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Chair

The Honourable Rob Merrifield

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•(1210)

[English]

The Chair (Hon. Rob Merrifield (Yellowhead, CPC)): We'd like to call the meeting to order.

We want to thank the members and the witnesses for being here. We will be joined by one more witness by video conference very soon.

What we want to do is explain to the committee that due to our extenuating circumstances I believe there's agreement to go until 1:30. I guess it will be 1:28, as I believe bells are going to ring again at 1:28. Nonetheless, we have agreement to do that. Business will be carried over to the next meeting. I believe Mr. Easter had a motion he'll present at that time.

So everybody is getting along here. It's in the House that we have problems.

Nonetheless, we want to welcome our witnesses to a continued study... We're actually studying a report on the Canada-Colombia Free Trade Agreement Implementation Act.

We have with us, from Colombia, Juan Diego Gonzalez Rua.

Are we coming through all right, sir? Can you hear us?

Mr. Juan Diego Gonzalez Rúa (Researcher, Escuela Nacional Sindical): Yes, I can hear you very well.

The Chair: The floor is yours. We look forward to your presentation to the committee.

Go ahead.

Mr. Juan Diego Gonzalez Rúa (Interpretation): Perfect.

After a long debate during the negotiations of the free trade agreement between Canada and Colombia, in particular with a great number of questions asked about human rights violations and provisions dealing with trade union human rights violations and murder attempts as well against trade unionists, we think that what is happening in our country is an elimination of the trade union movement.

When the free trade agreement entered into effect between the two countries it was on August 15, and that free trade agreement represented for Colombia the first free trade agreement with what is called a developed nation. It was an attempt to agree to come to a final agreement aimed at moving forward in labour rights and environmental rights, with some principles to ensure the protection of workers' rights, with the obligation to ensure protection of the environment.

The commitment was achieved through the negotiation of parallel agreements that established a number of obligations, and some mechanisms as well for cooperation. The purpose was to help strengthen institutions and programs in the relevant areas, namely labour and environment.

With regard to protecting trade unionists, labour, and environmental rights, there was the decision made to have an annual report to assess the human rights impacts of the fulfilment of the free trade agreement. The report that was presented by the Canadian government recently was very superficial, and there was no report presented by the Colombian government.

Furthermore, the Colombian government has not yet had any type of consultation with the communities and population groups that have been affected by the agreement. There has been no public announcement of the government's intention to establish any kind of policy with regard to the implementation of the free trade agreement in Colombia. So the idea of protecting rights in side agreements was progress and was an indication of intent and commitment, but it has not been fulfilled. There now needs to be a clearing up of the ethical problems surrounding the negotiations.

There has been a group of social organizations, union leaders, women, ethnic groups, and NGOs from Colombia and Canada who decided to begin a political and technical initiative to build a strategy that would make it possible to monitor and assess the impact of the free trade agreement on human rights in general. The purpose is to establish a baseline that can give an idea of what the current state of rights in communities is, and then be able to measure the human rights impact.

It is too early to make final conclusions about the impact of the agreement's implementation on human rights, but we do know what has happened since the agreement went into force. That is what we are doing to create the baseline so that we can have a reading of the major changes that have taken place in the sectors where Canadian investment is most present. From that baseline, then, we would establish a strategy for future monitoring, and we believe that monitoring should take place on an annual basis.

•(1215)

In the report we obtained an idea of the trade relationship between Canada and Colombia, with an emphasis on the presence of Canadian companies in the country. We focused on the main social, labour, and environmental impacts that have occurred due to the presence of certain Canadian companies in Colombia.

In the study we took into account two specific cases. The first case was linked to the presence of the Pacific Rubiales Energy oil company in Puerto Gaitan. The study addressed the violation of labour rights in recent years. Almost 10,000 people have been affected. The second case studied was the case linked to Gran Colombia Gold. That company wanted to have open-pit mining in Marmato, in the Caldas region. That would have meant displacing the town to another area.

In the executive summary you have in front of you, you will find some statistics that deal with the trade flows between Canada and Colombia. Some of these statistics will give you an idea of how much trade is taking place. A number of Canadian multinational companies are on Colombian ground, and there has been an exponential increase in the number of those companies over the last ten years. That presence has been concentrated in mining and natural resource extraction, mostly in coal, oil, and gold. The companies become established in the country by creating branches that undertake exploration and mining activities for all types of resources.

Canadian investment in telecommunications, oil, energy and gas, and transportation has increased steadily since 1994. In particular, in recent years new companies have begun to invest in mining, paper, shoes, educational software, and construction, among other things.

In addition to that trade presence, which began through foreign direct investment and the establishment of subsidiaries of major multinational companies in the country, Canada has played a significant role when it comes to defining legislative frameworks with regard to preparing the ground to welcome Canadian companies to Colombia.

CIDA is the main Canadian cooperation agency for Latin America. It has had a role with regard to, in particular, the reform of the country's mining code. In 2006 CIDA was involved in a code to liberalize Colombian gold mines. The purpose or the intent was to provide greater access for foreign mining companies. Before that, claiming to protect jobs and the environment, CIDA and the CERI decided to plan, starting in 1997, a project in which almost \$11 million were invested to support the freeing up of mining and to create a legislative framework that could be used so that multinational companies could have easier access to mines in Colombia.

● (1220)

In the executive summary that you have in front of you, you will find some of the major findings of the study that was carried out in Puerto Gaitan and in Marmato, in those two municipalities. I won't go through those findings, as they are in the report, and I do not have much time.

I will finish my short presentation by talking a bit about the future. Less than a year after the free trade agreement between Canada and Colombia went into effect, the impact on human rights, labour rights, and environmental rights must be considered in a way that recognizes the technical conditions that exist to be able to measure the impact and also the political will of the official parties involved to conduct rigorous monitoring of the effects in both countries of the free trade agreement.

Given these considerations, it is important to point out that the official parties to the agreement, with regard to Colombia in particular, should not be responsible for establishing a monitoring system that measures the actual impact of the free trade agreement on human rights.

There is no public information available. The communities that are most affected have not had any role, and they have been shunted to the side.

The Chair: I'm sorry, I have to interrupt you here. Your time has gone. It's such an abbreviated committee meeting that I want to be respectful of the others in the testimony.

Mr. Juan Diego Gonzalez Rúa: *Perfecto.*

The Chair: You may get some questions and answers on that; I'm sure you will.

We are now going to move to Jennifer Moore, from MiningWatch Canada.

I would ask those testifying to please keep their remarks as tight as possible in order to leave a little more time for questions.

Go ahead, Ms. Moore. The floor is yours.

Ms. Jennifer Moore (Latin America Program Coordinator, MiningWatch Canada): Good afternoon, Mr. Chair and committee members. Thank you for the opportunity to present to you this afternoon.

I will do my best to keep my remarks short. I do hope that Juan Diego has a chance in the questions and answers to continue his recommendations to the committee.

The implementation of the Canada-Colombia Free Trade Agreement comes at a time when human rights violations in Colombia remain at crisis levels on a global scale, as well as when Colombians are fighting hard to improve protections for their collective rights in the face of a booming mining sector, which is a key area for Canadian investment in Colombia and the focus of my comments today.

The Canada-Colombia trade pact is also very much an investment agreement. Given that Canada did not have a prior investment agreement with Colombia, it provides powerful new provisions for Canadian investors. Meanwhile, it lacks binding measures to help protect human rights, labour, and the environment.

The accompanying agreement to produce an annual human rights report on the part of both the Canadian and Colombian governments was a poor substitute for the recommendation, which we supported, for an independent human rights impact assessment prior to deciding on its ratification. The tabling of the Conservative government's non-report several weeks ago reaffirms earlier suspicions that this was mere window dressing to get the agreement passed.

At MiningWatch Canada, we continue to be very worried about the potential for mining investments to perpetuate, aggravate, or benefit from serious human rights violations in Colombia, as well as the likelihood that companies might use investor-state dispute mechanisms in the agreement to put a chill effect on stronger human rights protections and democratic policy development in the country.

As you've no doubt already heard from other witnesses, Colombia is still the most dangerous place to be a trade unionist, with the highest rate of internal displacement worldwide and an overwhelming number of human rights violations taking place, particularly in mineral-rich parts of the country. Over the course of 2011, we saw threats against human rights defenders on the rise, especially against leaders of displaced communities and those seeking return to misappropriated lands, mainly by paramilitary groups.

Regarding one of the cases that was examined in the Colombian study, short weeks after the Canada-Colombia Free Trade Agreement was passed into effect last August, Father José Reinel Restrepo, a parish priest of the municipality of Marmato, in the western department of Caldas, was murdered. Restrepo was an outspoken opponent of Canadian mining company Gran Colombia Gold's proposal to construct an open pit gold mine that would require the displacement of an entire town. He had recently travelled to Bogota and spoken openly about his situation on national television.

This is not an isolated incident. There have been reports of an increase in mining companies publicly singling out communities that are speaking out about the possible impacts of their operations, which can be equivalent to a death sentence in Colombia, and there have been numerous cases of massive detentions of those protesting such megaprojects.

Protests have been frequent because, quite literally, thousands of mining, oil, and gas concessions have been granted or requested across some 40% of Colombian territory, creating a tremendous amount of insecurity, given overlap with protected natural areas and important sources of water, the territories of indigenous and Afro-Colombian people, and lands being worked for agriculture or artisanal and small-scale mining. As we're seeing elsewhere in the region, the rise in local level conflicts is also giving rise to national controversy.

In Colombia, the office responsible for granting mineral concessions has been highly criticized and has repeatedly suspended receipt of new requests for concessions during the last year. Given a backlog of some 20,000 petitions, the country also lacks the capacity to properly monitor existing mining operations, and the mining code reforms passed in 2010 were recently overturned for lack of prior consultation with indigenous organizations. Indications are that the mining code will soon be reformed again.

In other words, this is a situation that's ripe for policy reform and in which there are serious struggles to ensure stronger protection for water supplies, indigenous Afro-Colombian rights, and the livelihoods of small-scale and artisanal miners, as well as to remedy the serious harm that communities have already faced and are facing from forced displacement and armed conflict in mineral-rich areas.

With the Canada-Colombia Free Trade Agreement now in effect, however, how might a Canadian company respond should its concessions or project be suspended, revoked, rejected, or otherwise affected by a significant shift or administrative decision? Might it sue or threaten to sue the state of Colombia? Recent experience would suggest this is a strong possibility. Currently there are 137 cases pending before the International Centre for Settlement of Investment Disputes, in Washington, up from three cases before the

same tribunal back in the year 2000. One-third of these cases relate to natural resources and one-half are against Latin American states.

• (1225)

One example we have been monitoring is a lawsuit that Vancouver-based Pacific Rim Mining launched against the state of El Salvador in 2009 for more than \$77 million, after failing to obtain necessary permits to develop a gold mine. Pacific Rim was carrying out exploration in the north of the country. Shortly after it went into exploration, opposition arose among local communities over the effects they were observing on water supplies, and it was feared that this would worsen if the mine went into operation.

The company's own testimony before the Washington tribunal indicates that rather than ensuring that it had fulfilled all the requirements in El Salvador to obtain needed permits, it worked its high-level contacts to try to obtain approval. Meanwhile, the local conflict went national, and public opinion turned against metal mining, given the existence of not just one but several dozen projects across the Salvadorian highlands, and given that this tiny, densely populated country is largely reliant on a single and already overtaxed watershed. This led to a national moratorium against metal mining, which has led to a strategic environmental impact study.

Because we don't have a free trade agreement with El Salvador, the company's response was basically to move a Cayman Island subsidiary to Nevada in order to file a lawsuit in April 2009 at the International Centre for Settlement of Investment Disputes in Washington, under both the Central America-U.S. free trade agreement and a little-known Salvadorian investment law. At the same time, we saw violence occurring in the northern area of El Salvador, where the mine had been in development. Threats and murders took place and have yet to be fully investigated. Meanwhile, El Salvador has already spent some \$5 million in fighting the lawsuit, and the process to reform the country's mining code drags on.

Now, in this sort of circumstance, could a group of citizens—Colombian citizens, for instance—exercise provisions in the Canada-Colombia Free Trade Agreement to effectively protect their rights? It's very unlikely. Neither the labour nor the environmental side agreements include the possibility of any punitive sanction, and disputes will only be decided by consensus. The mention of corporate social responsibility in the text of the agreement is purely aspirational and completely unenforceable.

From our perspective, given the gravity of the human rights violations that Canadian investors could be aggravating or benefiting from in conflicted parts of Colombia, the non-report that the Conservative government tabled was very upsetting. Not only was there no serious effort made to document the human rights situation in which Canadian companies are investing, but neither was there much indication that a serious report will be forthcoming. A truly independent, transparent, and participatory human rights impact assessment of the implications of the Canada-Colombia Free Trade Agreement would still be a valuable step, and it should also be contemplated in other scenarios in which we're currently pursuing agreements, such as Honduras.

Based on our own observations to date, we also think that, in particular, the investor protections included in the agreement should be an element that needs serious examination in any human rights impact assessment of Canadian free trade agreements moving forward.

From our perspective and based on our observations, we think that these provisions that allow companies to sue states in international tribunals ultimately need to be removed, given how these can enable companies to leapfrog domestic law and undermine current and future human rights protections. We think this would be a serious step forward if we're serious about promoting democracy and human rights in the region, and certainly a necessary step towards balancing out the tremendous power differential that exists today between investor and human rights protections pertaining to the extractive industry abroad.

Thank you very much.

• (1230)

The Chair: Thank you very much for that.

We'll now move on to Bogota, Colombia. From the Association of Colombian Flower Exporters, we have Augusto Solano, the president.

Mr. Solano, can you hear us?

Mr. Augusto Solano (President, Association of Colombian Flower Exporters): Yes, I can very well.

First of all, good afternoon. I want to thank the committee for giving us this opportunity to participate in this audience.

My presentation is going to be in four parts. First, I want to give you a brief overview of the Colombian flower industry. Secondly, I'm going to describe the labour profile of the Colombian flower industry. Then I will give the impact of the Colombia-Canada Free Trade Agreement, and then some final remarks.

The Colombian flower industry was established 45 years ago, and now Colombia is the number one supplier of fresh cut flowers to the United States. Colombia is the number one producer and exporter of carnations in the world and is the second-largest exporter of flowers worldwide, after Holland. Holland is way ahead of us. Colombia is exporting to 88 countries, and Canada is one of the main ones, maybe in fourth place. Last year Colombia exported \$1.25 billion U.S. worth of flowers. On top of that, we generate about \$350 million in air freight, because most of it is sent by airplane.

The industry has about 7,000 hectares under greenhouses and generates 150,000 legitimate direct and indirect jobs. This is very important, because in our country about 60% of the jobs are what we call informal: they don't have contracts or anything. In the flower industry, since the beginning, everybody has a contract and social security and many other benefits. We're looking at mainly 35% of the industry around Bogota, 20% around Medellin, and the rest in the coffee-growing areas, mainly for tropical flowers and foliage.

Security in cities like Bogota and Medellin depends very heavily on the flower industry, because we provide full employment in those towns and municipalities where the flower industry is. We support very much intellectual property rights, because we depend on the

companies that are developing new varieties of flowers. Colombia is handling about 100 species of flowers, roses that flower, carnations, etc., and each one has different varieties. Altogether, Colombia handles about 1,600 varieties, which is more than other flower-producing countries.

In the labour and social profile, of these 150,000 direct and indirect jobs, 50% of them, or a little bit more, are direct jobs. They are jobs in the farms. Of those, about 65% are for women, most of them heads of households that didn't have any other opportunity in agriculture, because cutting cane or handling palm oil is very difficult for them.

In the past five years the industry has lost about 30,000 jobs because of the appreciation of the peso. I know you have suffered this very much and you know how it is. So it's mainly because of this and mainly because of what's happening in our main markets, which are the developed countries.

Asocolflores, the association, is going to be 40 years old next year. The main programs are social and environmental programs. We have a program called Florverde, which is 15 years old, which is a social and environmental code of conduct. We have partnered for these programs with many foreign entities, mainly USAID and GTC from Germany. We have housing programs and we have day care centres for the kids of the workers.

• (1235)

We also have oral health programs, and we have a program for cultivating peace in the family, which is something we established to help people resolve conflicts by non-violent means.

We publish our sustainability report, the GRI, the Global Reporting Initiative. Ours is the first industry association in the world that has used this methodology used by the UN. Usually it's only used by companies. We have also belonged for more than ten years to the child labour eradication program of the ILO. As a matter of fact, today child labour eradication efforts are being celebrated worldwide.

We're also members of the World Business Council for Sustainable Development in Switzerland. We're founders of the chapter here.

In terms of unions, about 40% of the workforce is unionized. The average in Colombia is 5%, including government workers. Without them, we're talking about only 2% as an average for the country. So 40% is high compared to that.

Now I want to talk briefly about the impact of the FTA. In the case of the flower industry, it has been very important. Without the duties, we see that it is increasing. Just a few weeks ago we attended a trade show in Mississauga. We had 14 growers, and we were able to bring about 40 buyers from all over Canada, including Loblaw's, which is one of the main buyers. I think this is going to increase. Right now, the sales to Canada are about \$67 million, and total imports of fresh cut flowers to Canada are \$130 million. We think we have some room to improve.

The main point I want to make, which the FTA has helped, is that on one hand, we're facing the challenge of the appreciation of the peso and the economic crises in our main markets. Having this market is a way to fight back against the peso appreciation and also the problems in the other markets.

I think the most important contribution of a free trade agreement like this, not only to the flower industry but to Colombia, which is not mentioned in the report, is that it's a very effective tool for fighting the drug problem in Colombia.

As we have mentioned in the past, giving people trade opportunities will create more jobs. What people here need are opportunities to have legitimate, decent jobs. The market in Colombia is not big enough. A lot of people in the drug business, especially those who grow coca and all that, are there because they are looking at that as a means of survival. I think this is really important in that sense.

I want to thank you all for the FTA and for approving this. The flower industry it is really important. We think we can improve that. I also want to mention that the way the agreement between Colombia and Canada was handled is a model for all the other free trade agreements. It was efficient. It was balanced. It was free. And it's working.

Thank you very much.

• (1240)

The Chair: Thank you very much.

Mr. Solano, we have Spanish translation. You can either speak in English or speak in Spanish, and it will be translated here. Then Mr. Rúa can actually participate.

Mr. Augusto Solano (Interpretation): Perfect. I can speak Spanish. No problem.

The Chair: With that, we have Carlo Dade from the University of Ottawa. He's a senior fellow from the School of International Development and Global Studies.

The floor is yours, sir. Go ahead.

Mr. Carlo Dade (Senior Fellow, School of International Development and Global Studies, University of Ottawa)(Interpretation): Thank you.

Welcome to our guests from Colombia. It's wonderful to be here. [Translation]

First, I would like to thank the chair and the committee members for inviting me to testify this afternoon. This is our second, third or fourth time together to talk about Colombia.

[English]

This time it's actually to celebrate the successful implementation of the free trade agreement and to look forward to the other agreements that are coming down the road.

It's good to see some familiar faces and several new faces on the committee.

Before I start, you'll be happy to know that I did learn the most important lesson for any witness testifying in front of this committee,

something that really should be added to the instructions you send out to the witnesses, and that is to bring your own coffee.

Some hon. members: Oh, oh!

An hon. member: It's not Colombian.

Mr. Carlo Dade: This indeed is Colombian coffee, and certainly fair trade too.

In talking about the human rights assessment in Colombia, I think it's important to step back and frame it in the larger context of human rights agreements, impact assessments, and free trade agreements, especially as the committee will be considering other trade agreements in the future. Canada has a rigorous and vigorous policy of negotiating trade agreements. This issue will be coming up in the future, and now we have an excellent opportunity to talk about it.

I could also talk about the progress. Another side of the situation in Colombia is the outstanding progress the country has made in some areas of human rights. In fact they have made progress in what is probably the largest area of human rights and the one that impacts most severely the most people in Colombia. But given the interests of time, I'll save that for the end, or perhaps for a question.

On the general question of human rights impact assessments and trade agreements, there are a lot of statements in academia and elsewhere—and I'm sure this committee has heard quite a few—about how there is an automatic linkage, an incontrovertible linkage between trade agreements and human rights. That's actually not true. It's a subject of discussion both in academia and in the real world. The linkages are best described as the deputy commissioner for the European Commission did in testimony at the WTO. He said the EC does not feel that there are automatic linkages between human rights and trade agreements, that it depends upon the agreements, the countries involved, and how they're negotiated.

As an example, you can imagine two counties, say Sweden and Norway, and imagine that they did not have a trade agreement until recently, countries that have traded for centuries, whose markets are closely linked, countries whose human rights records are among the best in the world, examples for practically every country on the globe. A human rights impact assessment with this trade agreement would seem at best superfluous, and at worst simply a waste of time. But you can also imagine other instances in which human rights are directly impacted by trade. Historically, the most notable example is a decision by the British Empire to ban the slave trade. I can't think of a more obvious example of trade being linked to human rights issues.

What we see today, especially with the rise of conventions at the UN, the Universal Declaration of Human Rights, the ILO conventions, and other conventions signed by a vast majority of countries around the globe, is that it's more and more difficult to find linkages that should be subject to considerations with trade agreements. Indeed, the issue of linking the two has, as I mentioned, become more and more controversial.

First, to understand this, it helps to step back and examine what trade agreements are exactly. The confusion about this then leads to confusion about the role of other factors, such as human rights. Essentially, trade agreements are attempts—and let me stress “attempts”—to give preference to trade between countries. This is done by reducing the cost of trade—cost in terms of transparent things such as tariffs and non-transparent things such as confidence for investments. The goal is to induce or incentivize trade, but a trade agreement in and of itself will not necessarily lead to an increase in trade.

• (1245)

The decision on whether or not to trade is made by individual forums for a host of reasons, of which a trade agreement can be one among many. With trade agreements, in essence you try to incentivize trade to create advantage or to negate advantage.

Take the example of Canada, Colombia, and the United States. This is a great example. Canada and the United States both trade with Colombia. Canada signs a free trade agreement with Colombia. Instantly, agricultural producers have a 16% price advantage on products going to Colombia. Canada has an advantage. The U.S. in record time turns around and signs an agreement with Colombia, not to gain advantage but to negate the advantage that Canada had, or to preserve market share.

This is an important point about trade agreements. We'll get back to this in a second; I just wanted to point that out in order to frame the discussion.

In terms of Canada and Colombia and the human rights assessment, what we've seen is what's referred to as a “staged” attempt to deal with issues relating to human rights. The agreement itself states that “a report on the operation of this Act during the previous calendar year, containing a general summary of all actions taken under the authority of this Act, and an analysis of the impact of these actions on human rights in Canada and the Republic of Colombia” shall cause to be submitted on a certain date.

The important thing here is the staging. The first attempt is to look at the specific measures of the agreement to see if any of the legal requirements will contravene duties or obligations on either country under standard human rights agreements, such as the UN universal declaration, or if these agreements will impinge the country's ability to follow through on these agreements.

That's not controversial. It's a fairly straightforward process—a legal review similar to what the countries do in constitutional courts or legal review courts for the agreements.

The second one is where we run into issues: an attempt to look at broader impacts of trade between the two countries. The problem should be as huge as it is readily apparent, and that is that it simply assumes facts not in evidence. That is to say that lowering the cost or risk of trade may—may—induce companies to trade. But if you're looking for the impacts of the agreement itself, you need then to demonstrate that the decisions to invest, the investment decisions and the trade decisions, are based upon the agreement.

Collinearity, or correlation, is not causality. Even a statistical-dependent relationship is not proof of causality. What you're doing with the agreement, in looking at the human rights assessment, is

assuming causality where there is none. If you were to take this sort of argument to a court, you can imagine how quickly you would be bounced out of the court for bringing in this sort of argument.

One issue, then, is the issue with the human rights assessments and the attempts to link trade and human rights. The other is the issue of trade diversification, which is a major issue for people working on trade theory and trade relations.

The issue in the case of Colombia, as I mentioned, is seen in the context of U.S.-Canada-Colombia trade. If you remember, most of the arguments about the agreement and most of the discussions, especially the discussions in Washington, were about not increasing trade with Colombia—though there are cases, as Mr. Solano mentioned, where trade can increase—but about the impacts of this agreement. The discussions in Washington were about the U.S. losing market share to Canada.

The U.S. wheat producers issued a report stating that the U.S. was going to lose \$100 million a year in wheat sales to Colombia—not new sales but current sales. You can see the issue. That's also not considered in the human rights impact assessment.

So it's causality in terms of the decision to trade and also trade diversification. These have huge impacts in terms of trying to come up with solutions to issues that you find, attaching causality, attaching blame, looking for responsible parties, and looking for mechanisms that are appropriate to deal with and rectify issues as they're discovered.

At the end of the day, with the Canada-Colombia agreement, what you're left with, essentially, in the human rights assessment is a discussion that seems increasingly divorced from reality—not the reality of the situation on the ground in Colombia, and not the fact that the Colombians.... And the Colombians have admitted that there is much work to be done in terms of the human rights identified in some of the reviews: right to decent work, right to rest and relaxation, right to education, education as a right that should be free, rights to health, those issues. No, the issue is causality, and being able to show a link to trade, something that just has not been done.

•(1250)

Why bother with sustainability assessments and human rights agreements? They're important, in that trade negotiations are an excellent occasion or moment to discuss issues tied to human rights associated with labour, work, and perhaps with intellectual property rights, but they are not the proper mechanism by which to deal with these issues. Separate agreements, separate discussions, separate mechanisms, technical assistance to work with governments prove more effective. This is an issue Canada is going to have to face, I think, in the near future, especially when we look out on the horizon at some of the coming trade negotiations.

The Trans-Pacific Partnership—how will we deal with human rights and human rights assessments when we have major players, stronger players, players that will be more demanding and will be less prone to agree to idiosyncratic whims and desires on the part of Canada? I'm not offering an opinion on that; I'm simply raising it as an issue that should be considered in light of deliberations, because it will have an impact on future negotiations and discussions of future agreements.

I'll leave it there, but I would be happy to talk about Colombia and the human rights situation in Colombia, and some things the committee hasn't heard and that are outside the traditional human rights framework and human rights institutions when they discuss the situation in Colombia.

Thank you very much.

•(1255)

The Chair: We thank all four of you for your presentations. They were very valuable. We've had to abbreviate the question and answer portion of the time, but we do have half an hour or a little bit more.

We'll start with Madame Papillon. The floor is yours.

[Translation]

Ms. Annick Papillon (Québec, NDP): Thank you, Mr. Chair.

I would like to thank all of our guests. Thank you very much for being here.

Non-government members have repeatedly denounced the report submitted last May by the Conservative government. It really is a very superficial report. It does not address the human rights situation in Colombia. The methodology is vague, and there is no reference to opinions by UN human rights experts. The consultation was inadequate: neither Canadian nor Colombian civil society was consulted. In fact, there was no follow-up mechanism to help improve the situation after the agreement came into effect.

Mr. Juan Diego Gonzalez Rúa, I would like to thank you for having tabled the study you conducted with other researchers. This study gives us several preliminary conclusions and it is much more substantial, in fact, than our report.

You say that the Colombian government has not produced any report on human rights. Is that true? I would also like to hear from you on that issue.

[English]

Mr. Juan Diego Gonzalez Rúa (Interpretation): That's right, there have been no documents or statements on the part of the Colombian government on this matter.

[Translation]

Ms. Annick Papillon: Very good.

It would be interesting to know what measures the Colombian government has taken to make Canadian companies operating in Colombia more socially responsible. We know that the problem is perhaps less about the legislation and more about the way the legislation is applied.

What follow-up mechanisms could be implemented to ensure that this agreement will help us move forward in the right direction?

[English]

Mr. Juan Diego Gonzalez Rúa (Interpretation): We propose with regard to monitoring, with regard to this type of agreement, that a specific organization be created to provide a report every year that looks at the situation that exists in the field—in every community where there is a foreign corporate presence—in this case, Canada. We also want civil society to participate, organizations, NGOs....

Organizations should look into the situation independently, and they must examine the real situations in our country. For example, in Colombia, our report has not been widely disseminated so far. It's fairly recent, but we hope that over time we will be better known within Canadian civil society as well.

[Translation]

Ms. Annick Papillon: Do you buy into the government's excuse that the flimsy report which was submitted was due to the lack of available data on the ground and the lack of time to prepare the report?

•(1300)

[English]

Mr. Juan Diego Gonzalez Rúa (Interpretation): I think we'd have to start by pointing out that when the agreement went into effect there was a commitment made, and we are in the same situation, but despite that we decided to create a baseline that would serve as a parameter for measuring the effects of the agreement in the future. So given the fact that the Colombian government did not present any report and the Canadian government produced the report it did, a non-report, civil society in Canada and Colombia is disappointed, particularly with the Colombian government.

The Chair: Madame Papillon.

[Translation]

Ms. Annick Papillon: I have a straightforward question about protecting Canadian investors. You rightly talked about it, Ms. Moore. It is important to protect our Canadian investors. We must make sure that they will not help to maintain the situation, that they do not encourage or profit from it. Can you tell us a little more about that?

[English]

The Chair: I'll allow a very short answer, Ms. Moore.

Ms. Jennifer Moore: Our perspective is that this agreement has strengthened the current legislative framework for Canadian investors in Colombia, particularly speaking about the mining sector, and that civil society in Colombia, together with organizations here in Canada, are identifying serious risks to indigenous and Afro-Colombian lands and to vital sources of water.

The way in which mining concessions have been granted quite carelessly across much of Colombian territory means that there is dangerous overlap with vital sources of water, with ancestral lands of Afro-Colombian and indigenous peoples, and entire communities that currently make their living from activities such as small-scale mining.

One of the cases explored within the Colombian report, which you may have read already, would involve the entire displacement of a community that has relied, for some 400 years, on small-scale mining investments in order to make way for a Canadian company that would, in a period of 20 years, basically exploit all of the gold reserves in this area and then presumably walk away, putting effectively thousands of people out of work and displacing an indigenous community as well that's not been fairly consulted on that project, and potentially having serious impacts on sources of water that flow into the Cauca River, which is one of the main water supplies in the country. That's just one example.

The Chair: Thank you very much.

Mr. Holder, the floor is yours. You have five minutes.

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

I'd like to thank our guests for being here today.

Ms. Moore, may I ask, are you a member of a political party?

Ms. Jennifer Moore: No.

Mr. Ed Holder: The reason I ask that as a question is that often when we get guests who come to our table they'll provide a variety of testimony and they'll be as objective as they can. And I'm certainly not here to lecture anyone as to how they should approach their testimony, because, respectfully, they have their own view of it, but when you talk about the representatives from the Department of Foreign Affairs and International Trade who came to our last meeting and you called it Conservative window-dressing, I must tell you, I'm very disappointed in that. If members opposite say that, we think that's part of the cut-and-thrust, but when people come as our guests to this committee, I would think they might show a little more respect. I say that mindfully, because you are here as a guest. I just share that as my thought to you, and that's probably all I'm prepared to say about that.

Mr. Solano, I might ask you a question, please. You come from a very aggressive and it sounds like flourishing industry, the flower industry. My family actually owns the oldest flower shop in Canada, and I know we buy flowers from Colombia, so I hope this is not a conflict of interest, these questions. What I heard you say—and perhaps you can clarify for me—is that there were some 30,000 jobs lost. It wasn't clear to me whether that was in the flower industry, and if it was, that sounded like it was recent. Can you help explain as to why that occurred, please?

Mr. Augusto Solano (Interpretation): Yes. In the last five years we have undergone a re-evaluation process, and the peso has

appreciated. You know this very well. This phenomenon has been an appreciation of the peso and a devaluation of the American dollar.

Fifty percent of our costs are labour costs. Therefore, the industry has been in a very complicated situation. This has occurred in addition to two other things. There has been the economic crisis in our main markets for the last few years, and of course there are problems in the United States and in Europe as well.

As well, there is the tsunami that took place last year. That had an impact on us. There is also the climate situation in Colombia, as you know. Last year the weather had a great impact.

But truly, the problem was with the peso, and today there are two senators in our Senate who are taking steps to see what can be done about that. As you know, we have the Dutch competition, and that has led to 30,000 jobs lost in our sector—

• (1305)

Mr. Don Davies (Vancouver Kingsway, NDP): Mr. Chair, I'm sorry, I don't want to interrupt our friend, but I do have a brief point of order.

The Chair: A point of order? Go ahead.

Mr. Don Davies: Besides asking the witness about her personal voting preference or party membership—

The Chair: No—

Mr. Don Davies: Can I make my point?

The Chair: Very quickly.

Mr. Don Davies: He asked a question of the witness and did not give her any chance to respond, and I think improperly—

The Chair: That's fine. That's not a point of order.

Mr. Don Davies: Well, I'm getting to my point, Mr. Chair, which is that he improperly stated to this witness that they are a guest of the committee. They are witnesses to this committee. As a witness, they have a right to present their testimony—

The Chair: Okay.

Mr. Don Davies: —and answer questions, Chair.

The Chair: Okay, that's enough. You made your point. Witnesses can answer the way they wish—

Mr. Don Davies: But he didn't give her a chance to answer. That's my point of order.

The Chair: —and questioners can ask the way they wish. We'll leave it at that.

Go ahead, Mr. Holder.

Mr. Ed Holder: May I ask how much time...? I hope that—

The Chair: I'll add to it. Go ahead.

Mr. Ed Holder: Thank you very kindly. Can I ask the time, please, if I might, just to give me some idea?

The Chair: You have two minutes.

Mr. Ed Holder: All right. Then I will have to leave you, Mr. Solano, because I would like to ask this of Mr. Dade, if I could, please.

You talked interestingly about how, from your standpoint, the theory of trade assumes that there is “causality where there is none”. I think that was your direct quote. So I guess to me, the question is.... From that, I inferred that it may not make sense to review a human rights side agreement in relation to a trade agreement. But would you not believe that there is value in putting a human rights side agreement in place regardless? Because that certainly is one of the fundamentals that we have done with all of our trade agreements.

I would appreciate your candour on that, please.

Mr. Carlo Dade: I think there are two separate issues here. If you want to include it as part of the agreement, you need to extend the methodology to include some sort of survey of firms to identify decisions and a survey of investors to identify decisions. And then, as the methodology lays out, you need to track those firms that have made the decision because of or tied to the free trade agreement—as to what aspects of the agreement and what provisions, etc., induced them and how that's affecting their behaviour—if you are then going to seek remedy for the damages by means of a tie to the trade agreement.

That's the point about causality. If you're going to use the agreement as a way to identify problems and effect remedies, you need to have causality there.

In terms of including it, I think it would make more sense to have separate agreements with countries. If human rights are such an overriding concern, they should not be relegated to a side agreement. If the concerns are so large and so pressing, I think they should be dealt with in a more transparent and more forthright manner. Take, for example, our case in the Americas. There are countries with which we have trade agreements in this hemisphere that have more charges against them in the Inter-American Court of Human Rights than does Colombia, yet those countries do not have separate side agreements on human rights, and human rights are not discussed.

So there are several issues with this. One is the basic hypocrisy of doing it with smaller, weaker countries, and not with larger countries, where there are quantifiably identified human rights issues. The methodology in terms of proving causality is another.

Mr. Ed Holder: Thank you.

The Chair: Thank you very much.

Mr. Ed Holder: I thank our guests.

The Chair: Mr. Easter, five minutes.

Hon. Wayne Easter (Malpeque, Lib.): Thank you, Mr. Chair.

I thank the witnesses for their comments.

Mr. Solano, you're representing the Association of Colombian Flower Exporters. In terms of the production of flowers in Colombia, how many companies would be involved in your organization—I mean the numbers—and are they locally owned and managed, or are they owned from afar?

• (1310)

Mr. Augusto Solano (Interpretation): We are the association, the Colombian Association of Flower Exporters. I am the president. I am not a flower grower; I am an administrator. We have approximately 250 farms that represent 70% of exports in the

country. My organization is a private one. It's a non-profit organization.

Hon. Wayne Easter: In terms of the ownership—and this gets to the point of exploitation of land, and peasants, if I could put it that way—are the 250 farms locally owned and managed, or are they owned by multinational corporations or whatever?

Mr. Augusto Solano (Interpretation): No. They are Colombian owners—I would say almost all of them. There may be a few companies where there may be some small participation by foreigners. A few years ago Dole, the multinational company, had 18% of the entire sector, but two or three years ago Dole decided to withdraw from the market because it wasn't doing well in the flower sector. The rest of them are 100% Colombian.

Hon. Wayne Easter: Thank you.

I want to come to you, Ms. Moore and Mr. Gonzalez Rúa. You both have mentioned the non-report of the Government of Canada, and I would say on Mr. Holder's point—and this isn't being partisan, these are the facts—that the ministers are responsible. It is a Conservative government and the government is ultimately responsible. There's no sense trying to blame the decision for the non-report on the bureaucrats because the report wasn't done. We don't know who ordered it not done, but it certainly wasn't done.

This was the excuse, and I'll quote from the record:

Four and a half months of trade and investment data was, in our view, insufficient to allow that in-depth, rigorous analysis of the correlation between that economic activity and human rights.

That was from Ms. Kerry Buck, assistant deputy minister.

What's your response to that excuse, both Ms. Moore and Mr. Gonzalez Rúa, and what should be done in the future?

Ms. Moore, to start.

Ms. Jennifer Moore: I think it's an unacceptable excuse. The negotiation and ratification of the Colombia free trade agreement took a considerable period of time because of the tremendous controversy over the serious human rights crisis in Colombia.

There was a lot of serious deliberation that led to the legal agreement, the act that was created, which our government signed two years ago, to agree to produce this report on an annual basis. It had substantial time to consider the methodology and the way in which it would do that to prepare for the implementation of the agreement, knowing that May 15 of this year was when it would have to table its first report.

I frankly don't think the report it tabled even demonstrates that they needed the four and a half months to produce what they delivered on May 15. What they put together could have been slapped together in a short period of time.

To me, it was really turning a blind eye, and I think showing a real disregard for the considerable effort that many people put into trying to craft an opportunity for Canada to respond in a meaningful way to the human rights crisis in Colombia. I don't think that the four and a half months is a reasonable excuse at all.

•(1315)

The Chair: We don't actually have any more time, Mr. Rúa, but I'll allow a very short answer if you want to comment on that.

Mr. Juan Diego Gonzalez Rúa (Interpretation): Well, I agree 100% with Ms. Moore's comments with regard to the absence of any real report from either government. It was a report that had been agreed to and there was time to prepare it. We don't know quite why it was not really produced. I think it may be lack of concern about the issue of human rights linked to the increase in trade.

The Chair: Thank you very much.

Mr. Shipley, the floor is yours for five minutes.

Mr. Bev Shipley (Lambton—Kent—Middlesex, CPC): Thank you, Chair.

Thank you, witnesses, for being with us.

Mr. Solano, it was interesting. I had the opportunity to be in Colombia a while ago, and I learned a very small amount of information about the flower industry in your beautiful country.

Can you tell me a little bit about the changes? The agreement is maybe too young to determine the value yet in terms of the implementation of this trade agreement in the export of flowers to Canada. Have you seen or do you predict a significant benefit to your industry? It's \$1.25 billion a year that your industry has. You obviously create a lot of spinoffs, everything from aircraft and air travel, in moving all your products, to the number of employed people you have.

Could you just help me with the impact on the ground?

Mr. Augusto Solano (Interpretation): Yes, as you have said, the agreement is still very young and in the flower industry processes take time. They are gradual, but they are moving ahead, and we believe that our exports will increase. The flowers are being produced and the services are there. We were able to see that, as I mentioned, at the showroom we organized in Mississauga just a few weeks ago.

I think this agreement, with all the labour provisions, ratifies the programs that our organization is putting forth. We are signatories of the UN's Global Compact, and as I mentioned, we are members of the ILO committee to eradicate child labour. It's not present in the flower industry, but we are supporting the eradication of child labour because we believe that is an opportunity for us to mitigate the effects of the increasing difficulties that we find because of the appreciation of the Colombian peso.

So we want to make sure the flower industry in Colombia—and we know this—is an international industry from the get-go. We export virtually everything we produce, so issues linked to social issues and environmental issues are issues we have been concerned with from the beginning, and we try to incorporate them more and more.

With regard to environmental rights, we have entered into an agreement with Bayer to see how we can calculate our carbon footprint and try to reduce that footprint. We have been working on many fronts.

We've also worked with members of Parliament during the negotiations. We invite you to visit us and to see what's happening on the ground, in the fields, and see the developments there. There are social developments and environmental ones as well.

Mr. Bev Shipley: Thank you.

Mr. Dade, I have a question, because you kind of left it hanging, actually. You had said you didn't have time, but you may have some things that we haven't heard about in terms of human rights issues that you didn't get a chance to talk about in your opening. I would just ask that you might enlighten us on what you were going to tell us.

Mr. Carlo Dade: Sure. Thank you very much for the question.

I think in terms of issues that Colombia has addressed.... To put this in context, in terms of responding to human rights issues—which are present in countries throughout the hemisphere, from Canada down to Argentina and Chile—Colombia has exhibited some of the most responsive dynamic actions in terms of the issues that have been raised.

Take the recent issue with the Inter-American Court of Human Rights, an organization of the Organization of American States, that the United States and Canada have sought to defend in light of charges from Venezuela, Bolivia, and other countries. Colombia is a country that has welcomed the court, welcomed its actions, and responded in kind—a position that's different from other countries.

Specifically, very quickly, look at some of the things that Colombia has done. Under President Santos they've created three new ministries: labour, justice, and a new environment ministry. They've put in two new units for the implementation of the law for victims. President Santos just this past Saturday was out in Medellín handing out cheques to the first people to be compensated for having lost relatives or loved ones during the violence. They've also set up a committee to return land to people who have been dispossessed. The list goes on and on.

But what is most fascinating about Colombia.... What is the first right identified under the UN Universal Declaration on Human Rights? Anyone? It's the right to security of person, the right to life. It is put first in the declaration ahead of rights such as the 24th, which is leisure and rest, or rights to health, or rights to education. It is put first for a reason: because fundamentally, everyone across the globe understands that this is the most important right.

Colombia, in this regard, has the most impressive record in terms of reducing homicides, reducing crime, reducing kidnappings. Your average person driving a taxi, the accountant, the woman working the night shift at a hardware store.... It's crime. It's violence. That's the most fundamental human rights issue. Homicides in Colombia have been cut in half since 2002. Kidnappings have been reduced by 90% and acts of terrorism by 65%. In terms of a human right that impacts the average person on a daily basis, Colombia has had success that no other country in this hemisphere has had.

•(1320)

The Chair: Thank you very much.

Mr. Morin, you have five minutes.

[Translation]

Mr. Marc-André Morin (Laurentides—Labelle, NDP): My question is for Mr. Solano. In February 2012, the Committee for Human Rights in Latin America (CDHAL), put a petition online intended for Minister John Baird, Rafael Pardo Rueda, the Colombian Labour Minister and yourself, in order to share its concerns regarding the intensification of work that affects the health of the men and women working in the flower industry. According to CDHAL, this was the third petition sent to you since 2006.

Are you aware of it? Do you agree with its content? Have you taken any action as a result?

[English]

The Chair: Mr. Solano, I believe that was a question to you.

Mr. Augusto Solano (Interpretation): Can you repeat the question for me, please?

[Translation]

Mr. Marc-André Morin: Are you aware of the petition put out by CDAHL in February 2012, which dealt with the intensification of work in the flower industry? You should have received a copy, as would the Minister of Foreign Affairs, John Baird, and the Colombian Labour Minister. Are you aware of that petition?

[English]

Mr. Augusto Solano (Interpretation): No. We are basically within the standards that are established by the Ministry of Labour. The Minister of Labour recently attended a meeting of our board of directors, and basically what we want is to respect the standards that have been established by the government in all areas.

• (1325)

[Translation]

Mr. Marc-André Morin: Thank you, Mr. Solano.

Ms. Moore, I get the impression that we are being asked to trust all kinds of people, but that we are not being given evidence to support what they are asking us to believe. Without becoming partisan, I'll believe it when I see it. Personally, I have to see something to believe it, but I have the impression that my colleagues on the government side say that you have to first believe and then see. I find that's a bit rich.

I can show you the part of the report on human rights, which was presented last week. It's a bit much to ask us to believe that everything is going well. Based on the description provided by Mr. Solano, the flower industry in Colombia is like a Club Med where well-dressed workers work in fabulous conditions, but I am rather doubtful of that. When I watch European media reports on this industry, I do not find them very reassuring.

Could the reason there was no report be because it was so troubling that it could have called our agreement with Colombia into question?

[English]

The Chair: That was a question for whom?

[Translation]

Mr. Marc-André Morin: It goes to Ms. Moore.

[English]

Ms. Jennifer Moore: I certainly can't comment on the Colombian flower industry, and I kept my comments focused on Canadian investment in the mining sector. Certainly I do think the report that was tabled in May was a bit of a "see no evil, hear no evil, say no evil" type of report.

Clearly my comments are based on the complaints and the evidence we've been gathering over the last number of years. We published a report of four case studies in the Canadian extractive sector in Colombia in 2009, together with Colombian partners that demonstrated evidence of forced displacement in repeated cases and serious threats to the livelihoods and lands of people living in different parts of the country. We knew we were just scratching the surface of what was going on and the potential that greater harms could come to pass, the harms I tried to emphasize to protections that could be put in place to remedy what has gone on and what could go on, obstacles that could be created with the free trade agreement.

My comments were coming from the sort of evidence we've been gathering. We were very disappointed to see that the government's not taking the indications seriously, to be able to deepen and create a baseline we could build on in the future.

The Chair: Thank you very much.

Mr. Hiebert, you have a minute and a half or so.

Mr. Russ Hiebert (South Surrey—White Rock—Cloverdale, CPC): Mr. Dade, my question is to you, because I'm a little confused. I heard you state in your testimony that there was really no link between a trade agreement and human rights. Did you not say that?

Mr. Carlo Dade: Whether they're linked is questioned. It has to be reviewed in the context of the agreement, the context of relations between the countries, and the only way to firmly establish it is survey methodology, surveying firms to prove that linkages have been there.

I did say there are cases where it's obvious historically, such as the ending of the slave trade. The slave trade was obviously tied to some of the most serious human rights violations. So it depends on the agreement, the countries, and the implementation.

Mr. Russ Hiebert: Then how would you explain what you described as dramatic changes that have occurred since 2002 within the nation of Colombia? Is there some explanation, other than trade, you would attribute the drops in homicides to and increased opportunity for Colombians?

Mr. Carlo Dade: There was a closer causal relationship between interventions and reforms undertaken by the government: the placing of more police officers, better training for police, the creation of new units by the government. The dramatic drop in deaths of people who have some union affiliation or happen to have membership in a union could be tied to the provision of protection for union members.

So you can look at specific actions undertaken by the government in specific circumstances and find a closer correlation.

•(1330)

Mr. Russ Hiebert: How do you correlate what you say is the drop in union member deaths with the statement by Ms. Moore and others who have said that Colombia is the most dangerous place in the world to be a member of a union?

Mr. Carlo Dade: The homicide rate in Colombia was 14,700 last year, which was about 30-some per 100,000. The rate for trade unionists or people somehow affiliated with the trade union I believe was five per 100,000 or four 100,000. So it's safer. People have made this argument, not I but others, that it's safer to be a member of a trade union in Colombia than to be a member of the general population, if you just look at the raw statistics on homicides per 100,000.

Indeed, the homicide rate for people associated with trade unionists has fallen in sync with the fall of the overall homicide

rate in the country. As the government has spent more on security, as the security situation has improved, you've seen the rate for homicides for unionists fall accordingly. Then the government puts in special measures to protect unionists or people associated with unions and their homicide rate falls faster than that of the general population. So that's the closer causality.

The Chair: Thank you very much.

I apologize that Mr. Gonzalez Rúa and Ms. Solano won't be able to hear me; we lost the connection right near the end. I certainly appreciate their participation as guest witnesses. And Mr. Dade and Ms. Moore, thank you for being here.

With that, our time has gone.

This meeting is adjourned.

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