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Chair

Mr. James Rajotte

Standing Committee on Finance

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• (0850)

[Translation]

The Vice-Chair (Mr. Massimo Pacetti (Saint-Léonard—Saint-Michel, Lib.)): Good morning. I'd like to call this meeting to order.

Good morning everyone.

[English]

Thank you, everybody, for coming. We're here pursuant to Standing Order 108(2), a study of tax evasion and offshore bank accounts.

We have two sets of witnesses. We have Mr. Larin.

[Translation]

He holds the Canada Research Chair on Public Finance and Taxation at the University of Sherbrooke.

[English]

And from the Canadian Bankers Association, we have Ms. Fung and Mr. Hannah.

My understanding is you've been told you have not more than 10 minutes, so I'll allow you 10 minutes for opening remarks and then we'll have questions from members.

[Translation]

Mr. Larin will be speaking first.

Please proceed.

Prof. Gilles Larin (Chairman, Research on Public Finance and Taxation, Professor, Université de Sherbrooke, As an Individual): Good morning, my name is Gilles Larin, and I am a professor at the University of Sherbrooke and Research Chair on Public Finance and Taxation. That chair was created in 2003.

I will be making my presentation in French, because my paper was written in French. According to what Mr. Pagé told me, the English translation is available and you should have it now. Since I only have 10 minutes, I will try to be brief.

My comments this morning will deal mainly with what are known as TIEAs, or Tax Information Exchange Agreements. My argument is that where administration of the Income Tax Act is concerned, the details are as important as the principles. In English, you might say: the devil is in the details. That is why I am proposing to discuss the content of the agreements recently signed by the Government of Canada on tax information exchange. We have looked particularly closely at the agreement signed on October 23, 2010 by Canada and

Switzerland; however, I also consider in my paper a variety of tax information exchange agreements signed recently by Canada.

My goal is to determine to what extent these agreements are consistent with the international standard, and which is the OECD standard, which I will explain in a few moments. The international standard is in keeping with similar documents signed by some of our trading partners. The overall objective is to determine the effectiveness of such agreements. At the end of my brief, I make six or seven recommendations to the committee that I would like you to pass on to the Department of Finance and CRA, because those two departments—and particularly the Finance Department—are responsible for negotiating tax treaties and protocols.

Why exchange tax information? Because this is a critical tool for creating fairness in the Canadian tax system. This is explained in an excerpt from an OECD document that I will not read now, but which can be found in the middle of page 1. It really isn't that complicated; it's the principle of free flowing information, because the taxes that are not paid by those who should be paying them will be paid by people who should not have to pay them.

What distinguishes a tax treaty from a tax information exchange agreement? To save time, I will designate them by the acronym, TIEAs.

A tax treaty is an agreement between two signatory countries on the shared right to collect taxes. One of the results is avoidance of double taxation—in other words, that the same income is not taxed twice by both countries that have signed a bilateral tax treaty. Tax treaties are based on one of two models: the OECD model which, in practice, governs relations between developed countries, or the United Nations model, which is different and governs relations between developed countries and emerging countries, or between emerging countries. I initially used the dating back to the 1950s expression “developing countries”, but it is no longer in fashion. Now we talk about emerging countries, so I will make that substitution.

An agreement is used to formalize arrangements for information exchange between two countries that have not signed a tax treaty. A TIEA is necessary when, because of the economic relationship between the two countries, the range of provisions found in a tax treaty is not advisable or appropriate, even though information exchange is desired.

Thus, TIEAs are used to formalize information exchange arrangements between developed countries or emerging countries, and tax haven countries. I will have some amusing comments to make a little later regarding TIEAs between tax haven countries.

The Vice-Chair (Mr. Massimo Pacetti): I just want to let you know that you have already used almost six minutes.

Prof. Gilles Larin: All right, I am going to summarize. In any case, you have read the brief.

Our analysis dealt with key components that define the purpose of a TIEA—namely, the burden of proof, the types of taxes that can be subject to a request, the legal criteria that apply to a request, the required documentation, control of information and the obligation of states to cooperate.

Following a review of these conditions under the OECD standard, we compared our results with conditions laid out in the Canada-Switzerland Protocol.

It is important to mention that the documentation requirement in the Canada-Switzerland Protocol for an information exchange request is stricter than the OECD standard. Both the taxpayer and holder of the information must be identified, which is not often the case for other protocols, such as the one signed by the United States and Switzerland or the protocol between Germany and Switzerland.

However, there have been some minor changes recently which were published on the site of the Swiss Parliament, following pressure from the OECD Transparency Committee, which strongly recommended, along with the G-20, that the protocol as adopted on October 23, be made less stringent with respect to the conditions for obtaining information. That information is not provided in the paper I have presented. The Swiss document only appeared on the Internet on February 15, and our paper had already been completed by then. However, I can provide further information in that regard during the question period.

In other words, in my opinion, the Canada-Switzerland Protocol, as signed—it has been signed but not yet ratified—by the Government of Canada and Switzerland, is somewhat lacking. The best way to explain that might be with an image: compared to the U. S., Canada is a dwarf as far as its rights go, while the United States is a giant, given what it was able to negotiate with Switzerland and the coercive power it has secured over Swiss officials in the agreement they signed.

Finally, you can have a look at the material that appears in Appendix A. It's fairly dense, but it lists the countries with which Canada currently has a tax treaty, and on the left the decade and year they came into effect are indicated. As you will see, most of them go back a long way and need to be reviewed.

On the right, in the second line, you have a summary of agreements and TIEAs. There is a whole series of TIEAs mentioned. At the bottom of the page, 15 or so are listed that have been signed in the 2010 decade. Of those countries with which Canada signed an agreement in 2010, none is a tax haven, of course: Anguilla, the Bahamas, Bermuda, Dominica, the Cayman Islands, and so on. I hope you understood that was a joke.

I will move directly to the recommendations that flow from our analysis. They are on page 7 of the brief.

We would like to see a regular review mechanism to examine the effectiveness of the information exchange provisions in the various

protocols, as well as the many, hastily signed TIEAs that the government wants Parliament to ratify.

● (0855)

Among the TIEAs that appear in the appendix, only one is currently in force. It's the first one on the list. It's the agreement with the Netherlands and the Netherlands Antilles, or at least what remains of them since they were broken up.

Are you stopping me here, Mr. Chairman? That's fine.

● (0900)

The Vice-Chair (Mr. Massimo Pacetti): Mr. Larin, we have your recommendations. Members will be asking questions. Is that all right? Thank you.

Prof. Gilles Larin: Would you like me to stop there?

The Vice-Chair (Mr. Massimo Pacetti): Yes, please. Thank you.

[English]

From the Canadian Bankers Association, Ms. Fung, you will be giving the presentation? Okay. Go ahead for 10 minutes.

Ms. Nancy Fung (Vice-President, Banking Operations, Canadian Bankers Association): Good afternoon.

My name is Nancy Fung, and I am the vice-president of banking operations with the Canadian Bankers Association. I am accompanied today by my colleague, Darren Hannah, director of banking operations. We would like to thank the chair and the committee for the opportunity to be here today.

The Canadian Bankers Association works on behalf of 51 domestic chartered banks, foreign bank subsidiaries, and branches of foreign banks operating in Canada. Despite the turbulent economic environment of the last few years, Canada's banks have remained strong and continue to contribute substantially to the economic health of this country. Banks employ more than 260,000 Canadians, and full-time bank employment has increased 27% in the last 10 years.

The banking industry's contribution to Canada's GDP continues to grow, from 2.9% of GDP in 2004 to 3.8% in 2009, which is equal to \$55 billion. Between 2004 and 2008, Statistics Canada data show that banks and other deposit-taking and investment companies paid \$36 billion in corporate income taxes, representing 14% of all corporate income taxes paid in Canada in those years. In 2009, the six largest banks alone paid \$7.5 billion in taxes to all levels of government in Canada.

Banks pay all taxes due on their business income in Canada and in other countries where they do business. Like many other Canadian businesses, banks are growing their business operations both in Canada and in other countries. By competing globally and earning foreign income, they generate economic benefits in Canada, such as more highly skilled, high-paying head office jobs and higher profits from which dividends are paid to Canadian shareholders.

All Canadians benefit from the success of Canada's banks. Most Canadians are shareholders in Canada's banks through the Canada and Quebec Pension Plans, their employer pension plans, RRSPs, mutual funds, and direct investments. In 2009, banks returned more than \$11 billion in profits as dividends to their shareholders, who include the more than 17 million Canadians who own bank stocks through their membership in the CPP. Bank stocks are a key component of equity investments held by most private and public pension plans and mutual funds.

We are pleased that the House finance committee has taken the opportunity to review the important topic of tax evasion. And I want to be abundantly clear about this topic on both fronts.

First, Canadian banks do not promote tax evasion by their clients in Canada or in any other country. In fact, banks have policies and procedures in place to ensure the products and services they offer are not used for the purpose of evading taxes. Banks fully comply with the letter and the spirit of all laws, regulations, and reporting requirements designed to detect and prevent tax evasion.

Second, just as Canadian banks do not promote tax evasion among their clients, Canadian banks themselves do not evade taxes. They firmly adhere to the laws in Canada and in other jurisdictions where they carry on business, including laws that are designed to deter illegal activities such as tax evasion.

Banks are subject to regular oversight by Canadian tax authorities and the banks' prudential regulator, OSFI. Their corporate governance structure includes management and board committees, which oversee risk management, including compliance with tax legislation. I can assure you that banks take these two responsibilities very seriously. Tax evasion is bad business, and reputable financial institutions want no part of it.

I would like to take a few minutes to comment on measures that have been taken to prevent tax evasion.

The OECD has taken a leading role in developing international standards to enhance tax transparency. In 2000, the OECD established the Global Forum on Transparency and Exchange of Information for Tax Purposes. The objective of the global forum is to ensure that all jurisdictions fully implement the international standards on transparency and exchange of information.

The core product of the global forum is a standard for tax information exchange that provides for information exchange on request, including bank and fiduciary information. Put simply, what that means is that any information exchange agreement meeting the global forum standard includes a provision that empowers each government that is party to an agreement to ask another government to obtain and provide information about specific taxpayers, including banking information, if it has reason to believe the taxpayer is evading tax.

This approach to combatting tax evasion is working.

● (0905)

The work of the global forum has accelerated since the G-20 placed emphasis on tax information exchange as the key component to addressing tax evasion. The OECD indicated recently that since 2009, more progress towards full and effective exchange of

information has been made than in the past decade. Between April 2009 and February 2011, the number of countries identified as not having implemented the standard shrunk from 44 to 9. Equally important is that all nine of these countries have committed to implementing the standard.

Canada has taken the leading role in this initiative. Canada has built on its already substantial network of tax treaties by concluding tax information exchange agreements with 14 jurisdictions, including several low-tax jurisdictions such as the Cayman Islands, Bermuda, and the Bahamas, and it's negotiating agreements with 11 others. In all cases, the agreements provide for the mutual exchange of tax information that is possessed by or accessible to the taxation authorities of either jurisdiction, in order to better administer and enforce taxation laws and to prevent international fiscal evasion.

In short, the Canadian government has made it a priority to ensure that it has the ability to investigate instances where tax evasion may be taking place. We encourage the government to pursue more such agreements. The government has also taken action domestically to better utilize the tools that are already available to help identify and take action on transactions that may be linked to tax evasion. In the 2010 federal budget, the government made tax evasion a predicate offence under the Criminal Code. If financial institutions suspect a transaction relates to laundering money received as a result of tax evasion, it must report those suspicions to FINTRAC. Again, we support this measure.

Although Canada already has a strong and robust system for dealing with tax evasion, certainly it can always be made better. For example, there may be ways to build on Canada's extensive network of information exchange agreements with other countries by expanding the network to include more jurisdictions. Alternatively, the government could consider incorporating the automated information non-resident reporting features that exist in the Canada-U.S. tax treaty into tax treaties and information exchange agreements with other countries. The committee may wish to explore these and other options as you weigh the evidence you have received and make your recommendations.

Thank you for your attention. We would be pleased to answer any questions members of the committee may have.

The Vice-Chair (Mr. Massimo Pacetti): Thank you, Ms. Fung.

We'll go directly to the members. The first round will be seven minutes, including questions and answers. If you would keep your answers brief, I think some of the members may appreciate it.

Mr. Szabo, *vous avez sept minutes, s'il vous plaît.*

Mr. Paul Szabo (Mississauga South, Lib.): Thank you.

I think both of you are interested in promoting tax information exchange agreements. Are you aware of any success stories or performance measures with regard to TIEAs that currently are in place?

The question is for both of you. Each of you can have a little say. Go ahead.

Prof. Gilles Larin: I'm not aware of any.

Mr. Darren Hannah (Director, Banking Operations, Canadian Bankers Association): No, I'm not aware of the metrics the government uses to track success in these. We're certainly happy that they're going forward with it, but I don't know exactly how they go about assessing how successful it has been.

Mr. Paul Szabo: That seems to be a problem then. If you don't know whether something works, and you know what the magnitude is, and you have no measures of success and no deliverables, to say let's have more of them seems to be a black hole.

Prof. Gilles Larin: May I intervene?

If I look at the protocol that was signed by Canada with Switzerland—and as I was saying earlier, the devil being in the details, I have the administrative requirements that Switzerland insists upon before answering questions from Canada Revenue Agency. This is fresh off the press from the Swiss authorities.

It says that Canada, for instance, would have to identify the taxpayer. This identification can be established not only on the basis of a name and address of the taxpayer who is being checked up on but also—and this is the important word, “exceptionally”—on an exceptional basis, on the basis of a bank account number. This was something that Mr. Owens....

● (0910)

Mr. Paul Szabo: Let's just check on whether the Canadian Bankers Association has any comments.

Mr. Darren Hannah: From our point of view, information exchange really is the key thing. It's what was identified by the G-20. It's what was identified by the OECD. It's the approach that everyone is taking to try to deal with the issue.

Can it be enhanced upon—

Mr. Paul Szabo: Just on that, are you aware of why the G-20 decided that was the key thing?

Mr. Darren Hannah: I believe—I believe—it is because information is what's necessary in order to try to—

Mr. Paul Szabo: It's intuitive.

Mr. Darren Hannah: It's intuitive.

Mr. Paul Szabo: But there's no evidence.

Prof. Gilles Larin: I can offer some suggestions.

Mr. Paul Szabo: I'm sure.

Voices: Oh, oh!

Mr. Paul Szabo: My time is running out.

Ms. Fung, your last statement was about the “automated information non-resident reporting features” that exist in the Canada-U.S. tax treaty, and that we may want to consider exploring it.

Are you aware of any features of our relationship with the United States, or other agreements, that permit that but that may not be existent in other countries, and in fact would not facilitate such an automated exchange?

Ms. Nancy Fung: No, not that I'm aware of.

I would defer to Mr. Hannah on that. He is more familiar with the exchange details.

Mr. Darren Hannah: Sure.

I can't speak specifically on specific conditions. Obviously Canada and the U.S. have a very close relationship, but I think our view is that if one is looking to try to enhance these and make them more effective, that perhaps is a model that can be explored.

Are there barriers in other places? There might be. I don't know. But I think it's something worth exploring.

Mr. Paul Szabo: Okay.

One of the statements you made, Madam Fung, was that banks don't promote tax evasion.

Ms. Nancy Fung: Right.

Mr. Paul Szabo: Thank you.

But your institutions are instruments for tax evaders. What banking protocols, etc., extraordinary protocols, might be taken by the banks to safeguard to the greatest extent possible while protecting privacy in all the other matters that are important in a banking relationship?

Ms. Nancy Fung: I think it's common practice for our banks, when someone comes in and tries to open an account, to go through their normal “know your clients” protocol. In addition to that, if there's any suspicion of tax evasion or money laundering, they are obligated to report that.

I think probably the last place a tax evader would go to do tax evasion would be the bank.

Mr. Paul Szabo: Really. Do you have information supporting that conclusion?

Ms. Nancy Fung: No. The reason I indicate this is that given these particular procedures, I'm sure there are other ways of doing tax evasion without having to—

Mr. Paul Szabo: All right.

I have one last quick question, and it's for either of you.

We have bilateral trade agreements with 90-odd countries, if not more. Do you believe those trade agreements also should incorporate commitments to provide tax information sharing?

Prof. Gilles Larin: I do.

Mr. Darren Hannah: I can't say that we've really thought the issue through one way or the other. It's an interesting question, and it's one we can explore. I think our view is that whether it's done through a trade agreement or a stand-alone agreement, we're certainly strong supporters of information sharing.

The Vice-Chair (Mr. Massimo Pacetti): You have 30 seconds.

Mr. Paul Szabo: Okay.

Well, I think that's helpful. If you have a trade agreement, obviously there is a mutual interest and there is a cooperative relationship, at least to the extent of the trade elements. But if the relationship in fact is sound, and the values are consistent, would you not think that tax-sharing or information-sharing agreements, or other protocols with regard to tax evasion, would be useful to incorporate into the discussions on trade agreements—at least to pursue the possibility of having information-sharing agreements?

• (0915)

Mr. Darren Hannah: It's an interesting question. It's not one we've looked into. I think one would want to look in and see what the implications of that would be. I've never really thought it through.

Again, our view generally is that information exchange is a good thing. What the mechanics of that are in relation to a trade agreement is an interesting question. I just don't have an answer.

The Vice-Chair (Mr. Massimo Pacetti): Thank you, Mr. Szabo.

Prof. Gilles Larin: Can I put in my two cents' worth?

The Vice-Chair (Mr. Massimo Pacetti): Yes.

Prof. Gilles Larin: A bilateral trade agreement is one thing. It has nothing to do with a tax treaty, which protects people from both countries from double taxation and doesn't provide for any exchange of information.

So there are two separate issues. The reason I said that they should be part of a bilateral trade agreement...it's especially true in a case where we don't have a tax treaty with that country.

[Translation]

The Vice-Chair (Mr. Massimo Pacetti): Mr. Paillé, you have seven minutes.

Mr. Daniel Paillé (Hochelaga, BQ): I really liked the connection you made when you said we have to find out which people are not paying taxes who should be paying them, compared to the ones who are paying them and should not be paying them. That is the whole basis of a tax policy.

In your brief, you draw a clear distinction between a treaty, a protocol and an agreement. They are three separate things. You can have a tax treaty, but a treaty without a protocol is not worth much. Is that right?

Prof. Gilles Larin: It is, unless the treaty contains a provision that incorporates the equivalent of a protocol.

Mr. Daniel Paillé: So, it is possible to have treaties without a protocol. In other words, you have the power to seek information, but if you cannot exercise it, you won't get very far.

On page 6, you said something that struck me, and that is why this kind of analysis is necessary. You say that there is a new OECD standard according to which tax havens that sign 12 TIEAs will be removed from the grey or black list and added to the white list.

First of all, 12 agreements doesn't seem like much out of a total of 192 countries. Furthermore, they are signing agreements among themselves. What is sauce for the goose is sauce for the gander. You scratch my back, I'll scratch yours, as they say. That's the way it works.

Prof. Gilles Larin: What is even more interesting about that—and this is what I said I would come back to later—is that an agreement exclusively between tax havens was signed in 2010.

Mr. Daniel Paillé: Yes, that's what I mean. Tax havens are like street gangs signing an agreement among themselves.

Prof. Gilles Larin: Exactly.

Mr. Daniel Paillé: In Appendix A of your brief, you clearly show that, out of a total of 192 countries—and this is a figure you mention elsewhere—there are some 92 treaties, four of which are not in force. That is in the first two columns of your appendix and goes back a number of years. There are 25 TIEAs and only one is in force in a country that is shrinking. There are another 11 agreements which are just words and are not in force, precisely because they're just words, and 13 others have been signed, but are not in force.

Prof. Gilles Larin: That's correct. They haven't been ratified.

Mr. Daniel Paillé: They haven't been ratified.

Why are the agreements which have been signed not in force? Can you give me a short answer to that question?

Prof. Gilles Larin: In my opinion, to ask the question is to answer it.

Mr. Daniel Paillé: That's a very good answer.

You looked at the position taken by Switzerland. We are not talking about corporate bums here. We don't expect Switzerland to be a country of corporate bums. Yet you say that, as regards information exchange, the documentation requirement is “stricter”. What I would like you to clarify is the term you've used. Does the word “stricter” mean that it's not as easy for the CRA to obtain information from them? It's not “stricter” in the sense of being able to catch them quicker.

Prof. Gilles Larin: Exactly. It's not “strict” in the sense of “serious”. It's precisely the opposite.

Mr. Daniel Paillé: So, it's more difficult for the CRA to recover money through the protocol with Switzerland.

Also, you say on page 5 of your brief that the protocol with Switzerland prohibits “retroactive information exchange”. That means that you can't go back in time even if you find something.

• (0920)

Prof. Gilles Larin: That's correct.

Mr. Daniel Paillé: One thing has not been mentioned, however. On page 5 of your brief, you say that “Switzerland categorically refuses to help when an information exchange request is based on stolen data”, whether it is from informants or whistleblowers.

That means that the entire whistleblower system is not recognized by Switzerland.

Prof. Gilles Larin: Exactly.

Mr. Daniel Paillé: And that means that we couldn't use the HSBC list that we have received, for example, and which somewhat motivated this investigation and others, since Switzerland does not recognize it.

Prof. Gilles Larin: That's right. In fact, France and Switzerland have actually reached an agreement regarding stolen banking information.

Mr. Daniel Paillé: And who says that...?

Prof. Gilles Larin: And who says that France will comply by providing a copy of that information to Swiss authorities, that it will decide not to address a request for administrative assistance based on that information to Switzerland, and that it will ask third countries, like Canada, to which it has provided that information, not to use it.

Mr. Daniel Paillé: There is some lobbying going on at the international level by some people on your left.

Prof. Gilles Larin: That is your interpretation, Mr. Paillé.

Mr. Daniel Paillé: Probably. It is one interpretation and I have every right to voice it.

You say that you compared the protocols signed by Switzerland and the United States and by Germany and Switzerland, and that we basically look pretty pathetic compared to the others. Why is that? Is this another case where to ask the question is to answer it?

Prof. Gilles Larin: Yes, but to put it more politely, I would say that it's because Canada's bargaining power is not equal to that of Germany in relation to Switzerland, nor to the United States, in relation to Switzerland.

Mr. Daniel Paillé: On page 6 of your brief—again, the devil is in the details, so to speak—you say that we are not able to secure information regarding income from dividends, royalties or capital gains. And you add that this may happen in 2018. But in 2018, none of them will still be around. And we hope we won't either.

Why wait so long to tackle what is clearly source income? Recovering 2% interest is not important; what's important are dividends, royalties and capital gains.

Is that your interpretation?

Prof. Gilles Larin: You are referring to—

Mr. Daniel Paillé: This is on page 6, at the beginning of the first paragraph.

Prof. Gilles Larin: At the beginning of the first paragraph?

Mr. Daniel Paillé: Yes. You say that “automatic information exchange” does not apply to dividends.

Prof. Gilles Larin: Yes, right. Automatic information exchange does not apply under the TIEAs that are currently in force.

Mr. Daniel Paillé: That's right.

Prof. Gilles Larin: Automatic exchange applies only to European Union member countries.

Mr. Daniel Paillé: And Canada considers a TIEA to be a treaty, which really means that it isn't one, based on your analysis.

Prof. Gilles Larin: Yes.

Mr. Daniel Paillé: I want to come back to your recommendations, because my time is almost up now.

You make four types of recommendations. First of all, you say that TIEAs should include a regular review mechanism in order to avoid fast tracking. The second, third and fourth recommendations deal with key indicators. In your fifth recommendation, you say the Agency should do its job and undertake a review of tax treaties. As we say, some of them go back to 1960. Yet very few people in this room today were actually around in 1960. The sixth recommenda-

tion is that, if talks do not result in a protocol, the government should “take the necessary action to repudiate the convention”.

Has Canada ever repudiated a tax convention?

Prof. Gilles Larin: No, not to my knowledge.

The Vice-Chair (Mr. Massimo Pacetti): Thank you, Mr. Paillé.

[English]

Madame Glover, seven minutes.

[Translation]

Mrs. Shelly Glover (Saint Boniface, CPC): Thank you, Mr. Chairman.

[English]

I have a comment to begin with. First of all, welcome to all the witnesses. *Bienvenue*.

I have a comment about the recommendations that Monsieur Larin has made. I've noted, when I was reading them, that as a professor you've suggested study, study, review, review. Yet that, to me, is not going to be actionable to actually get to the source of the tax evasion and, frankly, hold them to account. We can do all the reviews and studies and whatnot we want, but in the end we have to go after those people who are responsible for these criminal activities. It's criminal. Tax evasion is criminal. I just wanted to make that comment. But I do appreciate your research, and I know you spent time at a conference recently in June 2010 with some other experts, and I would love to have more than seven minutes to talk about what those experts had to say as well.

I do have to look at what was said in committee already, and I'm going to focus more on some of what the other witnesses have said who are not interested in just studying the issue but are actually looking at some tangible steps forward. Dr. Hejazi was here and he talked about the fact that the Canadian government has a record for trying to do the right thing, which I appreciated hearing. But he had a quote, and I'd like to read that: Canadian tax revenue “would go down”. He's referring specifically to the fact that Canadians talk about using offshore jurisdictions legally, and if we removed the ability of Canadians to use offshore jurisdictions legally, Canadian tax revenue would go down. He also said, “I argue it would go down because the income generated would fall because Canadian companies would not be as productive and competitive. Secondly, many Canadian companies would actually leave Canada...”

I'm going to ask the banks if they agree. If legislation were changed to prevent Canadian companies and banking institutions from accessing offshore financial centres, would Canadian competitiveness suffer? And do you believe that some companies would actually leave? We do have examples of Canadian companies that come back because of our system, but if we eliminated the possibility of them actually using legally those offshore systems, what do you think would happen to those companies?

● (0925)

Ms. Nancy Fung: I guess one option is that they would leave. I guess the second option would be that there would be less investment globally and we would be less competitive. So we are in full agreement with Professor Hejazi's comments.

Mrs. Shelly Glover: What happens to the workers and consumers when companies leave? What happens when competitiveness is reduced?

Ms. Nancy Fung: I guess those workers would need other jobs.

Mrs. Shelly Glover: There would be a loss of jobs. Would there be an effect on consumers if companies started to leave?

Ms. Nancy Fung: It might result in increased prices for the consumer, since there would be less competition. Again, I'm just kind of stating what I believe is the obvious. Unfortunately, I'm not Professor Hejazi, and I'm not speaking from that expertise.

Mrs. Shelly Glover: But I appreciate your opinion. It means a lot. I think a lot of Canadians might agree with you.

In an article in *The Globe and Mail* last November, Jack Layton was quoted as citing a Université de Montréal study. It was entitled:

[Translation]

Les banques canadiennes et l'évasion fiscale dans les paradis fiscaux - 16 milliards de dollars d'impôts éludés.

[English]

That was from Léo-Paul Lauzon and Marc Hasbani.

He incorrectly suggested that "Canada's Big Five banks avoided paying \$16-billion in income taxes between 1992 and 2008." In that article, CBA's vice-president of communications, Robin Walsh, was quoted as describing the study as being "discredited by leading tax experts". He stated quite clearly that:

Some foreign-earned profits and dividends are exempt from taxation in Canada because they have already been taxed elsewhere: otherwise these profits would be taxed twice.

Tell me what you think of this suggestion that the banks avoided paying \$16 billion in income taxes. We believe that's incorrect, and I'd like your opinion on that.

Mr. Darren Hannah: It's fundamentally incorrect. The banks do not evade tax. The banks have paid tax in all the jurisdictions in which they are operating.

The inference being made is that somehow the fact that they are operating in jurisdictions that have tax rates lower than Canada's means they have evaded tax in Canada. That is simply not true.

Mrs. Shelly Glover: What would happen to the banks if the corporate tax rate, as the Liberals are suggesting, were raised from 16.5% to 18%? It has everything to do with what we're talking about here today.

Mr. Darren Hannah: We are strong supporters of the government's plan to make the Canadian tax system more efficient and more competitive. We believe that helps all Canadian companies. We believe that helps Canadian entrepreneurs. It helps the economy grow. It helps produce new investment in Canada. It helps increase productivity, and that creates the high-paying, high-sustainable Canadians jobs for Canadians.

● (0930)

The Vice-Chair (Mr. Massimo Pacetti): You have 45 seconds left.

Mr. Daniel Paillé: It just seems longer when you speak, Shelly.

Mrs. Shelly Glover: Aren't they friendly this morning, Mr. Chair?

[Translation]

Mr. Larin, we don't have time to do this today, but I would like to find out more about the best practices you addressed at your conference. In your presentation, you provide opinions and talk about your research, but there were experts from all over at the conference last June, and I would like to know if you have a document on best practices and, if so, if you would agree to make it available to us.

Prof. Gilles Larin: It's possible. I will be pleased to send it to you if I have one. I will have a look in my archives. It goes back some time.

Mrs. Shelly Glover: Thank you very much.

The Vice-Chair (Mr. Massimo Pacetti): Thank you, Ms. Glover.

Mr. Larin, you can send the material to the clerk and he will make it available to committee members.

Mr. Mulcair, you have seven minutes.

Mr. Thomas Mulcair (Outremont, NDP): Thank you, Mr. Pacetti.

My question is addressed to Mr. Hannah.

[English]

Madam Glover talked to you about a study by Léo-Paul Lauzon, and you gave a very specific answer. Did you read Léo-Paul Lauzon's study—yes or no?

Mr. Darren Hannah: I've read excerpts and the summary. I haven't read it in full.

Mr. Thomas Mulcair: So you didn't read it. Thank you. That's what I thought when I heard your answer. You did not read it, but you have a hard and fast opinion about it.

[Translation]

Good morning, Professor Larin. It's a pleasure to see you here today.

When you addressed this question for the first time before the holidays, you explained to Canadians that the government's explanation, when it said it had signed an agreement, notably with Switzerland, should not be taken at face value. Your analysis was that there is some window dressing involved here. Since we're not in a classroom and 10 minutes go by very quickly, I would like to offer you some of my speaking time to continue your explanation of how you see this issue.

Prof. Gilles Larin: I was referring there to the statement made by Mr. Harper the following morning, when he extolled the virtues of the protocol signed with Switzerland.

[English]

He didn't read the devil that was in the details.

Mr. Thomas Mulcair: I'll stay away from the devil imagery, but I will let you provide the details.

Prof. Gilles Larin: Because of the multiple administrative obstacles—

[Translation]

Mr. Thomas Mulcair: You can continue in French. We have an interpretation service for people who require it.

Prof. Gilles Larin: Under that protocol, Switzerland is forcing Canada to comply with certain administrative requirements before it is able to obtain information. That's why I mentioned those details. It is clear that Prime Minister Harper did not have time to read the protocol and was not aware of its content when he made those comments, because had he read it, he would not have said what he did.

As I said earlier, I had started to talk about the different administrative requirements—and I will come back to this—related to the CRA's ability to obtain information. In terms of Switzerland's requirements, I was saying that the Government of Canada will, on an exceptional basis, identify the taxpayer on the basis of a bank account number—on an exceptional basis means rarely—and, where the information is available, provide the name and the address of the probable holder of the information—in other words, the bank in one of the Swiss cantons where the account is located. The administrative requirement concludes with this: “If the data under letter B—identifying the bank—are missing, the principles of proportionality and practicability will apply to the search for that identifying information by Switzerland”.

Mr. Thomas Mulcair: What does that mean in clear language?

Prof. Gilles Larin: In clear language, it means this.

• (0935)

[English]

They'll think about it.

A voice: Oh, oh!

[Translation]

Mr. Thomas Mulcair: Part of the challenge we're facing is the reality of banking rules in another country. Another challenge is the whole internal aspect—by that I mean the measures put in place by the Canada Revenue Agency. We know that there have been some challenges in Montreal, and they made the headlines again yesterday. We also met with law enforcement agencies, like the RCMP, and the people responsible for FINTRAC, which plays an interesting role in that area.

At this time, in the different countries—other than the documents signed with other jurisdictions that are binding on us—are there some relatively practical steps that you've looked at that could be implemented? You make recommendations regarding international

agreements, but here in this country, have you become aware of areas that need improvement?

Prof. Gilles Larin: I'm thinking of my former students. I have trained some 1,500—tax specialists, 300 of whom went to work for the two levels of government, and the others are scattered all across Canada.

Mr. Thomas Mulcair: I guess there must be some who are in Switzerland as well.

Prof. Gilles Larin: In order for Canadians to pay as little tax as possible... Sorry, I lost my train of thought.

Mr. Thomas Mulcair: The question is not where those 1,500 people are that you referred to, but rather, whether you have any recommendations to make with respect to what can be done here in this country.

Prof. Gilles Larin: Yes. I think the CRA took important action four years ago when it set up 11 administrative centres where they have consolidated different types of expertise for the purpose of verifying financial statements, income tax returns and the forms that have to be produced by foreign companies, like the T106 return. However, that is not enough. What is happening is that—

Mr. Thomas Mulcair: I would like to ask one last question, because the next turn will be shorter.

At our meeting with RCMP officials the other day, they told us they see potential problems with the takeover of the Toronto Stock Exchange by the London Stock Exchange in terms of permeability. In their opinion, it would be a problem if, rather than stock exchange transactions being controlled here, they were suddenly to be controlled by the London Stock Exchange, which is actually controlled by its owners in the Middle East.

Yesterday, four of the largest banks in Canada expressed their opposition to that takeover. Do you see a problem there in terms of our tax control capacity?

Prof. Gilles Larin: In my opinion, the more control slips away and ends up in the hands of people who are not industrialized countries, the less likely it is that the OECD standards will be adhered to. Insofar as that is the case, even though it is only hypothetical, it might, indeed, be a concern.

Mr. Thomas Mulcair: Thank you very much.

The Vice-Chair (Mr. Massimo Pacetti): Thank you, Mr. Mulcair.

[English]

Mr. Brison, for five minutes.

Hon. Scott Brison (Kings—Hants, Lib.): Thank you very much, Mr. Chair, and thank you very much to our witnesses today.

My first question is in terms of TIEAs, tax information exchange agreements. When we negotiate FTAs, should we be making the FTAs conditional upon negotiating or ratifying TIEAs at the same time? It strikes me that having FTAs with Canada, for some developing countries, is quite an attractive proposition, given our position within NAFTA, and there may be developing countries that want access to the Canadian market but may be reticent to do a TIEA.

Should we be making that a condition of ratifying our FTAs with countries? Would that be advisable?

Prof. Gilles Larin: There are two parts to that question.

First, is it advisable? Yes, I think it is advisable.

What form it should take is another story, because the TIEAs can be set up according to one of two models, the UN model or the OECD model. The UN model puts much more emphasis on the needs of the developing countries, as opposed to that of the OECD, which is a boy's club, basically, of rich countries.

I don't know if we can backtrack over all the past FTAs and start imposing TIEAs on them, even on the UN model, but for new ones, anyway, I think it would be advisable. It would provide more security both to that country and to the Canadian tax authorities.

• (0940)

Hon. Scott Brison: We were told earlier this week by RCMP who appeared before committee that the principal operative forum for multilateral approaches on the whole tax evasion issue is still the G-8. In terms of law enforcement organizations globally, the G-8 is still the principal forum.

Prof. Gilles Larin: The G-8 has been sort of pushed aside and the G-20 are now in front of the table.

Hon. Scott Brison: Exactly, which was a question I asked the RCMP earlier this week: Why hasn't it been following the trend of the G-20, given the role the G-20 has played after the financial crisis?

As we develop recommendations for the government, do you believe one of those recommendations ought to be that the G-20 would be a good operative mechanism for international cooperation?

Prof. Gilles Larin: They certainly would be more representative than the OECD. It doesn't have the resources of the OECD. There are 4,000 employees at the OECD in Paris. That amazed me when I was there in the 16th *arrondissement*. There are 4,000 people working on all kinds of papers in all sectors, and the G-8 has whatever resources the country behind them has for research. But in terms of clout, they have much more clout than the OECD. The OECD has no clout except the clout of moral persuasion.

I think it would take a combination of both to somehow put together a system that would have the research experience of the OECD and the intensity of effort that could be brought into play by members of the G-20.

Hon. Scott Brison: At the G-20, the resource issue is something that could be addressed by member countries. That can be addressed.

Mr. Hannah, you perhaps unwittingly got drawn into a discussion on fiscal priorities. But do you believe the deficit and the record deficit and the growth in Canada's national debt to be potentially deleterious for the Canadian economy?

Mr. Darren Hannah: As I said before, we are strong supporters of the government's effort to create a competitive tax system—

Hon. Scott Brison: That's not the question.

Mr. Darren Hannah: Let me finish, please—because we believe that creates the kind of growth that ultimately grows the economy and starts to address the issue that you're trying to address.

Hon. Scott Brison: Why are you prejudging what I'm trying to address? I'm asking you a question about the deficit.

Mr. Darren Hannah: Yes, what I'm saying is the economic growth that is created by having a competitive tax jurisdiction will ultimately create the jobs and create the sort of prosperity that we need to be able to grow the economy and address the deficit.

Hon. Scott Brison: Yes, and that's why we cut corporate taxes from 29% to 19% when we were in surplus.

Mr. Darren Hannah: Absolutely.

Hon. Scott Brison: We have a deficit now, and that's something that 30 million Canadians have to deal with, not certainly the members of your organization—

The Vice-Chair (Mr. Massimo Pacetti): Thank you, Mr. Brison. You'll have another round later.

Thank you, Mr. Hannah.

[Translation]

Monsieur Carrier, you have five minutes.

Mr. Robert Carrier (Alfred-Pellan, BQ): Thank you.

Good morning to our witnesses.

I have some questions for our witnesses from the Canadian Bankers Association. You always make great presentations. It shows that you are a determined and well equipped organization. However, I find myself wanting more when I read your presentation, because you haven't really shown that tax evasion is very serious. Our committee took the trouble of initiating this study because it is a very serious matter for all Canadians and taxpayers who have to pay taxes, while some companies avoid doing so.

How many subsidiaries or branches do members of your association have in foreign countries and tax havens? Since that is the subject of our study, it is important that we have that information.

• (0945)

[English]

Ms. Nancy Fung: Unfortunately, we do not have that information with us. It's something that I can try to obtain and get back to the committee on, unless Darren has any additional information that I don't have on that.

Mr. Darren Hannah: Certainly we do not operate in bank secrecy jurisdictions, if that's what you're getting at. Canadian banks have branches in low-tax jurisdictions in some cases, absolutely, but certainly not in places where there is tax secrecy, where there is bank secrecy in the way that a classic tax haven is understood to be.

[Translation]

Mr. Robert Carrier: I'm just talking about tax havens—about branches operating in countries where the taxation level may be different. I'm talking about tax havens, not tax evasion. Do you have any information about the number of subsidiaries?

[English]

Mr. Darren Hannah: No, I don't have that figure with me, but I can tell you with certainty that they will be operating fully in compliance with the laws of the jurisdiction, wherever that is.

[Translation]

Mr. Robert Carrier: I am not passing judgement here. I just want to know the number. If you're not ashamed of it, you should at least have that information. It is critical for our study.

As you know, the Director of the HSBC in Canada appeared to talk about the recently disclosed information regarding the existence of Swiss bank accounts. Indeed, some 1,800 taxpayers had Swiss bank accounts through that subsidiary. I believe it was the President or Vice-president of the Canadian branch of the HSBC who appeared. He mentioned that when a Canadian investor wanted to invest money abroad, he would direct that person to his subsidiary in another country and simply wash his hands of the whole business. It was no longer his problem.

Do you approve of that attitude?

[English]

Ms. Nancy Fung: From what we hear from our member banks, that is the practice. Before even that piece in terms of referring them to the branch, they still follow the standard protocol of making sure they know who the client's customer is and also of determining the reason for their wanting to open an account. They do carry out preliminary due diligence on that before they would refer them to the branch.

[Translation]

Mr. Robert Carrier: Is that a requirement set by your association or is it up to each member organization to establish its own policy?

[English]

Ms. Nancy Fung: It is up to each bank. "Know your customer" rules are standard throughout the banks because of securities regulations and bank regulations. As for the actual procedures, they are determined by each of the banks.

[Translation]

Mr. Robert Carrier: You know that public opinion does matter. A lot of tax evasion occurs through Canadian banks. You know that.

We are trying to determine publicly how all of that works. Can you prohibit investments in branches of Canadian banks operating in countries that are on the OECD's grey list? The grey list refers to those countries where tax evasion is practised and with which there is no information exchanged.

Do you at least have the power to prevent investments by Canadian banks in countries that are on the OECD's grey list?

You refer to the OECD in your paper, but do you at least have that power?

[English]

Ms. Nancy Fung: Do you want to go into more detail?

Mr. Darren Hannah: I want to make a couple of points, because I think they're important.

We said in the opening remarks, and I'll say it strongly again: Canadian banks do not support tax evasion, they do not want to be involved in tax evasion, and they don't come near tax evasion. If somebody goes into a branch and appears even remotely to want to do something that entails tax evasion, that's going to set off all manner of alarm bells. It's going to cause a suspicious transaction report. It's certainly going to prompt a response, because a reputable Canadian bank does not want to get involved in anything like that.

● (0950)

[Translation]

The Vice-Chair (Mr. Massimo Pacetti): All right, thank you, Mr. Carrier.

Mr. Robert Carrier: They're just words.

The Vice-Chair (Mr. Massimo Pacetti): There will be another round, Mr. Carrier. You took more time than you were entitled to. Thank you.

[English]

Thank you, Mr. Hannah.

Mrs. Block.

Mrs. Kelly Block (Saskatoon—Rosetown—Biggar, CPC): Thank you, Mr. Chair.

I join my colleagues in welcoming you here this morning.

Throughout this study we have asked for witnesses to clarify the difference between the illegal use of tax savings and the legal use of offshore financial centres. In your opening remarks you stated that "Canadian banks do not promote tax evasion by their clients in Canada or in any other country. In fact, banks have policies and procedures in place to ensure that the products and services they offer are not used for the purpose of evading taxes". You went on to say that banks "fully comply with the letter and spirit of all laws, regulations, and reporting requirements designed to detect and prevent tax evasion".

So within the context of fully complying with the letter and the spirit of all laws, could you explain how Canadian banking institutions and businesses legally use offshore financial centres to expand into international markets?

Mr. Darren Hannah: Okay, suppose I'm a Canadian corporation, not a bank, a multinational corporation, manufacturer, mining company, forestry company, what have you. I want to expand abroad. I'm operating in multiple countries. I'm looking for low-cost capital to try to access new markets. It's often emerging markets. They can be high-risk. They're looking for affordable capital that they can use to become global champions. They will try to find the least-cost source. That least-cost source may be in a financial centre in another country, in part because of an attractive tax jurisdiction. They will go there looking for financing. If you're a financial institution and you want to help them grow and you want to help them become Canadian champions, you have to be there. That is the role these financial centres end up playing. They become an avenue through which Canadian corporations, manufacturers, resource companies can access the capital they need to expand the product.

Mrs. Kelly Block: Approximately how many Canadians have an offshore bank account, and what is the average net worth of these individuals?

Ms. Nancy Fung: We do not have that information. However, when we talk about offshore accounts, probably the majority of these accounts are in the U.S.

Mrs. Kelly Block: My next question is for the Canadian Bankers Association.

Dr. Hejazi was here at committee on March 3. He testified that

...the fact that Canadian companies are as competitive as they are in the global economy, with all of the measured benefits this situation has had on Canada by way of raising our GDP and raising our income per capita, has generated additional tax revenue. OFCs are working when they are used for legitimate purposes. Interfering with that would hurt Canada and would hurt tax fairness.

He went on to state that Canada has about \$500 billion in the global economy and that about 20% goes through offshore centres.

My question is whether you agree with Dr. Hejazi that the legal use of offshore financial centres is important to a healthy economy and that preventing access to these centres—in effect shutting off access to global markets—would hurt the Canadian economy.

Ms. Nancy Fung: Yes.

Mr. Darren Hannah: Absolutely. We believe that we should do everything we can to help create global champions in Canada. If that's one way of helping them expand, then that's a good thing.

Mrs. Kelly Block: How effective are the tax information exchange agreements in increasing tax transparency and in decreasing bank secrecy in tax havens and offshore financial centres?

• (0955)

Mr. Darren Hannah: It's interesting. Obviously, the fact is that this is a difficult measure, and it's subjective. But from our perspective, the more conduits for information you have, the more transparent the system becomes, and that's indeed why the OECD has talked about the progress it's made in the last couple of years in terms of transparency. Because there are so many more agreements, there are that many more channels through which information can flow, and that's a good thing.

Mrs. Kelly Block: Thank you.

The Vice-Chair (Mr. Massimo Pacetti): Thank you, Mrs. Block.

I have a couple of quick questions. I guess the first couple of questions would be for the Canadian Bankers Association.

My understanding is that you have a record of how many Canadians hold offshore bank accounts.

Ms. Nancy Fung: No, we do not.

The Vice-Chair (Mr. Massimo Pacetti): You do not. Would you be able to get us that information?

Ms. Nancy Fung: I don't believe so, no.

The Vice-Chair (Mr. Massimo Pacetti): Okay. Did you assume or do you know that most of them would be in the U.S.? That is not according to any statistics.

Ms. Nancy Fung: That's what our member banks told us. I guess a lot of people don't think of offshore as the U.S., but the number of snowbirds and individuals who travel to the U.S. I think validates that a majority of them would be in the U.S.

The Vice-Chair (Mr. Massimo Pacetti): In your brief you state that in the 2010 federal budget, the government made tax evasion a predicate offence under the Criminal Code, and you have to report those suspicions to FINTRAC. Would you know how many reports were made to FINTRAC and whether that was effective?

Ms. Nancy Fung: We do not.

The Vice-Chair (Mr. Massimo Pacetti): Would it be confidential? Would it be something we could get?

Mr. Darren Hannah: If you look in the FINTRAC annual report, they have data on the proportion of transactions they've gotten that were related to suspicious transactions, as opposed to large value. That's available, I believe, in the FINTRAC annual report.

The Vice-Chair (Mr. Massimo Pacetti): We'll have a look at that. Thank you.

When we had the HSBC people in the media regarding UBS bank, with the U.S. trying to get information.... The U.S. government and the Canadian government haven't been successful, from my understanding.

How do you balance protecting banking rights or your clients' rights with upholding the law? How do your member institutions balance all that? At what point do you say that you want to be good corporate citizens and provide the governments that are asking for information with whatever they need and cooperate with them and then balance that with the fact that clients have a right to privacy?

Ms. Nancy Fung: I think, first and foremost, above anything else, we need to comply with the laws of the jurisdiction, whether they be privacy or regulatory laws. That is why we encourage the information exchange and feel that it is a method that would allow a government-to-government exchange of information. That is why transparency is so important.

The Vice-Chair (Mr. Massimo Pacetti): Consistency of the government-to-government exchange of information would help your cause.

Ms. Nancy Fung: Yes, if there was an agreement.

[Translation]

The Vice-Chair (Mr. Massimo Pacetti): Mr. Larin, I have asked the following questions several times now: is there a legitimate reason for using banks that operate in tax havens?

Prof. Gilles Larin: It depends on what you mean by “legitimate”, but one of the characteristics is certainly—

The Vice-Chair (Mr. Massimo Pacetti): For example, if the purpose is to be competitive, as opposed to engaging in tax evasion.

Prof. Gilles Larin: This is a rather vague response, but I'd say that one of the characteristics of offshore financial centres is that there is generally a lack of transparency with respect to their administrative, legal or legislative provisions. That characteristic has no equivalent in Canada. In tax haven countries, there is no Security and Exchange Commission, nor is there any financial market authority. Therefore, it is easier to develop financing packages that would be impossible under Canadian or U.S. laws.

● (1000)

The Vice-Chair (Mr. Massimo Pacetti): We have been told that, in order to be competitive, international corporations have to open accounts in countries with very low taxation rates.

Prof. Gilles Larin: It's somewhat paradoxical that we have reached that point, because Canada does offer tax benefits, but they have a negative rebound effect on Canadian tax revenues. It's because of the administrative and legal loopholes in these tax havens—

The Vice-Chair (Mr. Massimo Pacetti): So, in your opinion, that argument doesn't hold water?

Prof. Gilles Larin: Well, there would have to be an effort made at the international level. As the Canadian Bankers Association pointed out, if Canada prohibits Canadians from using offshore financial centres while the residents of every other country in the world continue to have that right, it will be shooting itself in the foot. That's obvious. There would have to be a centralized effort made for such a thing to actually happen.

The Vice-Chair (Mr. Massimo Pacetti): Thank you, Mr. Larin.
[English]

Ms. Glover again.

Mrs. Shelly Glover: Thank you, Mr. Chair.

Mr. Massimo Pacetti: With your Liberal jacket, you get to go again.

Mrs. Shelly Glover: Gee, we're witty this morning.

What I wanted to comment about was that in all fairness to—

The Vice-Chair (Mr. Massimo Pacetti): It's not really difficult—

Mrs. Shelly Glover: Everyone always talks when it's my turn.

Voices: Oh, oh!

Mrs. Shelly Glover: It's so interesting to watch the chair forget that he has to control those members across the way.

A voice: But he's heckling too.

Mr. Thomas Mulcair: Are you the heckler or the “hecklee”?

Mrs. Shelly Glover: I wanted to comment with regard to something Mr. Brison brought up when speaking with Mr. Hannah. Mr. Brison brought up the fact that during surplus years there was a move towards reducing corporate taxes. Yes, I agree with that statement; however, when Mr. Brison claims they would stop all of that because we're in a deficit situation, I'm sorry, but Mr. Brison seems to forget that in 2009, during the budget, which restated the low-tax plan to reduce corporate taxes even further, the Liberal Party voted in favour of budget 2009, and in fact in favour of further reductions in corporate taxes. And that in fact was during a time of deficit.

Furthermore, that budget reiterated that we planned to be in deficit for the next few years. Why? Because there was a global recession. The biggest story in the last few years has been the fact that Canada has come out of a global recession better than has any other country in the G-7.

I would remind Mr. Brison of his voting record, and I would ask that he not interrupt; I think that's rude. I think his staff members laughing while we're having a meeting is rude.

I would beg the chair to do something about that, because he is responsible for controlling decorum in this venue.

In any event, I would ask Mr. Hannah to continue to talk. Mr. Mulcair had asked a question. I would like you to finish your answer, without being interrupted, with regard to the study I had mentioned earlier. If you would like to take the floor, go ahead.

Mr. Darren Hannah: Sure.

Mr. Lauzon comes to his conclusion by taking the statutory Canadian tax rate and then taking the effective tax rate that institutions pay on their worldwide income, and then taking the difference from that and concluding summarily that this is tax evasion. The reality of it is that while we've made progress in Canada towards a competitive tax system, we're still just in the middle of the pack in the OECD. So as a consequence, Mr. Lauzon decides that half the OECD is a tax haven, including most of western Europe and all of Scandinavia.

Prof. Gilles Larin: Please don't point to me when you say that.

Mr. Darren Hannah: Oh, I'm sorry. I did not. I did refer to Mr. Lauzon, not Mr. Larin. It's the Italian blood in me.

Mrs. Shelly Glover: Go ahead. Please continue.

• (1005)

Mr. Darren Hannah: Yes. So Mr. Lauzon makes a very sweeping conclusion that simply isn't supported by the facts.

Mrs. Shelly Glover: How did you come to know so much about this study, sir? I know, as a member of Parliament—I've been here a few years—that there aren't many members of Parliament who actually do all of their own research by reading everything that is put out, because we would never be able to come to committee or be in the House of Commons. But we certainly have staff who do the reading, who do the assessments, who do the summaries. Can you tell me how you came to these conclusions, sir?

Mr. Darren Hannah: I came to the conclusions because I've seen the analysis, I've seen the summaries, I've seen the translated.... Unfortunately, he only releases in French, and I don't speak French, so I can't read the original analysis. But I've seen the analysis, I've seen the summaries, I've talked to very informed individuals, both within the industry and more broadly, and these are the conclusions that have been arrived at. From my point of view, it makes sense.

Mrs. Shelly Glover: Very good. Thank you.

How much time do I still have?

The Vice-Chair (Mr. Massimo Pacetti): Exactly one minute.

Mrs. Shelly Glover: Okay, we'll continue.

[Translation]

Mr. Larin, we haven't really had much time to discuss your recommendations. We have them in front of us. As I said earlier, I would really like to know whether, other than by doing reviews and conducting studies, you have ideas about how we can catch the people—

Prof. Gilles Larin: I understand your question.

Mrs. Shelly Glover: You read my mind?

Prof. Gilles Larin: Yes, I read your mind.

Great Britain has an interesting policy in place that you might find appropriate. It is called the "name and shame" principle. You identify the people who engage in tax evasion by putting their picture on telephone poles all across London. And the name and picture of these fraudsters also appear on Parliament's website.

Mrs. Shelly Glover: Do you know based on what criteria they decide whose name and picture will be on the website?

Prof. Gilles Larin: Yes. They are people who have not complied with the requirements of the Act and British agreements when declaring their income.

[English]

The Vice-Chair (Mr. Massimo Pacetti): Merci, Madame Glover.

Monsieur Szabo, five minutes.

Mr. Paul Szabo: Thank you.

I wanted to go back to the U.S. situation, simply because being our largest trading partner, obviously a lot of resources have been dealt with. Senate committees have dealt with tax evasion and had a number of recommendations. In fact, with the subcommittee in the Senate, one of the recommendations was changes to the reporting requirements for domestic and foreign financial institutions, as well

as penalties for tax haven banks that impede U.S. tax enforcement or fail to disclose accounts held directly or indirectly by U.S. clients, and a longer statutory investigation period for the IRS.

The Senate Committee on Homeland Security and Governmental Affairs in the U.S. seems to think that it is worth going a little deeper on this. Do you have any suggestions with regard to whether or not Canada has to be a little more robust in its approach to dealing with tax evasion?

Mr. Darren Hannah: Where the U.S. was ultimately going and where they ended up was with something called the Foreign Account Tax Compliance Act, which is something they passed into law and it creates all manner of challenges for individuals and institutions internationally.

With that legislation what they want to do is assess a 30% withholding tax on all U.S. source income flowing to or through financial institutions anywhere in the world, unless they provide information directly to the IRS on U.S. persons who hold an account anywhere in the world with that institution.

The challenge with something like that is that it invariably ends up in a conflict of laws. The reason it ends up in a conflict of laws is that privacy legislation in Canada, as much as anywhere else, is predicated on the fact that I can only collect information that I need here to do my business. I have to get consent when I collect it, and I have to give consent when I provide it. And the only real exceptions to that are domestic, largely. Obviously there are arrangements made with CRA so the information can be sent to CRA on tax information of clients.

May I continue?

Mr. Paul Szabo: Let me move on, because on November 1, 2010, you wrote an e-mail and copied Ms. Fung, and it had to do with a CBA submission regarding the IRS matter to do with this.

One of the things you recommended to the IRS in the information you transmitted was that a risk-based approach to accounts be used so that you would skew resources to the higher suspicious activities, etc., and cut off on the others. This report went on for dozens of pages.

• (1010)

Mr. Darren Hannah: Fourteen. I wrote it.

Mr. Paul Szabo: You wrote it. You wrote 14 pages on tax evasion in the United States that states the position of the CBA to the IRS. Can you share with us the thinking on that? Because obviously it's relevant to our situation, but we haven't heard you mention this, and I'm curious as to why.

Mr. Darren Hannah: Point number one on it is that Canada and the U.S. have a very substantial information exchange agreement and tax treaty already in place, and we think that should be the conduit through which information should flow. Everything else that followed after that was in the instance that they simply did not go that way. A number of issues need to be resolved to try to be able to comply with this piece of legislation. And it talks in there at length about places where there are potential conflicts of laws—access to basic banking services, account opening requirements, privacy issues, withholding tax issues—all the complexities that are being created by the approach that has been taken to this issue by the U.S. Congress. And a number of other countries have raised and are raising the same issues.

And it's because what they have done is try to bypass the exchange of information between authorities and go directly to foreign financial institutions, and that's creating problems.

Mr. Paul Szabo: Okay.

The Vice-Chair (Mr. Massimo Pacetti): Thank you, Mr. Szabo.

Monsieur Mulcair, pour cinq minutes.

[Translation]

Mr. Thomas Mulcair: Thank you for the spelling change. It's a little like when people say "Farve" for the football player. His name is actually Favre, but Americans can't pronounce it. There are so many names out there like Auclair, Boisclair and Leclair, that people often end up pronouncing my name "Mulclair". However, my name is actually Mulcair. It's the name of a salmon river in Ireland.

Mr. Larin, you mentioned in your conclusions that the government should enter into memoranda of understanding with signatory states to ratify key performance indicators. I would appreciate some additional information in that regard.

Prof. Gilles Larin: The best way to do that would be to give you an example. In the United States—and this is not the case in Canada—it is quite routine to introduce what is called a sunset clause in new legislation.

Mr. Thomas Mulcair: Believe it or not, there is a French equivalent in Quebec for that term. It is "*clause crépusculaire*".

Prof. Gilles Larin: I know, but that doesn't strike me as a very good translation.

Mr. Thomas Mulcair: It's the best one they have found so far.

Prof. Gilles Larin: In my opinion, it's one of the best tax policy instruments developed by the Americans.

Mr. Thomas Mulcair: I agree with you.

Prof. Gilles Larin: We should use it consistently in Canada.

Mr. Thomas Mulcair: It's the obligation to review the usefulness of a specific measure.

Prof. Gilles Larin: Yes. After five years, if there is no evidence that the legislation has really worked, you get rid of it. You "flush" it, as we say in proper French.

Mr. Thomas Mulcair: In proper French, yes.

I want to come back to our previous discussion, because I think there are still some relatively simple things that could be done here from a banking perspective.

In our previous hearings, we discussed the possibility of requiring that people produce a return. No one is saying that it is illegal to have a bank account in another country. There simply has to be a requirement to declare it.

Prof. Gilles Larin: That is already on the reporting form.

Mr. Thomas Mulcair: Supposedly, but apparently people don't do it.

Prof. Gilles Larin: Nobody cares.

Mr. Thomas Mulcair: Or perhaps with a penalty.

Prof. Gilles Larin: Personally, I have never answered "yes" because it's true.

Mr. Thomas Mulcair: It's true that you have some?

Prof. Gilles Larin: It's true that I don't have any. You have to answer "yes" if you have some. But the question is not asked the other way around. That's true; you're right.

That is also what I read. I got the feeling from CRA officials that most people consider it to be optional—like just checking the box. They would answer "yes" or "no" and would live with the consequences if they said nothing.

• (1015)

Mr. Thomas Mulcair: Now I would like you to talk more specifically about what is currently being discussed at the European level and what components of that we should be incorporating here if we want the most efficient model. Perhaps we should say more about what you see on the horizon and what the most valuable initiatives seem to be in that area.

Prof. Gilles Larin: In my opinion, the European information exchange model is extremely effective. The reason it works is that it covers every country in the European Union, which is not the case in North America, where there are only two countries—Canada and the United States—which are not part of a customs union or other form of independent union.

Furthermore, what is interesting about the European Union's position on information exchange is that exchange is automatic. It is automatic, without there being any need for another country to request information. The government in receipt of money that appears to be connected to dubious activity automatically informs authorities in other European Union member countries.

In my opinion, as long as we have not adopted a standard like that, which is relatively binding, we will be caught—as Mr. Hannah was saying—in a maze of jurisdictional conflicts between the various privacy laws in place in every country.

In fact, I think the United States should also review the code of ethics that applies to professional advisors, like lawyers and accountants, who do planning for their clients. At this point, codes of ethics do not specifically prohibit the use of schemes of one kind or another.

Mr. Thomas Mulcair: One of the models used in the United States involves requiring that a company belonging to shareholders that is listed on the stock exchange include in its financial statements the potential cost of schemes of this nature, if they were to be deemed illegal. I found that interesting.

Prof. Gilles Larin: It is still only a draft.

Mr. Thomas Mulcair: No. It is in force in the United States. Quebec has been applying it for two years now.

Prof. Gilles Larin: You're talking about mandatory returns. In fact, I can say that I personally helped to convince the Quebec and Canadian governments to establish a system of mandatory returns even though the corporations that now have to comply with it may not like it.

Mr. Thomas Mulcair: But if—

The Vice-Chair (Mr. Massimo Pacetti): Thank you.

Mr. Thomas Mulcair: — that were included in generally accepted accounting principles, that could prove valuable.

Thank you, Mr. Chairman. You wanted to cut me off before I could assign certain obligations to accountants.

The Vice-Chair (Mr. Massimo Pacetti): Thank you, Mr. Mulcair.

Mr. Paillé, for five minutes.

Mr. Daniel Paillé: I am going to pick up right where Mr. Mulcair left off, but just before I do that, I would like to put the question in French which you are asked in English, Mr. Hannah, to be sure I understand.

You mentioned at least twice that you didn't read Professor Lauzon's study. That's what you said.

[English]

Mr. Darren Hannah: I've read an analysis of it. I've talked to people who have read an analysis of it. I've done my own analysis of the information as it's been presented to me.

[Translation]

Mr. Daniel Paillé: So, you didn't read Mr. Lauzon's study, and despite the resources available to you at the Canadian Bankers Association, no one had it translated for you.

[English]

Mr. Darren Hannah: I've said, I've read parts of it. I've read the parts that—

[Translation]

Mr. Daniel Paillé: You are the Director of Banking Operations for the Canadian Bankers Association. What training is required for that position?

[English]

Mr. Darren Hannah: I have an MBA.

[Translation]

Mr. Daniel Paillé: What is your area of expertise?

[English]

Mr. Darren Hannah: I have an MBA in finance and a master's degree in economic development.

[Translation]

Mr. Daniel Paillé: Thank you.

The purpose of this committee meeting is to examine tax evasion and offshore bank accounts. Ms. Fung, I was surprised to see that you were unable to provide figures regarding the number of foreign

bank accounts held by your clients in response to my colleague's question. I used the terms “clients” because I consider you to be a bank lobby.

To go back to what Mr. Mulcair was saying earlier, I would like you to comment on the fact that, every year, the chartered banks are required to disclose in their annual reports the amount of money they save in taxes in tax haven countries, compared to the Canadian taxation system.

For example, the 2010 Annual Report for Scotia Bank indicates the amount saved on page 137: “If all international subsidiaries' unremitted earnings were repatriated, taxes that would be payable as at October 31, 2010, are estimated to be \$907 million [...]”

The Royal Bank Report states, on page 125: “Taxes that would be payable if all foreign subsidiaries' accumulated unremitted earnings were repatriated are estimated at \$763 million [...]”

The Toronto Dominion Bank states, on page 53 of its financial statements, that earnings of certain subsidiaries are subject to additional tax upon repatriation and that if those earnings were taxed under Canadian laws, estimated additional taxes payable would be \$409 million.

The Bank of Montreal states on page 155 of its report that this amount is estimated to be \$236 million.

The CIBC clearly states that had this been calculated on the basis of dividends,—in other words, with a lower tax rate—there would have been tax savings of \$231 million in Canada.

All in all, that amounts to \$2.546 billion.

Following a recent decision, the National Bank cut back its investments in this kind of tax haven. It clearly states on page 144 that the amount would be \$8 million.

What is the difference between the actions of the National Bank and those of Scotia Bank, two of your clients?

• (1020)

[English]

Ms. Nancy Fung: Unfortunately, I really cannot comment on the business decisions of this bank versus the Bank of Nova Scotia. Business decisions are made for different reasons. Investment in, I guess, offshore subsidiaries are based on not necessarily tax reasons but for regulatory and business reasons.

[Translation]

Mr. Daniel Paillé: But if they state that the tax reasons are so obvious that we're now at \$2,546 billion, then they clearly are not operating there just because of the beach. They are operating there for tax avoidance purposes.

[English]

Ms. Nancy Fung: They go there primarily to service their international clients.

[Translation]

Mr. Daniel Paillé: That is your answer.

I have one last question for our witnesses from the Canadian Bankers Association.

Are your members or clients aware of whether the Ben Ali family of Tunisia has assets in Canada?

[*English*]

Ms. Nancy Fung: I don't know. I'm sorry, I don't have that information.

[*Translation*]

Mr. Daniel Paillé: Very well.

Thank you, Ms. Fung.

[*English*]

The Vice-Chair (Mr. Massimo Pacetti): Merci, Monsieur Paillé.

That will be it for the meeting. I want to thank the witnesses.

[*Translation*]

I'd like to thank you for agreeing to travel to Ottawa today. That was not an easy task, given the weather.

[*English*]

Hopefully you'll have a good return. I know some of you came from far away.

Members, next week you're back to your ridings, but the week after you'll have the honour of having your chair back. Thank you for your indulgence. Merci.

The meeting is adjourned.

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