I thought, again, from this seat, bear repeating. We talk about the challenges we have with our U.S. neighbours as they relate to softwood lumber. The thing you said, though, was that as we increase our exports—and currently we have some $24 billion of forestry exports, most of it going to the United States. But to the extent that we broaden our base beyond the States, the impact of that is that the increase of lumber goes higher, and as a result of that, when the price of lumber goes higher, the disputes tend to go away. Did I understand that correctly?

● (1625)

Mr. Andrew Casey: Absolutely.

Of the $24 billion, as I say, 70% or so of that goes to the U.S., and I think we have to be realistic that for the foreseeable future, the lion's share of our product will continue to go to the U.S. It's an easy market to access; it makes sense. They build their houses out of wood, they need our wood, they don't have enough of their own wood, so it makes sense for us to access that market.

However, growing our markets in other places, such as China, where their market and their economy are booming, that makes huge sense if we can get a part of that. Right now, we're sort of supplying them with wood forms for the concrete, but if we can get them to build with wood, like we do here in North America, that will hugely reduce our dependence on markets like the U.S. It will send our product elsewhere, it'll sort of drop the supply in North America, and it will basically drive the price up. And there goes the dispute, gone.

Mr. Ed Holder: So all the more reason to eliminate the tariff barriers that free trade agreements put in place and do—

Mr. Andrew Casey: The more we can knock down elsewhere, then it opens up markets for us. That's essentially the biggest obstacle in terms of opening up new markets, other than educating certain cultures that are not normally building with wood—but beyond that, knocking down tariffs, yes.

Mr. Ed Holder: It's rather interesting. It seems we're creating a mosaic in South and Central America with, I think, Mr. Blackburn, you acknowledged the agreements that we've either signed and/or ratified. To be clear, our hope is that with the cooperation of all parties, they really do understand that it's in Canada's best interest and the workers' best interest to implement these free trade agreements. And what we can't do by multilateral we seem to be doing ultimately by bilateral, because that's the result of the challenges we see with Doha, and on we go.

That's a statement, not a question, and that will conclude my time, Mr. Chair.

I'd like to thank you both.

The Chair: Thanks, Mr. Holder.

I think that will conclude it, then. We have kind of exceeded our 40 minutes.

Again, it's been a pleasure to have both of you here again, and we hope that's the last time on this particular bill. Thank you again for coming.

Committee, I'm just going to allow a two-minute break while we change the signs and welcome our next witnesses.

Thank you.

●

(Pause)

●

● (1630)

The Chair: We shall resume.

Thank you, ladies and gentlemen.

We're continuing our consideration of 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.

To that end we are welcoming witnesses today from the Canada Revenue Agency. Brian McCauley is assistant commissioner, legislative policy and regulatory affairs branch. Richard Montroy is deputy assistant commissioner, compliance programs branch. François Ranger is acting director general, international and large business directorate, compliance programs branch.

From the Public Citizen's Global Trade Watch, we have Todd Tucker, research director.

I'm pleased that Canada Pork International is meeting in Ottawa today. We have the president, Edouard Asnong, with us, and speaking to us today is the assistant executive director, Martin Lavoie.

We'll begin with Monsieur Lavoie from Canada Pork International. We will hear brief opening comments from each of our witnesses and then proceed to questions.

Monsieur Lavoie.

● (1635)

Mr. Martin Lavoie (Assistant Executive Director, Canada Pork International): Thank you very much, Mr. Chairman and honourable members. Thank you for having our president here at the table today.

First, let me introduce Canada Pork International. We're the export promotion and development agency of the Canadian pork industry. We are an association of hog producers, packers, and trading companies.

The Canadian pork sector exports $2.5 billion every year to over 100 different countries.

We have been supportive of the FTA with Panama from the beginning. Generally speaking, Canada Pork International is in favour of all free trade agreements. This one was of particular interest because Panama has been a steady market for Canadian pork exports.

Exports are extremely important for the development of the Canadian pork industry. Our strategy is based on diversification, and any opportunity that we have to increase our access and our competitiveness in any given market is truly needed at this point in time. As you know, the Canadian pork industry has been facing difficult times, with currency exchange issues and oversupply in some producing markets. So any opportunity is extremely welcome.

In the case of Panama, it's a market that we are exporting around $5 million every year to. It's a top 15 market for us, and we can say that we've achieved our negotiating objectives. Basically, the bulk of the products that we're shipping right now to Panama consists of pigs' feet, tails, and by-product. So out of the $5 million, around $3.8 million of the current trade is going be duty-free upon implementation of the agreement. So I think we've achieved what we wanted out of this agreement.

I see some reaction to the types of products that could be sent to this market, in terms of feet and tails, but we're also shipping shoulders and hams to this market. We have to understand that to be successful, we cannot only have markets taking tenderloins, loins, and the noble cuts. These markets are extremely important for maximizing the value of a whole pig carcass. Outside of China, I would say that Panama has probably been the best market for pigs' feet and these products, which are actually value-added, because they are in-brine products that are not frozen. So they're fairly expensive products for this kind of export.

It's really important for us to move ahead with the FTA with Panama, because we have a window of opportunity to be there ahead of the U.S. They have signed an agreement with Panama, but as you know, it has not been implemented yet, so I think we're going to have a great window of opportunity to be more competitive in this market. Also, once the U.S. has their agreement, there are clauses in it that are going to improve our access. So in this situation, I think we are going to be advantaged by the FTA with Panama.

● (1640)

This is a very interesting market for us, as I mentioned. It's a top 15 market for Canadian pork exports. Whether this market is as critical as our other priorities, such as South Korea or Europe, I wouldn't say. This is a great break in a market that we need, but as for the other markets, like South Korea and Europe, obviously we're looking forward to the opportunity to come back before this group to discuss those free trade agreements, because we are extremely worried, especially in the case of South Korea, about the potential impact of not having a free trade agreement with Korea, when our competitors—Chile, the EU, and potentially the U.S., in upcoming months—will have an FTA. This is a $150 million market, and we are extremely concerned about this.

So we're really hoping.... I think I can say that for us Panama has been a smooth ride, and we have achieved our objectives. We've worked really closely with our chief negotiator in agriculture. I don't know if you have seen the details, but there's been a lot of work around the different cuts, and we really had a good working relationship on that. So we're really looking forward to this agreement moving ahead, for one thing so that we can take advantage of it ahead of the Americans, which is our biggest competition for this market. For another thing, we also want to move the priority and the resources to other FTAs that are extremely critical for the future success of our industry, such as, again, those with South Korea, the European Union, and Ukraine, which will also be very critical for the Canadian pork industry.

So on behalf of Canada Pork International and our chairman, I would really like to thank you for inviting us here today, for the support of the House of Commons and the various parties for listening to our issues, and for the dialogue and the various free trade agreements we've been involved with.

Thank you.

The Chair: Thank you.

Mr. Tucker.

Mr. Todd Tucker (Research Director, Public Citizen's Global Trade Watch): Thank you to the committee for the invitation to testify on this important issue.

Canada has been a global leader in ensuring that greater trade in financial services does not undermine wise prudential regulations. But this admirable record is at risk with the current investment text of the Canada-Panama trade agreement.

I have two central points. First, Panama is one of the world's worst tax havens. It is home to an estimated 400,000 corporations, including offshore corporations and multinational subsidiaries. This is almost four times the number of corporations registered in Canada. So Panama is not just any developing country.

Second, the Canada-Panama trade agreement should not be thought of primarily in the traditional terms, or solely in the traditional terms, of cutting tariffs. Instead, it should be seen for what it is, which is hundreds of pages of text that commit Canada and Panama to follow certain domestic policies. The pact would give new rights to the Government of Panama, and to the hundreds of thousands of offshore corporations located there, to challenge Canadian anti-tax-haven initiatives outside of the Canadian judicial system.

Let me elaborate on the first point. What makes Panama a particularly attractive location for tax dodgers and offshore corporations? Well, for decades, the Panamanian government has pursued an intentional tax haven strategy. It offers foreign banks and firms a special offshore licence to conduct business there. Not only are these businesses not taxed, but they're subject to little to no reporting requirements or regulations.

According to the OECD, the Panamanian government has little to no legal authority to ascertain key information about these offshore corporations, such as their ownership. Panama's financial secrecy practices also make it a major site for money laundering from places throughout the world. According to the U.S. State Department, major Colombian and Mexican drug cartels, as well as Colombian illegal armed groups, use Panama for drug trafficking and money laundering purposes. The funds generated from illegal activity are susceptible to being laundered through Panamanian banks, real estate developments, and more.

Panama's domestic legal regime is supplemented by a steadfast refusal, thus far, to engage in far-reaching tax information exchange agreements with its key trading partners. Up until last year, Panama had no international tax treaties of any kind. Now it is on track to have up to a dozen or more double-taxation treaties signed this year.

As a technical matter, these actions ensure that the country will be removed from the OECD grey list. But the OECD has recently recognized the inadequacy of its own listing protocols, and, with the support of the G-20, has implemented a more comprehensive peer review process to see how tax transparency is actually working on the ground. Although the OECD has released several of its three-stage peer review reports over the last few months, Panama's latest treaties did not help it meet all of the OECD's requirements. And these treaties place many restrictive conditions on the exchange of information.

Panama was the only country in the western hemisphere the OECD did not allow to graduate from the first to the second stage, a dubious distinction not accorded to even the famous Cayman Islands tax haven.

This takes me to the second major point. The Canada-Panama trade deal would worsen the tax haven problem. As the OECD has noted, having a trade agreement without first tackling Panama's financial secrecy practices could incentivize even more offshore tax dodging. But there's a reason to believe that the trade deal will not only increase tax haven abuses but will also make fighting them that much harder.

Chapter 9 of the Panama agreement expands the investor-state system under NAFTA, under which Canada has paid out hundreds of millions of dollars in legal fees and compensation to U.S. investors. Canada's defensive interests are many in the case of the Panama pact, because there are hundreds of thousands of U.S., Chinese, Cayman, and even Canadian corporations that can attack Canadian regulations by using aggressive nationality planning through their Panamanian subsidiaries. I can explain that more in the question session if people are interested.

What threat would this pose in practice? Let me give one example, and we can pursue others if there's interest. Let's say that after the Canada-Panama trade deal is ratified, Panama continues to be a bad actor on the tax haven front and Parliament puts in place legislation to give Panama a deadline to clean up its act or face sanctions. Canadian banks could be restricted from transferring money to their Panamanian affiliates. These could include Panama-registered banks operating in Canada, which could easily include a U.S. or third-country bank that has structured its Canadian investment through a Panamanian subsidiary.

But article 9.10 of the Canada-Panama trade act says that "[e]ach Party shall permit transfers relating to a covered investment to be made freely and without delay, into and out of its territory". Moreover, both chapters 9 and 12 of the FTA have non-discrimination clauses that protect Panama-registered investors. Article 12.06 states that Canada will always allow Canadians to purchase financial services from banks operating in Panama.

● (1645)

Under the trade pact, either the Government of Panama or an investor registered there could challenge the Canadian measure. These are not speculative threats. Panama has actually threatened WTO cases against other countries' anti-tax-haven measures. Incorporations are increasingly being advised by the international trade law bar to structure their parent-subsidiary relationships in a way that allows them to take advantage of investor-state arbitration.

In sum, getting the current text of the Panama-Canada trade deal without getting Panama to first clean up its financial secrecy practices could make Canada's fight to establish a cautious and prudential standard for global financial services regulation even more of an uphill climb.

Thank you.

The Chair: Thank you, Mr. Tucker.

Now we will hear from Mr. Montroy from the Canada Revenue Agency.

● (1650)

Mr. Richard Montroy (Deputy Assistant Commissioner, Compliance Programs Branch, Canada Revenue Agency): Thank you for inviting the Canada Revenue Agency to appear before this committee on the subject of Bill C-46.

My name is Richard Montroy. I am the deputy assistant commissioner for the compliance programs branch in the Canada Revenue Agency. With me today are Mr. Brian McCauley, the assistant commissioner of the legislative policy and regulatory affairs branch, and Monsieur François Ranger, acting director general of the international tax directorate in my branch.

In the interest of time, I will keep my opening remarks very brief.

On the legislation that is before you for consideration, the role of the Canada Revenue Agency is to administer the policy and legal framework established by the Department of Finance. We do this by employing a balanced approach to compliance that includes service, outreach, and enforcement activities.

[*Translation*]

We undertake examinations, audits, and investigations at the domestic and international level. We also administer the provisions of international tax agreements. The CRA collaborates with other tax administrations to address areas of common interest.

[*English*]

We work with the Organisation for Economic Co-operation and Development and Canada's tax treaty partners to advance common understanding and approach to tax issues. The exchange of information through tax treaties or tax information exchange agreements is paramount in detecting and deterring international tax evasion and avoidance.

My colleagues and I will be pleased to answer any questions you have today.

Thank you.

The Chair: Thank you.

We'll begin a round of questions. We'll go for about 25 minutes, so that should give us time for one full round at least.

Mr. Cannis.

Mr. John Cannis: Thank you, Mr. Chairman.

Let me welcome all our witnesses today. We appreciate your comments, your views, your input, and your willingness to allow an open line of communication when we have many questions.

We've heard from witnesses. I think you were in the audience when we had previous witnesses, SNC-Lavalin, for example. You heard some of the comments they made on the importance of these free trade agreements. I was impressed with the comments. Mr. Casey was before us earlier. It was the first time I'd met Mr. Blackburn from SNC-Lavalin.

I read between the lines the positive impact it makes on the Canadian household when we go out and attempt to get our fair share of the pie in the right way, and I know corporate and social responsibility was brought into the exchange. Personally, I've never hidden my colours. I always believed we should go out to get our fair share of the pie. If we don't, we're going to miss the boat. And when we miss the boat, as elected representatives, we're also depriving each and every Canadian of trying to improve their lives.

At the same time—I've said it in the past and I'll say it again before I ask my question—if we don't go there, we won't be giving the opportunity to those people, wherever the country may be, to change. I used an example. I said the China of today is different from what it was 40 years ago. Had we not gone there, we would not have made the positive changes that I believe have been made.

People will say, “Why aren't you doing it now?” We are debating legislation in the House today to address pensions for people who are incarcerated. One might say, “Why didn't we do it five or ten years ago?” Well, maybe we just didn't think about it. But now this thought has come forward. I'm not trying to condemn the current Conservative government. They've been in government for four years. One might ask why they didn't think of it four years ago. Why didn't we think about it when we were in government? The fact remains, we are thinking about it now, and we're taking a positive step to address it.

You talked about tax treaties, Mr. Ranger. I appreciate that, because we just saw in June, before we rose, that we concluded tax treaties with Colombia, Turkey, and Greece, specifically to address tax evasion and tax avoidance. As Canadians, we're trying to address those concerns.

Do you agree that this is the right direction to take in addressing the problem? It is now is being discussed by various organizations, the Public Citizen's Global Trade Watch, for example, which is harping on this issue, the tax situation, the avoidance, etc. Are these tax treaties a parallel of addressing this issue? Is this the right way to go, so that we can promote economic trade, which Mr. Lavoie talked about, and what it's going to do to your industry, in a positive way specifically? Or do we just sit back and say we're not going to go there? We'll allow every other country to go, but we want to be Boy Scouts and we're going to stay home.

Can you add to that, if you will, on tax treaties?

● (1655)

Mr. Richard Montroy: If the question is whether we believe tax treaties are the way to go, Canada's vast network of tax treaties includes the recently amended article 26, which addresses the exchange of information. Most if not all countries are striving to achieve the OECD standards of effective exchange of information. Canada's tax treaties are led by the Department of Finance, but we assist them.

Mr. John Cannis: That is one positive way.

I'll go over to Mr. Tucker for a moment because I want him to help me respond to my constituents. Do I tell my constituents that we should not get into a trade exchange, an FTA, with any country, in this case Panama, unless everything is sorted out to the satisfaction of all? Should we sit back until we get the wording right, the i's dotted, the t's crossed, no matter how long it takes? Is that what I should tell my constituent who wants to know how he'll pay for his child's education? What do I tell them?

Can you help me out?

Mr. Todd Tucker: Yes. The key point is that Panama, for decades, has been resisting any pressure by Canada, or from the U. S., where I'm from, to sign any kind of tax information exchange agreement. They've been dodging this move forward for a very long time.

From the U.S. perspective, and certainly with members of Congress, they've looked at this as an opportunity for leverage with Panama that might not otherwise exist. From my understanding, that's similar to Canada's posture as well, trying to use this moment of leverage before the trade agreement is signed to enact changes within the Panamanian regulatory system.

That would be my answer.

Mr. John Cannis: In using that leverage, what do you tell Mr. Lavoie and his organization, and the farmer there, when some other country, which I'm not going to name, is exporting the goods they want and we're missing the boat? What do you tell these guys?

Mr. Todd Tucker: As the witness stated, Panama is not the most important market in the world. It's actually a very tiny market, with a few million people—

Mr. John Cannis: It's in the top 15. Is that right, Mr. Lavoie? Do I have the number right?

It's in the top 15. Is that important?

Mr. Todd Tucker: The top 15—

Mr. John Cannis: Did I quote you correctly, sir? Is it in the top 15?

A voice: Yes.

Mr. Todd Tucker: Sure, but to put that in perspective, this is a very small country representing a very small market. Panama's economy is primarily geared toward the provision of financial services and legal services to global corporations and to drug traffickers.

So if you are looking at what is going to be the largest impact—

Mr. John Cannis: I have 30 seconds, and I want to conclude. You said it's a small market. We build a house one brick at a time. We build a strong economy one market at a time. I'm hearing similar responses to what I heard, for example, on the Canada-Colombia free trade agreement, or any other free trade agreement. That's why I find it very difficult to take your view and think otherwise.

Thank you, Mr. Chairman. I was good with my time, right?

The Chair: I'm sure you're sorry you didn't have time for a reply to that last shot.

Monsieur Laforest.

[*Translation*]

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

Good afternoon to everyone.

My first question is for Mr. Montroy and the representatives from the Canada Revenue Agency who are accompanying him.

The last time that we met with officials from Foreign Affairs and International Trade Canada, we talked at great length about tax havens and the fact that Panama was on the OECD grey list. We also asked questions about the fact that the Minister of International Trade had sent a letter to his Panamanian counterpart in order to establish a tax information exchange convention and that he had not yet received a response.

During the same time period, the government signed, in June 2010, tax information exchange agreements with eight countries. According to my information, two other countries have reportedly been added to the list. These countries include the Bahamas, Bermuda, Dominica, the Cayman Islands, the Turks and Caicos Islands, Saint Lucia, Saint Vincent and the Grenadines, etc.

In the July 6, 2010 edition of the newspaper *La Presse*, a reporter wrote the following:

> In exchange for these agreements, Canada appears to give an advantage to these jurisdictions. The subsidiaries of active Canadian businesses established in these islands could repatriate, tax free, their foreign profits to Canada. Hence Bermuda, like the Bahamas and the other islands, will obtain a status that is similar to that of Barbados, the only tax haven to have such a privilege. [Translation]

Could you comment on this issue and tell us whether or not this will be the same situation with Panama should we enter into a tax information exchange agreement with this country.

● (1700)

Mr. Richard Montroy: Thank you, Mr. Chair.

It was the Department of Finance that wrote the letter to Panama. If my memory is correct, this occurred last July. The purpose of this letter was to invite Panama to negotiate a tax information exchange agreement. I do not believe that it is unusual for a country to take some time to examine the matter. We are expecting to receive a response from this government shortly.

With respect to the article that was published in *La Presse*, I believe that you are referring to the 2008 budget, if my memory serves me correctly. The government established incentives to encourage certain countries to enter into tax information exchange agreements with Canada.

The budget indicated that a country would have five years in which to sign such an agreement starting from the date that Canada sent an official letter proposing such a measure. Otherwise, dividends repatriated to Canada would be given a different tax treatment.

Mr. Jean-Yves Laforest: So these companies can bring back profits tax-free as a result of Budget 2008, according to you.

Mr. Richard Montroy: I stand corrected; it was Budget 2007 and not 2008. I apologize.

Mr. Jean-Yves Laforest: That is nevertheless what is happening. If we had a tax treaty similar to a tax information exchange agreement with Panama, I imagine it would apply as well, since that has not yet been changed.

Mr. Richard Montroy: Yes, that is correct.

Mr. Jean-Yves Laforest: So with a free trade agreement with Panama and a tax information exchange agreement, companies will be able to bring profits back to Canada tax-free.

Mr. Richard Montroy: Yes.

Mr. Jean-Yves Laforest: That means the situation will preserve Panama's status as a tax haven. Clearly that will once again be facilitated, with a free trade agreement and a tax information exchange agreement. Do you agree?

Mr. Richard Montroy: In 2007, the government's new policy aimed to treat dividends brought back from certain countries the same way as dividends brought back from the Bahamas, or other countries which had tax treaties with Canada. Budget 2007 simply confirmed that countries wanting to conclude tax information exchange agreements would all be dealt with the same way.

● (1705)

Mr. Jean-Yves Laforest: A little earlier, you said that one of the mandates of your section was to administer the agreements, including tax information exchange agreements between Canada and other countries.

On November 3, I asked Mr. Castonguay from the Department of Foreign Affairs and International Trade how many agreements Panama needed to sign in order to be removed from the grey list established by the OECD. He answered: "to be taken off the grey list, 12 agreements are needed. Panama is currently at 10." More importantly, he also stated this:

> 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.

That means that even with an agreement, there is no certainty that the country will have the ability to exchange tax information. The Minister of Foreign Affairs and International Trade told us that he has written a letter to sign a tax information exchange agreement. But even with an exchange, it is uncertain whether Panama's signature will be enough. That's what an official from the Department of Foreign Affairs and International Trade said. Signing is not enough. The country must also show that it is able to do the exchange.

Are there currently any other countries that have already signed agreements and that have not proved that they were able to exchange the information?

Mr. Richard Montroy: Thank you, Mr. Chairman.

[*English*]

The Chair: Very brief.

[*Translation*]

Mr. Richard Montroy: I will be brief.

I was not here on November 3, and I cannot really answer for Mr. Castonguay. However, I believe that Mr. Castonguay meant that not only must Panama sign 12 tax information exchange agreements, it must also meet the criteria set out by the OECD, which were approved by all countries, to ensure that it will indeed exchange the information. So not only must the ability to exchange information be written in black and white, there must be certainty that the country will exchange the information.

[*English*]

The Chair: Mr. Allen.

Mr. Malcolm Allen: Thank you, Mr. Chair.

Mr. Montroy, a couple of simple questions.... I think Mr. Laforest actually asked it, but let me just get it clear. Presently we don't have a signed agreement with Panama to exchange information on a tax treaty. Is that correct?

Mr. Richard Montroy: That's correct, yes.

Mr. Malcolm Allen: Was it July that you said a letter of request went to them this year?

Mr. Richard Montroy: Yes.

Mr. Malcolm Allen: And this free trade agreement has been signed for a while. We're looking at implementation legislation here, not actually negotiating the agreement.

Was your department consulted at the beginning of this trade process about the tax treaty and the tax information sharing, or for any advice as to the fact that Panama was indeed on the grey list at that time?

Mr. Brian McCauley (Assistant Commissioner, Legislative Policy and Regulatory Affairs Branch, Canada Revenue Agency): Finance has the lead, and they would have conducted all those negotiations and they would have been aware of any positions we have had. But we wouldn't be formally involved in the front end of any of those negotiations. Finance is well aware of the position of the administration of CRA.

Mr. Malcolm Allen: Fair enough. Thank you.

I want to get back to Mr. Tucker because you had laid out in your opening remarks—understanding, of course, that when we have so many folks, there's not a lot of time.

Let me first say to Mr. Asnong and Mr. Lavoie that I'm not going to ask you any questions today, but let me just put on the record that I understand, coming from a rural component. I have pork producers in my riding. I understand the grief you folks have suffered over the last couple of years, and believe you me, we want to find a way to make sure we can help in every possible way we can with the producers to ensure that happens. So there are ways to do that and we're going to continue to do that.

But getting back to Mr. Tucker, because really this tax treaty and this tax-saving piece that Panama has is of critical importance. I agree with you, Mr. Tucker, in a sense—and I'd like you to articulate it in a fashion and use some examples—especially when it comes to, as we call it through the NAFTA agreement, the chapter 11 style of language that allows folks to sue when they feel they're being either abused or their ability to make money...etc. I know you wanted to use some examples and I'm going to give you the opportunity to do that with your answer.

● (1710)

Mr. Todd Tucker: Sure.

The first example I used was of course the instance of actually creating a mechanism to apply meaningful sanctions against Panama and transactions with Panama if Panama continues to refuse to clean up its act.

Under the FTA, that would be seen as a restriction on transfers, which then the Panamanian government or a company incorporated in Panama, which could include a Canadian company that had a Panamanian subsidiary, attacking then a Canadian regulation.... That's one of the examples.

Another example that is also common to the chapter 11 language from NAFTA is the minimum standard of treatment from article 9.06 of the Panama deal, which accords a customary international law minimum standard for the treatment of aliens. This sounds fine, but investor-state tribunals have been willing to consider the decisions of other investor-state tribunals when they articulate what the content of that standard means.

So you have runaway tribunals that are deciding that a regulation that a company was not expecting to come down the pipe could be a surprise and could interfere with the investor's expectations. Then you have other tribunals citing that decision as an example of the practice of governments. This is a very broad standard that could paralyze a wide range of regulatory actions, and it's one concern.

Another aspect of the agreement is article 9.15, which has a provision that allows Canada to deny the benefits of the agreement to a company that does not have substantial business presence in Panama. So a Panama-registered firm attacks a Canadian public interest regulation, and Canada has the ability to say that company does not have substantial business interest in Panama—it's a pure shell company—and we don't have to accord it the FTA treatment. However, the definition of substantial business activities has been interpreted in a very minimal way in past tribunals. So you've had investor-state tribunals decide that having as few as two employees and a bit of a paper trail in the country is enough to constitute a substantial business presence.

There are a lot of rules here. It's not a question of being for trade or against trade, or for trade agreements or against trade agreements. But there are provisions in this text—some of which are based on the NAFTA chapter 11 model—that could use some improving. I think that would go a long way towards alleviating some of the tax haven concerns that perhaps constituents are raising.

Mr. Malcolm Allen: It seems to me this is one of the times when we look at a free trade agreement and quite often the arguments are about access to market and fair treatment and all the rest of it. Now what we have is a government, the Panamanian government specifically, that has set up a tax haven and has done so for a long time. It's ingrained in their system. We are willing at this point, it seems, if we don't get a favourable response to your letter of July... and the OECD is now saying they are not quite greylisted, but they're not quite where they need to be.

We're not sure why we're rushing in, in the sense of making sure these folks aren't at the point of complying with what the OECD is clearly asking, because at the end of the day, Panama was notorious for flying flags of convenience, as it used to be called, on ships, and we know what that led to when it came to what happened with folks who worked on those ships and what happened with money. I don't want to get into the narcotics money and all the rest of it.

From your perspective, what is the U.S. going to do to protect itself? You said earlier that you are from the States. What are they doing, and what do you see them demanding to protect themselves from this particular aspect of tax haven protectionism vis-à-vis trade?

● (1715)

Mr. Todd Tucker: One of the concrete demands that Congress has set in front of the Obama administration is that, at a very minimum, we require the completion of a tax information exchange agreement before the FTA is implemented. That is step one, and a majority of House Democrats and also a growing number of Republicans have called for re-examination of the investor-state system to ensure that companies operating in tax havens don't have special rights to go around the U.S. legal system to challenge U.S. anti-tax-haven measures. I think you'll see in the months ahead, including from a great deal of Republicans in Congress, an interest in setting those markers and making sure that happens before we move forward with the trade deal.

The Chair: We're going to conclude with Mr. Trost, for five minutes.

Mr. Brad Trost (Saskatoon—Humboldt, CPC): Thank you, Mr. Chair.

My question to the gentleman from Revenue Canada is fairly basic. I do my own income tax, but other than that I don't consider myself a financial whiz or expert.

Fundamentally, what is going to change with this treaty as far as the ability for you gentlemen and your department to enforce Canadian law and taxation down there, and also for the police to go after drug traffickers, etc., who launder their money in Panama? From your perspective, what will change? Will this treaty make it easier, harder? Will it have no effect?

Mr. Brian McCauley: Arguably, we just administer it, and I'm assuming that analysis has been done by the Department of Finance, which negotiates the agreement. They would be in a better position to comment on whether or not there are any implications for Canada's tax system.

Mr. Brad Trost: I'm not asking about the tax system; I'm asking about the enforcement. Correct me if I'm wrong, but it's not the Department of Finance that's going to call me up if I've created some fake receipts for a charitable donation. It's going to be you gentlemen. So when you go out there and do your work and have someone who is suspicious with some money going to and from Panama, is this treaty going to change the way you do your work with those people?

Mr. Brian McCauley: Our analysis to date is that it would be neutral.

Mr. Brad Trost: Okay, so it is neither a negative or a positive. It's neutral.

Let me ask you then, from your perspective, how serious and substantive—and again, the Department of Finance may have these estimates—would the tax problem be, from whatever estimates you have, for Canada, money laundering, etc., going through Panama? Do you have any estimates on those numbers? I know they'd be impossible to get as far as being very accurate, but what sorts of estimates have you been able to make?

Mr. Brian McCauley: We have none.

Mr. Brad Trost: You have none. Is there anyone in the government who does have those sorts of estimates?

Mr. Brian McCauley: I'm not aware of it, but again, I can't speak for the Department of Finance.

Mr. Brad Trost: I'll throw it out to any other gentleman.

I'm looking at Mr. Tucker. He's probably going to have a guess.

Mr. Todd Tucker: Sure. Exact estimates are hard to come by because in Panama you're not required to disclose who owns any of the corporations that have offshore corporate registration. Just to illustrate that point, last summer—

Mr. Brad Trost: I'm only looking for an estimate. I don't need the illustration. Do you have an estimate of any Canadian fund amounts that would be involved in there?

Mr. Todd Tucker: Not for Canada. For the U.S., it's one of the top tax havens.

Mr. Brad Trost: I understand it's probably the top tax haven in the world.

To the gentleman from Revenue Canada, you talked about the exchange of letters of the Minister of Finance to Panama. Are there any other basic steps that should be taken after this treaty is in place that would help you to do your job vis-à-vis Panama and tax havens?

Mr. Brian McCauley: When you say the treaty, are you talking about the free trade agreement or—

Mr. Brad Trost: The free trade agreement—my mistake.

Mr. Brian McCauley: Okay.

Arguably, as you know, Canada is very active internationally with the global forum and the OECD. Frankly, those efforts have placed a lot of positive pressure on a number of so-called tax havens around the world, including Panama. There has been significant movement in the last two years, I think, but there have been over 500 exchange of information agreements signed. Arguably, we would continue to work very aggressively internationally, and Finance would continue to pursue the interest of a tax exchange of information agreement with Panama. Those are certainly the two current courses of action that are being pursued and are demonstrating results with other jurisdictions.

● (1720)

Mr. Brad Trost: Thank you, Mr. Chair. I've completed my questions.

The Chair: Good. Thank you. We are running a little tight on time, so I thank members for keeping the questions short and the answers brief.

For the record, Mr. Tucker, you mentioned you're an American. I'm not familiar with the organization. In a nutshell, can you tell me who that is, where you're from, and what that's all about?

Mr. Todd Tucker: Sure.

We're a consumer advocacy organization, a membership organization that's based in Washington, D.C. We've conducted analysis of the U.S. Panama FTA, which is virtually identical to the Canada Panama package.

The Chair: How many members, and who funds you?

Mr. Todd Tucker: We have about a quarter of a million members, and we're funded primarily through donations of five to ten bucks that come from these members.

The Chair: That's interesting.

How did you find out about this committee?

Mr. Todd Tucker: I was contacted by this committee.

The Chair: All right. I'll leave it at that.

Thank you very much, all of you, for your appearance today.

I'll now suspend for two minutes while we go in camera. We have to clear the room, except for members to have a quick ten-minute discussion on Europe.

Thank you again for your attendance.

[*Proceedings continue in camera*]

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