



House of Commons
CANADA

Standing Committee on International Trade

CIIT • NUMBER 040 • 3rd SESSION • 40th PARLIAMENT

EVIDENCE

Monday, December 13, 2010

—
Chair

Mr. Lee Richardson

Standing Committee on International Trade

Monday, December 13, 2010

•(1535)

[English]

The Chair (Mr. Lee Richardson (Calgary Centre, CPC)): Welcome to the 40th meeting this session of the Standing Committee on International Trade.

We continue, pursuant to our 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.

We have completed hearing from witnesses and testimony to this point. Pursuant to Standing Order 75(1), we're going to proceed to consideration of clause-by-clause today.

It appears we have a number of amendments. We also have, as of Thursday last, a notice of motion from Mr. Julian regarding Bill C-46.

It had been our suggestion, and we felt we had some consensus from the committee, that we would conclude clause-by-clause today. So I'll deal with it in this order. We will deal, first of all, with Mr. Julian's motion with regard to suspending review of the bill. That's first. And depending on how long that takes, we will then proceed to clause-by-clause. We will deal with relevant amendments as we go through the clause-by-clause.

There is also a Bloc motion...or is it an amendment?

A voice: It's an amendment.

The Chair: It's an amendment. Okay.

We'll deal with that, then, at the end of clause-by-clause.

[Translation]

Mr. Jean-Yves Laforest (Saint-Maurice—Champlain, BQ): It is an amendment.

[English]

The Chair: *Oui.*

We have been dealing with this bill for quite some time, a couple of years back and forth, and have heard several witnesses, some more than once. It was our intention to conclude clause-by-clause today so that we could report the bill to the House before our adjournment.

With that in mind, I had suggested that we would not meet on Wednesday. There seems to be some broader consensus that we may

be able to conclude this session on Wednesday, so I think it would be preferable, since we have votes on Wednesday afternoon, that we don't have a meeting on Wednesday.

That brings me back to this meeting, and to Mr. Julian's motion, and also to the amendments.

Go ahead, Mr. Holder.

•(1540)

Mr. Ed Holder (London West, CPC): I'm a little confused insofar as you've said twice in your opening comments, sir, that it was your understanding that we would conclude clause-by-clause today. I recall very specifically in prior meetings that this was exactly what we said we would do.

When I look at some of the clause-by-clause consideration, I seem to see a lot of pieces to this that have the NDP's initials in front of them. But it was clearly my understanding that if we were to show some consideration, I think, to various witnesses...forward, that we would be able to conclude clause-by-clause.

Do you have any sense or understanding that we will not conclude clause-by-clause today, sir?

The Chair: I guess that's up to Mr. Julian. Frankly, if we're going to go....

I mean, we're happy to hear your motion. I doubt there will be other speakers put up—certainly not by the party on my right—so let's just get to it.

So we'll proceed on that basis. If we don't get through it today, we will have to meet Wednesday, unless we carry on tonight to meet again...and there'll be but one reason for that. I think we're all clear on that.

With that, I think we can get started.

Mr. Julian, you have a motion.

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

Mr. Holder is correct: the witnesses whose names we submitted to the clerk all came before the committee. Mr. Holder is right in what he mentioned about the witness list, absolutely.

The reason I'm bringing this motion forward is that I think it should be clear to all of us, after the testimony we've heard from those witnesses, that we need to suspend our consideration of the implementation legislation around this agreement.

I'll read my motion, Mr. Chair:

That the Standing Committee on International Trade suspend its review of Bill C-46 until the government of Panama signs a tax information exchange agreement with Canada and commits Panama to take effective measures with respect to tax evasion and money laundering.

I will speak to that relatively briefly, Mr. Chair. As you know, I could bring a lot of information to this table. I'm sure the members have all reviewed the witnesses' testimony that we've had, so I won't need to make a long speech, but I do have some points I'd like to bring up.

Mr. Dean Allison (Niagara West—Glanbrook, CPC): [*Inaudible—Editor*]

Mr. Peter Julian: Thank you, Mr. Allison, that's very kind of you.

Yes, I'm taking contributions. Yes, if anybody wants to send me back to B.C., I'd be more than happy.

Mr. Ed Holder: I have a last point of order, Mr. Chair.

The Chair: Excuse me, Mr. Julian.

Mr. Holder.

Mr. Ed Holder: Through you, Mr. Chair, is it a point of order or is it a point of relevance that I'd ask whether it's the intention of members present to complete clause-by-clause today?

Is that an appropriate question to ask, through you, sir?

The Chair: Well, it's an appropriate question to ask. I don't know whether or not you're going to get an answer. We'll have to wait and see. We know the parameters and we'll just have to wait and see.

But right now we're going to try to—

Mr. Ed Holder: In the spirit of Christmas.

The Chair: —pay attention and be quiet and not interrupt Mr. Julian while he proceeds with his motion and his remarks, his brief remarks.

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

I thought Mr. Holder would read between the lines. I'll re-emphasize that though I could go over all of the testimony that was offered that backs up the motion I'm putting forward, I'm going to choose just to give an executive summary of the information that Mr. Holder and other members of the committee have.

So it will be a brief speech.

Mr. Ed Holder: I look forward to it.

Mr. Peter Julian: Yes.

As Mr. Holder knows, I'm capable of giving somewhat longer speeches. If I say it's a "brief" speech, that means I won't be holding up the committee unduly before we actually vote on this motion.

Mr. Gerald Keddy (South Shore—St. Margaret's, CPC): You already have.

Mr. Peter Julian: I'm certainly hoping that this motion can have support from all four corners of this table.

Mr. Chair, the reality is that when we look at this issue of drug trafficking and money laundering... I'm going to cite, as we've had cited around this table, the issue around tax havens that was in the Cornell University Press publication on tax havens. It stipulates that some 75% of all sophisticated drug trafficking operations use

offshore secrecy havens. As well, of the criminal cases identified in IRS investigations—I'm particularly targeting Mr. Holder on this, because I know he will be interested in this reiteration of the argument—45% involved illegal transactions derived from legal income, and in the other 55%, illegal income was involved. In this case, 161 of the cases dealt with drug traffic. Of these, 29% involved the Cayman Islands. An equal amount involved Panama, and then other offshore tax havens. The four offshore tax havens alone accounted for 85% of the cases involving transactions of illegal income.

We've heard from witnesses who have said very clearly that adopting this implemented legislation without an accompanying tax information exchange agreement would be a boon to money laundering and drug trafficking. That's been very clear from the witnesses we've heard.

We've also heard from Panamanian government representatives that they have no intention, because it's not in their economic interest to adopt a tax information exchange agreement. Now, this is despite the fact that the government did request it and has had pending now for many months a letter asking for exactly that kind of information.

A double taxation agreement only tracks legal income. What we need is a tax information exchange agreement that would track the illegal income. That is what the Government of Canada's position has been. The Panamanian government is refusing to implement that.

I think it would be responsible on our part to say that we are not intending to move ahead with implementation of this agreement until such time as the Panamanian government steps forward and signs a tax information exchange agreement.

In the U.S. we've seen that type of agreement signed. There are loopholes, and there is a long process for implementation of that with the U.S. But the fact is that the U.S. Congress has not ratified the deal, and the fact that the U.S. Congress did not ratify the deal has pressed the Panamanian government to action.

I think it's very clear from the witnesses we've heard and the fact that the Panamanian government is refusing to sign this agreement, refusing to implement it, that as a committee we have a responsibility to say, no, we're going to suspend our deliberations on it, and we'll do clause-by-clause some other time. We'll bring it back to Parliament at a time when the Panamanian government responds to the Government of Canada's request for a tax information exchange agreement and puts into place the mechanisms that start to stop the tax evasion and money laundering that is endemic in that jurisdiction, according to the sources that we have cited here and from what our witnesses have said.

That's why I'm bringing forward the motion. I hope all members will support it. If that is the case, I think there will be enormous leverage to get the Panamanian government to act.

● (1545)

The Chair: Somewhat astounded, he says thank you—thank you very much.

Is there any further debate on the motion?

Ms. Hall Findlay.

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

I understand the concerns raised by our colleague. My comments will also address the proposed amendment from the Bloc Québécois, because it's on the same issue. I think everyone is concerned about the opportunities, perceived or real, of taking advantage of certain tax circumstances by people who...we would rather prevent that from happening.

My view is that our first interest is to all of the businesses and all the farmers' businesses—the large ones, in terms of taking advantage of the infrastructure of the increased building in the canal, and also the small and medium enterprises that will stand to gain from this agreement. We also heard significant testimony that suggested that Canada signing on and ratifying this agreement will provide a significant competitive advantage to many Canadian businesses and farmers—indeed, specifically because the United States has not signed on.

Our job is to look out for the interests of Canadians. I appreciate that we need to look out for the interests of people in other countries, but our first responsibility is Canadians. I'll repeat, a tremendous number of businesses, both large and small, and a large number of farmers and people involved in the agriculture and agrifood businesses stand to gain significantly from the ratification of this agreement sooner rather than later.

In terms of the tax approach, my understanding is that when these discussions first happened, Panama offered to Canada to enter into a double taxation agreement, the type of agreement that Panama has entered into with many countries. They have specifically stated that's their preference.

Canada, of course, has many double taxation treaties in place with other countries as well. Article 26 of the OECD model convention double tax agreement does provide for the exchange of tax information.

Panama made that offer to Canada. Canada responded with, no, we would prefer a tax information exchange agreement. Panama came back and said, no, we would prefer a double tax agreement.

As I understand it, that was the last in the back and forth, so Canada is still in a position to respond to that last offer.

I strongly encourage all of those involved to continue those negotiations. I do think it's in our best interests to have an agreement of some kind with regard to double taxation and/or tax information exchange. As I say, the double tax treaties include information exchange, so either one is something that we need to pursue.

I strongly do not support holding up the ratification of this free trade agreement simply because those negotiations have not continued. I understand the desire to have some kind of leverage, but I simply do not believe this comes anywhere close to outweighing the benefits that so many would have through quick ratification of this agreement.

Thank you, Mr. Chair. I just wanted to put that position forward.

• (1550)

The Chair: Thank you.

Monsieur Laforest.

[*Translation*]

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

I want to respond to what my colleague, Ms. Hall Findlay, just said. I am perplexed by her claim that Panama is looking for a double-taxation agreement that includes an exchange of tax information. Panamanian officials appeared and told the committee that signing a tax information exchange agreement was not in Panama's best interests.

The way I see it, something does not add up; there is a misunderstanding about what Panama wants versus what Canada wants. All of that to say that the Bloc Québécois supports Mr. Julian's motion. We have heard from a number of witnesses who have been pretty clear about the fact that Panama is a tax haven where money laundering is rampant, particularly drug money laundering.

Signing a free-trade agreement with Panama, without first having a very clear and well-defined tax information exchange agreement in place, is akin to sanctioning and, to some extent, supporting this kind of regime, in my view. One of the arguments in favour of the agreement is that it would greatly benefit farmers and businesses. But since it would open the door to tax avoidance, it would put many people at a disadvantage, namely all those who do not support tax avoidance or money laundering.

Ultimately, Panama's minister or deputy minister for international trade put it very succinctly; he told the committee that he saw no benefit to signing a tax information exchange agreement. I would say that contradicts the claims made by those who say that Canada will benefit from the agreement.

Consequently, we will support Mr. Julian's motion.

Thank you, Mr. Chair.

[*English*]

The Chair: Thank you.

Mr. Julian.

Mr. Peter Julian: Thank you, Mr. Chair, and *merci, monsieur Laforest*.

I just want to come back to the two points that Madam Hall Findlay raised.

The first, of course, is the sense that we should push forward because the U.S. Congress has concerns about money laundering and drug trafficking in Panama. The reason why the legislation has never been ratified, of course, in the U.S. Congress is precisely because of the concerns that Mr. Laforest has raised and that I have raised—that the IRS sees Panama as the leading money laundering capital for drug traffickers in the western hemisphere. The U.S. Congress has said—quite rightly—that, no, unless there is real action on tax evasion and money laundering, we're not going to ratify this agreement.

I get the sense—perhaps I've misunderstood—that the Liberal Party position is that we should run in and endorse this lack of action by the Panamanian government because the U.S. Congress is saying very clearly that unless there is a tax information exchange agreement in place and implemented, they're not going to ratify the agreement.

I don't understand this position. If something is wrong, and if the Panamanian government has to change its practices, it seems to me that we have a responsibility as parliamentarians to then say, "Well, no. We're not going to give you a blank cheque. We're not going to ratify this agreement until a tax information exchange agreement is put into place."

So that is the position we're in now. We've had a number of witnesses recommend for that. We've had very clear evidence and testimony that has suggested that putting the agreement in place, that does not allow for the exchange of information, actually helps to fuel money laundering and drug trafficking. There is nothing...and the government recognized that by requesting a tax information exchange agreement, that not having that in place means there's no backup.

What we would be doing would be irresponsible. Certainly we would be providing succour to drug traffickers and money launderers. What we need to do is to take our responsibility and ensure that there is leverage put on the Panamanian government so that they put in place the measures that have already been requested by the government and that the Panamanian government has very clearly said they are not going to put into place.

The last point I want to raise is around the issue of whether we implement because of the enormous opportunities in Panama. Well, we certainly heard the same thing that the committee around Costa Rica did ten years ago. If you look at the testimony at the time, many of the same players came before the committee and said there were enormous opportunities and we needed to ratify the agreement.

At the time, prior to ratification, we exported \$77 million worth of products to Costa Rica. Almost ten years later, we've gone from \$77 million to \$73 million. So it's actually gone down over the last ten years, not up. Exports have declined.

So even though I know there will always be testimony to the merits of free trade in a vacuum without the fundamentals being covered, the reality is that in Central America we have an existing trade agreement that has actually gone backwards for us. I think that is what, as the trade committee, we should be looking at correcting before endorsing Panamanian government practices that very clearly have earned international reprobation and very clearly need to change.

It's our own government, the Conservative government, saying so, that they need to change their practices. We don't do that by ratifying this agreement and saying it's okay to have those money-laundering practices, it's okay to money-launder drug trafficking money.

• (1555)

The Chair: Thank you.

Madam Hall Findlay.

[*Translation*]

Ms. Martha Hall Findlay: I will keep it brief, Mr. Chair.

First of all, I will respond to my Bloc Québécois colleague. The situation is this. Panama's people did not want a tax information exchange agreement because they favoured an agreement on double taxation, an agreement that includes article 26, which provides for the exchange of tax information.

Secondly, I would point out that the Panamanian officials were speaking to a very specific context.

[*English*]

With respect to the comments made by Mr. Julian, we will agree to disagree. I don't know that we really want to draw this out. We will just accept that we agree to disagree.

I think the fact that Panama has signed a large number of tax treaties, including with some G-8 countries, has shown they have a willingness to engage in these agreements. The fact that they also signed a tax information agreement with the United States only two weeks ago you can take one of two ways. You can take it as, for instance, this was wonderful for the Americans to use leverage; or you can take it, as I do, as an indication that Panama is not afraid to engage in these discussions and to sign on these agreements.

My impression is that neither government—Canada nor Panama—has really pushed on this, and now, I think, ratifying a free trade agreement benefits a large number of Canadians but also sets the stage for a greater push to in fact engage in those discussions.

I don't want to argue—we'll agree to disagree—but I just want to explain why we will be not supporting either the motion or the amendments.

• (1600)

The Chair: Thank you again.

Monsieur Laforest.

[*Translation*]

Mr. Jean-Yves Laforest: I do not want to get into a debate with Ms. Hall Findlay. So, since we have experts here to help us today, I would ask them this.

I believe the finance minister wrote to his Panamanian counterpart to ask whether Panama was prepared to sign a tax information exchange agreement. Officials told the committee that nothing came of that request, that Canada's finance minister did not receive a response. So it went nowhere.

Then, Panama's deputy minister for international trade, along with the ambassador, told us that it was not in Panama's economic interest to sign the agreement requested by the Canadian government. Ms. Hall Findlay is telling us that they are interested in a double-taxation agreement that includes a section on the exchange of tax information. Does the section Ms. Hall Findlay is referring to, that is, the one on information exchange, do the same thing as the tax information exchange agreement sought by Canada's finance minister?

I would assume not, because Panama's deputy minister told us that such an agreement was not in his country's best interest. I am trying to wrap my head around this.

Mr. Gérard Lalonde (Director, Tax Legislation Division, Director's Office, Department of Finance): Thank you very much for your question.

[English]

The Chair: Just go right ahead.

[Translation]

Mr. Gérard Lalonde: I apologize, sir.

[English]

The Chair: You're here to answer on clause-by-clause. This is a motion preceding clause-by-clause.

It's not appropriate to ask a question of these witnesses at this time. I was going to say that you can go with your assumption, if you like, but that's not the purpose of having these witnesses at the table now.

That said, Monsieur Lalonde has kindly offered to go ahead and answer.

[Translation]

Mr. Jean-Yves Laforest: That would be unfortunate, Mr. Chair.

[English]

The Chair: I'll let him proceed.

[Translation]

Mr. Gérard Lalonde: The short answer is no. Both types of agreements impose the same obligations in terms of sharing tax information.

I think it is obvious to everyone on the committee that I am an anglophone, even though my name is Gérard Lalonde. So I will give the rest of my answer in English.

[English]

The two types of agreements have the same types of obligations vis-à-vis tax information exchange. But double taxation agreements go far beyond that, and provide for other obligations with respect to withholding taxes on dividends and on interest and on other features of the tax system that are not included in tax information exchange agreements.

It may very well be that from the perspective of Panama, they would like to tap into some of those provisions, and for the same reason, Canada is reluctant to enter into those.

The Chair: Thank you.

[Translation]

Mr. Jean-Yves Laforest: Thank you.

[English]

The Chair: We did have an opportunity with the witnesses from the Department of Finance earlier to have those questions answered, so I didn't mean to be....

Are there any more questions on this?

Mr. Julian.

Mr. Peter Julian: This is not a question, Mr. Chair, just a comment.

The Canadian government has specifically asked for a tax information exchange agreement, so that is what is on the table. The Panamanian government has refused to implement that because it goes much further than a double taxation agreement. That's really the issue here.

An hon. member: [Inaudible—Editor]

Mr. Peter Julian: No, it does not. I think that's been very clear from the witnesses before the committee. It has been very clear.

This is why the Canadian government, the Conservative government, has been asking for a tax information exchange agreement, for the simple reason that it goes further. The Conservative government is concerned, as it should well be, about money laundering—and drug trafficking, one would certainly hope. That is what was requested and that is what has been refused.

So if we do not endorse this motion today, what we are doing is saying to the Panamanian government, “You don't need to sign one. We'll take you as you are, with all of the money laundering and drug trafficking moneys that are flowing through Panama right now.”

•(1605)

The Chair: Is there any further debate on Mr. Julian's motion?

All right. Seeing no indication that there's further debate, I'll call the question....

Sorry?

Mr. Peter Julian: Could I ask for a roll call vote on this, please?

The Chair: Of course you can.

(Motion negated: nays 8; yeas 3)

The Chair: It appears the motion has been defeated.

We'll proceed to clause-by-clause.

Thank you for that, and thank you for the assistance.

Before we proceed, let me at this point introduce—I'm sorry I didn't do it earlier, but I didn't expect I was going to have to—some of the witnesses from the departments who are here today to assist us with clause-by-clause.

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

We also have, from the Department of Human Resources and Skills Development, Kim Oliver, deputy director, bilateral and regional labour affairs.

Of course, as previously mentioned, we have Gérard Lalonde, “anglophone” director of the tax legislation division in the director's office at the Department of Finance.

I see we also have some pretty impressive backup strength for any tough questions.

I should think that most of the matters to be dealt with have been dealt with. We've had dozens of witnesses on this matter. Most of the questions have been asked, I think, and answered, but I appreciate your being here in any event.

We will now begin clause-by-clause consideration.

Pursuant to Standing Order 75(1), consideration of clause 1 is postponed until the end of our consideration of the bill.

(On clause 2—*Definitions*)

The Chair: There are proposed amendments, in fact two.

Mr. Julian, you have an amendment to clause 2.

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

The first amendment I'd like to offer is the definition of "sustainable development". The amendment would include a definition of sustainable development:

"sustainable development" means development that meets the needs of the present without compromising the ability of future generations to meet their own needs, as set out in the Brundtland Report published by the World Commission on Environment and Development.

I think the amendment speaks for itself. Hopefully there will be a torrent of support from all four corners of this table.

I so move the amendment.

The Chair: We have heard the amendment from Mr. Julian.

Is there any debate on NDP-1?

I will ask for a vote on the amendment.

(Amendment negated)

The Chair: You have another amendment, Mr. Julian, and that's NDP-2.

•(1610)

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

My Conservative colleagues are uncharacteristically silent today. I'm hoping we'll be able to provoke some vigorous debate—

Some hon. members: Oh, oh!

Mr. Peter Julian: —on this next amendment.

The Chair: We've been here for several months debating the matter.

Mr. Peter Julian: Well, thank you, Mr. Chair. This is the time, of course, when their voices could be heard. I'm certainly looking forward to any input they have on these important amendments.

My second amendment refers to the definition of "sustainable investment":

"sustainable investment" means investment that seeks to maximize social good as well as financial return, specifically in the areas of the environment, social justice, and corporate governance, in accordance with the United Nations Principles for Responsible Investment.

It's the very famous "triple bottom line": financial return, social good, protection of the environment.

I hope my Conservative colleagues, as well as my Liberal colleagues, will support this. If not, perhaps they could offer a few points as to why they may not.

Thank you, Mr. Chair.

The Chair: Okay, well, don't count on it.

We have heard Mr. Julian's amendment, NDP-2.

Is there any further discussion or debate?

Seeing none, I will call the vote on NDP-2.

(Amendment negated)

The Chair: Is there any further amendment to clause 2?

Shall clause 2 carry?

Mr. Peter Julian: On division.

The Chair: On division?

Okay. Thank you.

(Clauses 2 to 6 inclusive agreed to on division)

(On clause 7—*Purpose*)

The Chair: We have a number of amendments proposed for clause 7. I also note that there's a little conflict between a couple of them.

I'm going to let you proceed, Mr. Julian, but I would just say at this point, to perhaps save some time, that your amendments may be in conflict—i.e., if NDP-3 were adopted, NDP-4 could not be proceeded with.

In any event, I think it may be moot; it would presume that NDP-3 would be carried, so perhaps let's deal with it first. We may not have to deal with the eventuality that it's in conflict with NDP-4.

Mr. Peter Julian: I'm sorry, Mr. Chair, I don't follow you.

The Chair: Well, I don't think it matters—

Some hon. members: Oh, oh!

The Chair: —until we deal with NDP-3.

Mr. Peter Julian: We do have the time to go into this in more depth.

The Chair: If NDP-3 passes, I'll go into a detailed explanation. If it doesn't pass, the point is moot.

Mr. Peter Julian: I would ask you for an explanation, Mr. Chair, just because we do have the time now.

The Chair: You may have the time.

But all right; to save time, I'll ask our legislative clerk to give a more full response.

Mr. Mike MacPherson (Procedural Clerk): Basically, the rule is that when you're amending legislation, you can only do one line once. NDP-3 amends line 36 on page 2, and NDP-4 also amends line 36 on page 2.

So you're attempting to amend twice the same line of the bill.

The Chair: Okay.

Mr. Julian, did you want to move NDP-3?

Mr. Peter Julian: Certainly, Mr. Chair. I'm....

Oh, okay. It took me a moment to find it here, and I see the point you're making.

I don't think it's in conflict. It does require a little bit of finessing, but hopefully the committee will be willing to do that.

What NDP-3 does is simply put the accent on "sustainable" investment opportunities. That is a small amendment....

• (1615)

The Chair: It's about trade and taxation transparency.

Mr. Peter Julian: No. Or that's not what I have.

The Chair: Have we got it confused here?

An hon. member: [*Inaudible—Editor*]

Mr. Peter Julian: No, in the order I have them, that's NDP-6.

The Chair: Well, in the order I have them, NDP-3 is about trade and taxation transparency.

Are we all on the same songbook here?

Ms. Martha Hall Findlay: It talks about harmonious and sustainable.

The Chair: Yes. NDP-4 says "harmonious and sustainable development".

Mr. Peter Julian: I'm sorry, Mr. Chair, I was looking at the working amendments that were submitted on Friday.

The Chair: Yes.

Mr. Peter Julian: There is a new order. I apologize.

The Chair: No, no, I appreciate that. I understand the confusion.

Mr. Peter Julian: Thank you.

The Chair: But I also would like to refer you back once again to....

I appreciate your interest in detailing it for the committee, but rather than have you take the time to restructure it so that you can accomplish both, it might be easier just to deal with NDP-3 first. In the event that it doesn't pass, then the question is moot, and we can deal with NDP-4, because it will no longer be in conflict.

That's just a suggestion.

Mr. Peter Julian: I think that's wise counsel, Mr. Chair.

The Chair: Thank you.

Mr. Peter Julian: So what I will do is submit NDP-3, which is the new NDP-3, different from—

The Chair: Did you want to say anything more about it?

Mr. Peter Julian: Well, I haven't actually spoken to it, Mr. Chair. I feel comfortable taking a few moments of the committee's time because we've been so efficient in the first six clauses.

The Chair: Exactly.

Mr. Peter Julian: I'm hoping, again, that my Conservative colleagues will engage in this important debate. However, it doesn't appear likely on this amendment, from what I understand from Mr. Trost.

At any rate, this would change the purpose of the agreement, or add to the purpose of the agreement, the taxation transparency. That's clearly what Mr. Laforest and Mr. Guimond have mentioned is a key concern. It's what witnesses have mentioned is a key concern as well, to have taxation transparency added in as a key purpose of the agreement.

Now, who could disagree with that, Mr. Chair? I'm sure all members around the table could agree—

The Chair: We'll give them a chance to let you know.

Mr. Peter Julian: —that taxation transparency in this case is something that all members could agree with.

The Chair: Do you want to bet?

Well, let's find out.

Those in favour of NDP-3, please so indicate.

(Amendment negatived)

The Chair: There you go.

We'll move to NDP-4, Mr. Julian.

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

Now we have the new NDP-4, which was the old NDP-3.

This would add, in terms of purpose, "harmonious and sustainable development". Sustainability is a key watchword, I think, in many Canadians' minds, and should be a key watchword in our trade policy around the world.

The Chair: Is there any further discussion on NDP-4?

Those in favour of NDP-4?

(Amendment negatived)

Ms. Martha Hall Findlay: [*Inaudible—Editor*]...whole new coalition thing happening now?

The Chair: Uh-oh.

Ms. Martha Hall Findlay: Theirs.

Some hon. members: Oh, oh!

The Chair: Okay, thank you.

We're now on NDP-5.

Mr. Peter Julian: [*Inaudible—Editor*]...the Conservative caucus?

I think you could raise a lot of money. I think a lot of folks would want to see me go—not mentioning any names.

The Chair: We're still on clause 7. We have three more NDP amendments to deal with.

I would ask Mr. Julian to proceed with NDP-5.

[*Translation*]

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

In response to Ms. Hall Findlay's comments, I want to say that I am very proud to be on the same side as Mr. Laforest and Mr. Guimond. I hold them in very high regard. They are very active in this committee, and they do excellent work.

•(1620)

Mr. Jean-Yves Laforest: Stand united, vote with him!

Mr. Peter Julian: I want to introduce amendment NDP-5, which seeks to increase sustainable investment opportunities, rather than investment opportunities in Canada.

Earlier, I said, in English, that sustainable development should be one of the objectives of our foreign trade policy. That is why I am moving this amendment, Mr. Chair.

[*English*]

The Chair: Thank you.

Is there any further discussion or debate on NDP-5?

(Amendment negated)

The Chair: We'll proceed now with the next proposed amendment for clause 7, which is NDP amendment 6.

Mr. Julian.

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

This is actually an amendment that I feel very strongly about. As we saw, we had a number of witnesses come forward talking about labour rights in Panama. They told us how those labour rights have been undermined, both by the actions of the Panamanian government this spring and also by some of the provisions of the Panamanian labour code now, which exempt provisions of the labour code from significant proportions of Panamanian territory.

This amendment would offer the right to collective bargaining as a key component in the purpose and the objectives of the implementation legislation. Given the fact that collective bargaining was bulldozed in the spring, and a number of trade union activists died as a result of the “fight back” campaign from labour activists against that legislation, we'd be sending an important signal to the Panamanian government that collective bargaining rights are a principle that we do not compromise on.

The Chair: Thank you.

Questions?

Those in favour of NDP-6, please so indicate.

(Amendment negated)

The Chair: The last amendment to clause 7 would be NDP-7.

Mr. Julian.

Mr. Peter Julian: Very simply, Mr. Chair, this would amend this clause from promoting sustainable development to promoting “sustainable development, including sustainable human development”.

As you know, that's part of the clause of social development that again should be a watchword in our Canadian trade policy.

The Chair: Thank you.

If everyone is clear on that, I'll call the question.

(Amendment negated)

(Clauses 7 to 9 inclusive agreed to on division)

(On clause 10—*Canadian representative on Joint Commission*)

The Chair: We have an amendment on clause 10. This is amendment 8 from the NDP.

Mr. Julian.

[*Translation*]

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

What I have to say is extremely important. We are talking about institutional and administrative provisions that make the minister the principal representative of Canada on the joint Panama-Canada commission.

In light of all the problems Panama has had in terms of the controversy surrounding the changes to its labour laws and union system, I move that, as our representative on the joint commission, the minister consult on a regular basis with representatives of Canadian labour and trade unions.

In other words, the minister should consult with not only Canada's central labour bodies, but also, of course, labour federations such as the Fédération des travailleurs et travailleuses du Québec, given the affiliation between unions and regional organizations.

•(1625)

[*English*]

The Chair: I think everyone has heard the amendment to clause 10.

Those in favour of NDP-8?

(Amendment negated)

(Clauses 10 and 11 agreed to on division)

(On clause 12—*Powers of Minister*)

The Chair: We have a couple of amendments, submitted by the NDP, to clause 12.

First of all, NDP-9 relates to the powers of the Minister of the Environment.

Mr. Julian.

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

What this simply does is ensure that ministers—whether we're talking about the Minister of the Environment or the Minister of Labour—“shall” appoint these representatives to ensure that there is representation from Canada on these various bodies.

So it removes the option and makes it an obligation.

The Chair: In short, it changes “may” to “shall”.

Is there further discussion on NDP-9?

Those in favour of NDP-9, please so indicate.

(Amendment negated)

The Chair: We have a second amendment on clause 12, and that would be NDP-10.

Mr. Julian.

Mr. Peter Julian: I will read this out, Mr. Chair.

[Translation]

I move that Bill C-46, in clause 12, be amended by adding, after line 18 on page 4, the following:

“(1.1) The Minister shall

(a) consult with independent experts on human rights and independent human rights organizations in order to assess the impact of the implementation of the Agreement on human rights in Canada and in the Republic of Panama; and

(b) within 60 days after this Act comes into force, cause to be laid before each House of Parliament a report on that assessment that includes the findings and recommendations of those experts and organizations or, if that House is not then sitting, on any of the first five days next thereafter that that House is sitting.”

Of course, there have been issues with this in Panama. We are talking about union rights, which are also human rights, rights that the Panamanian government scoffed at this spring.

Instead of saying that everything is fine, we need to put an assessment process in place and ensure that independent experts are the ones doing the assessment. We do not want to duplicate what is in the agreement with Colombia, where the Colombian government gets to decide how it will report to Canada's Parliament.

We need independent experts. We have always said that. The purpose of this amendment is to ensure that independent experts conduct consultations and that their assessment report is submitted to Parliament.

[English]

The Chair: I think that's clear. This would be two clauses, following the clause as currently in the bill as printed, to add consulting experts and reports to the House.

Is there any further discussion on that clause?

Those in favour of NDP-10, please so indicate.

(Amendment negated)

(Clause 12 agreed to on division)

•(1630)

The Chair: Now, I note, looking at all the amendments that we have been given notice of, that for clauses 13 through to 62, no amendments have been proposed as of yet.

May I first ask the committee if there are further amendments to any of those clauses, 13 through to 62? If not, I might ask for unanimous consent from the committee to group those clauses and vote on them as one.

So are there any further amendments to clauses 13 through to 62? No?

Then may I ask for the unanimous consent of the committee to group those clauses—clauses 13 through to 62?

Mr. Alan Tonks (York South—Weston, Lib.): I'm satisfied.

The Chair: We have agreement?

Mr. Peter Julian: Mr. Chair, I'd just like to say that I certainly give my consent from this corner of the table.

The Chair: And we're delighted to have it, Mr. Julian. Thanks very much.

(Clauses 13 to 62 inclusive agreed to on division)

The Chair: We will proceed to amendment NDP-11, which would introduce new clause 62.1 to the bill as drafted. This might require a little explanation.

Mr. Julian.

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

The motion we discussed in committee at the beginning of this meeting is replicated, I think, to a certain extent in the termination of application at the end of the consideration today.

Now, we've also got the amendment from Mr. Laforest, which we'll be looking at shortly. The reality is that if it is true, and some members around this table have promoted this view, that the Panamanian government is willing to cooperate and sign a tax exchange information agreement with Canada, we will certainly know that in the coming months.

I'm skeptical, but if there are those around the table who suggest that we should sign the agreement or implement it, and then move from there to putting pressure on the Panamanian government, we still need a trigger. By having the termination of application, what we are doing is saying in a year's time we can look back at this, and if the Panamanian government has been cooperative and has cracked down on the money laundering and the drug trafficking moneys that flow through Panama, then I think there'd probably be fairly widespread support for renewing it. But if it hasn't been the case, then this government, this Parliament, can actually look at the agreement again, at the implementation, and choose whether or not it wants to proceed.

This gives us a safety valve, Mr. Chair.

The Chair: We'll have some discussion on that; essentially it's a sunset clause, or...

Mr. Laforest.

[Translation]

Mr. Jean-Yves Laforest: Mr. Chair, I have a very hard time supporting amendment NDP-11, as moved by Mr. Julian, for a very specific reason. If amendment NDP-10 had been adopted, it would have been possible. This is, to some extent, a prerequisite, once various experts have been consulted and an assessment has been completed for each house. To my mind, amendment NDP-11 would have been more relevant with that kind of follow-up.

Unfortunately, we will not be supporting amendment NDP-11 because, in my view, it is more closely related to amendment NDP-10, which was defeated.

[English]

The Chair: Is there any further discussion on NDP-11?

Those in favour of NDP-11, the amendment that would introduce new clause 62.1?

(Amendment negated)

•(1635)

Mr. Peter Julian: Could I have a recount on that, please?

Some hon. members: Oh, oh!

The Chair: Did you want to record it?

Mr. Peter Julian: No, I'm not a masochist.

The Chair: There you go. All right—satisfied, Mr. Julian.

(On clause 63—*Order in council*)

The Chair: We have a final amendment, and this would be BQ-1.

Mr. Laforest.

[*Translation*]

Mr. Jean-Yves Laforest: Mr. Chair, as Mr. Julian mentioned earlier, the amendment we are proposing is along the same lines as the motion he put forward.

It is very clear to us that the exchange of tax information should be compliant with the OECD agreement or model agreement. It is crucial that Panama and Canada sign such an agreement in order to remove a rather large obstacle, stemming from the fact that we are signing a free-trade agreement without first having a tax information exchange agreement, which would prevent a loss of tax revenue for Canada. That is a basic requirement, ensuring justice and fairness for all taxpayers.

That is why we are moving this amendment, in the hope that there is still time, a few moments, to consider this whole issue and how important it is for all taxpayers in Quebec and Canada.

[*English*]

The Chair: Thank you.

Mr. Julian, if you would, just prior to any further debate on it, I think it's important to mention that we've asked for a ruling on this proposed amendment. I will simply read it out with regard to Bill C-46:

Bill C-46 implements the Free Trade Agreement and the related agreements on the environment and labour cooperation entered into between Canada and the Republic of Panama and done at Ottawa on May 13 and 14, 2010.

The amendment attempts to insert conditions upon the coming into force of some of the provisions of the bill. As House of Commons Procedure and Practice (2nd Edition) states on page 769: "An amendment intended to alter the coming into force clause of a bill, making it conditional, is out of order since it exceeds the scope of the bill and attempts to introduce a new question into it."

In the opinion of the Chair, the introduction of these conditions is a new concept that is beyond the scope of Bill C-46 and is therefore inadmissible.

So that would be the ruling of the chair. Obviously, we can have debate on that, but I think we're going to rule the amendment out of order.

Mr. Julian, do you want to comment, or overrule the chair?

Mr. Peter Julian: Actually, I was going to do that, Mr. Chair.

I'll challenge your ruling on the following basis. What this simply does is allow, in the same way that most legislation does, certain conditions to be satisfied before implementation. As a result of that, it would seem to me this is perfectly in order.

The Chair: That's beyond me. I'll refer to the clerk.

The Clerk of the Committee (Mr. Paul Cardegna): There's been a challenge of the decision by the chair. The question before the committee is as follows: shall the ruling of the chair be sustained?

And do we want a recorded division?

Mr. Peter Julian: Absolutely.

(Ruling of the chair sustained: yeas 8; nays 3)

• (1640)

The Chair: Bloc amendment BQ-1 is therefore ruled out of order and inadmissible.

We'll proceed with the vote on clause 63.

(Clause 63 agreed to on division)

The Chair: Shall schedule 1 carry?

Some hon. members: Agreed.

Mr. Peter Julian: On division.

The Chair: Shall schedule 2 carry?

Some hon. members: Agreed.

Mr. Peter Julian: On division.

The Chair: Shall schedule 3 carry?

Some hon. members: Agreed.

Mr. Peter Julian: On division.

The Chair: Shall schedule 4 carry?

Some hon. members: Agreed.

Mr. Peter Julian: On division.

The Chair: Shall schedule 5 carry?

Some hon. members: Agreed.

Mr. Peter Julian: On division.

The Chair: Shall schedule 6 carry?

Some hon. members: Agreed.

Mr. Peter Julian: On division.

The Chair: Shall schedule 7 carry?

Some hon. members: Agreed.

Mr. Peter Julian: On division.

The Chair: Shall schedule 8 carry?

Some hon. members: Agreed.

Mr. Peter Julian: On division.

The Chair: Shall schedule 9 carry?

Some hon. members: Agreed.

Mr. Peter Julian: On division.

The Chair: Shall the short title carry?

Some hon. members: Agreed.

Mr. Peter Julian: On division.

The Chair: Shall the title carry?

Some hon. members: Agreed.

Mr. Peter Julian: On division.

The Chair: There were no amendments, so I'll now ask, shall the bill carry?

Some hon. members: Agreed.

Mr. Peter Julian: On division.

The Chair: Shall I report the bill to the House?

Some hon. members: Agreed.

Mr. Peter Julian: On division.

The Chair: Thank you very much.

I'd like to thank all the committee members for their cooperation.

I also thank our witnesses for taking the time. I know how busy you are, and I really appreciate your coming in. Maybe you consider this a break from your day. I know it's been a gruelling grind over there with all the business we're throwing at you in terms of all these trade agreements that are under way.

Thank you very much for coming, and I'm happy to let you go now.

Mr. Ron Cannan (Kelowna—Lake Country, CPC): *Hasta la vista.*

The Chair: It would be my intention, with the consent of committee, to report the bill to the House tomorrow, if we are all in agreement. I think we are.

An hon. member: Yes.

The Chair: Mr. Julian.

Mr. Peter Julian: This has been a somewhat raucous consideration. There have been points of order. There has been a challenge to the chair. But you've carried yourself well, Mr. Chair, and I did want to say that.

Some hon. members: Hear, hear!

The Chair: Now, did you tell me that he's made some announcement...?

Mr. Ron Cannan: No, not yet. We're trying to get him to run for...

The Chair: Oh, not yet.

I was about to wish you well on future endeavours, but apparently this is just an ill-founded rumour that's circulating with regard to your future, Mr. Julian.

Mr. Peter Julian: Conservatives are fundraising, though, to send me home. I'm going to milk that for all it's worth.

The Chair: You can count on me as well.

Some hon. members: Oh, oh!

The Chair: Mr. Holder.

Mr. Ed Holder: Thank you, Chair.

Last Wednesday, I believe, the NDP and certainly the Conservatives had their Christmas receptions. At ours we had a fabulous time, with our Prime Minister providing a bit of a rock concert.

I'm not sure if the Bloc has had their party. *Joyeux Noël* if they haven't.

Also, if I might say, I understand that at the Liberals' Christmas party this Wednesday, there will be a book reading by Mr. Ignatieff, and everyone will get a signed copy. I would like to ask for a copy, if that does happen, if I could, please—and wish you all a very Merry Christmas, please, and *Joyeux Noël*.

An hon. member: Merry Christmas!

An hon. member: It'll be Dr. Seuss.

Mr. Alan Tonks: You'll have to take an ESL trade on that.

Some hon. members: Oh, oh!

Mr. Ed Holder: You know me too well. That's the problem.

Mr. Ed Holder: I'm sorry, Chair.

Ms. Martha Hall Findlay: As tempted as I was to wear my new Strasbourg thing at the party, you've lost your chance.

An hon. member: Oh, no.

Mr. Ed Holder: Oh, my God.

Some hon. members: Oh, oh!

The Chair: In the words of that son of a Cape Breton mother, it's all good.

Mr. Ed Holder: It's all good.

My Cape Breton mother would wish you all the very best this holiday season.

The Chair: All right.

That's all the business we have. We have given an indication of how we might proceed in the new year. We're going to come back with the report of our recent visit to the European Union. We're going to try to organize the visit to Washington to talk to our colleagues there about some pretty important that have recently come up, and ongoing issues. I would hope we could do that as early as the first couple of weeks of February, so be ready for that.

Do you have something you wanted to add?

● (1645)

Mr. Ed Holder: As a final point, Mr. Chair, I'd like to thank Mario Silva—I'd like to pass this around, if you haven't seen it—for this article...

Pardon me?

Mr. Mario Silva (Davenport, Lib.): That's fine.

Mr. Ed Holder: It's all of our pictures from the EU, and he wrote this very nice article in Portuguese, which I'm happy to translate. I'd like to pass it around and let the folks see it. It's very nice.

The Chair: Thank you.

For those of you who have a Portuguese translator, you can read all about us.

Thank you. It's been an interesting session, and we have made some progress. I appreciate it.

We'll see you in the new year. Thank you.

I wish you all a happy Christmas and a great new year.

The committee is adjourned.

MAIL  POSTE

Canada Post Corporation / Société canadienne des postes

Postage paid

Port payé

Lettermail

Poste-lettre

**1782711
Ottawa**

If undelivered, return COVER ONLY to:
Publishing and Depository Services
Public Works and Government Services Canada
Ottawa, Ontario K1A 0S5

*En cas de non-livraison,
retourner cette COUVERTURE SEULEMENT à :*
Les Éditions et Services de dépôt
Travaux publics et Services gouvernementaux Canada
Ottawa (Ontario) K1A 0S5

Published under the authority of the Speaker of
the House of Commons

SPEAKER'S PERMISSION

Reproduction of the proceedings of the House of Commons and its Committees, in whole or in part and in any medium, is hereby permitted provided that the reproduction is accurate and is not presented as official. This permission does not extend to reproduction, distribution or use for commercial purpose of financial gain. Reproduction or use outside this permission or without authorization may be treated as copyright infringement in accordance with the *Copyright Act*. Authorization may be obtained on written application to the Office of the Speaker of the House of Commons.

Reproduction in accordance with this permission does not constitute publication under the authority of the House of Commons. The absolute privilege that applies to the proceedings of the House of Commons does not extend to these permitted reproductions. Where a reproduction includes briefs to a Committee of the House of Commons, authorization for reproduction may be required from the authors in accordance with the *Copyright Act*.

Nothing in this permission abrogates or derogates from the privileges, powers, immunities and rights of the House of Commons and its Committees. For greater certainty, this permission does not affect the prohibition against impeaching or questioning the proceedings of the House of Commons in courts or otherwise. The House of Commons retains the right and privilege to find users in contempt of Parliament if a reproduction or use is not in accordance with this permission.

Additional copies may be obtained from: Publishing and
Depository Services
Public Works and Government Services Canada
Ottawa, Ontario K1A 0S5
Telephone: 613-941-5995 or 1-800-635-7943
Fax: 613-954-5779 or 1-800-565-7757
publications@tpsgc-pwgsc.gc.ca
http://publications.gc.ca

Also available on the Parliament of Canada Web Site at the
following address: <http://www.parl.gc.ca>

Publié en conformité de l'autorité
du Président de la Chambre des communes

PERMISSION DU PRÉSIDENT

Il est permis de reproduire les délibérations de la Chambre et de ses comités, en tout ou en partie, sur n'importe quel support, pourvu que la reproduction soit exacte et qu'elle ne soit pas présentée comme version officielle. Il n'est toutefois pas permis de reproduire, de distribuer ou d'utiliser les délibérations à des fins commerciales visant la réalisation d'un profit financier. Toute reproduction ou utilisation non permise ou non formellement autorisée peut être considérée comme une violation du droit d'auteur aux termes de la *Loi sur le droit d'auteur*. Une autorisation formelle peut être obtenue sur présentation d'une demande écrite au Bureau du Président de la Chambre.

La reproduction conforme à la présente permission ne constitue pas une publication sous l'autorité de la Chambre. Le privilège absolu qui s'applique aux délibérations de la Chambre ne s'étend pas aux reproductions permises. Lorsqu'une reproduction comprend des mémoires présentés à un comité de la Chambre, il peut être nécessaire d'obtenir de leurs auteurs l'autorisation de les reproduire, conformément à la *Loi sur le droit d'auteur*.

La présente permission ne porte pas atteinte aux privilèges, pouvoirs, immunités et droits de la Chambre et de ses comités. Il est entendu que cette permission ne touche pas l'interdiction de contester ou de mettre en cause les délibérations de la Chambre devant les tribunaux ou autrement. La Chambre conserve le droit et le privilège de déclarer l'utilisateur coupable d'outrage au Parlement lorsque la reproduction ou l'utilisation n'est pas conforme à la présente permission.

On peut obtenir des copies supplémentaires en écrivant à : Les
Éditions et Services de dépôt
Travaux publics et Services gouvernementaux Canada
Ottawa (Ontario) K1A 0S5
Téléphone : 613-941-5995 ou 1-800-635-7943
Télécopieur : 613-954-5779 ou 1-800-565-7757
publications@tpsgc-pwgsc.gc.ca
http://publications.gc.ca

Aussi disponible sur le site Web du Parlement du Canada à
l'adresse suivante : <http://www.parl.gc.ca>