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Chair

Mr. Larry Miller

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• (1540)

[English]

The Chair (Mr. Larry Miller (Bruce—Grey—Owen Sound, CPC)): We will start our meeting.

We want to thank our witnesses, Mr. Atkinson and Mr. Reid, for being here. Mr. Kooy is running a bit behind, but we'll start with you two gentlemen and hopefully, Mr. Kooy will show up.

Mr. Atkinson, go ahead for 10 minutes, please.

Mr. Michael Atkinson (President, Canadian Construction Association): Thank you very much, Mr. Chair.

We'd like to thank the committee for providing the Canadian Construction Association, or CCA, as it's known by its acronym, with the opportunity to appear before you today. My name is Michael Atkinson, and I am the president of the association.

CCA is the national association representing Canada's non-residential construction sector. We have some 20,000 individual member firms from coast to coast. These people build everything other than single family dwellings, including our nation's public infrastructure. Collectively we are more than 64 local and regional associations across Canada, and some 10 affiliated partner associations, including one which I believe appeared before you last week: Merit Canada. I'm also happy to be here with our colleagues from the Progressive Contractors Association of Canada. Their members are mostly, if not all, members of our organization as well.

I should say right from the start that we represent construction companies regardless of their labour relations affiliation. We represent unionized contractors who have collective bargaining agreements with the traditional building trade unions. We represent contractors who have union affiliation with CLAC, and we represent contractors who are non-union. We represent all of those organizations under one umbrella.

Canada's construction industry strongly supports fair and open competition in the procurement of all public sector contracts. From our perspective, public procurement should never contain preferential policies that favour one type of contractor over another based on their labour management policies, the region of origin, or any other form of arbitrary preference. A fair and open tendering process provides the public owner with the widest variety of choice in pricing, thereby ensuring the highest rate of return on scarce taxpayer dollars.

It is from this perspective that I say today that CCA member firms oppose the use of any limitations on the tendering process other than

those that are technical in nature or compulsory due to applicable prevailing legislation or laws. Similarly, we are opposed to the use of federal funding to support own-force infrastructure construction and maintenance by public entities unless the work is awarded based on a level playing field in a truly fair and open competitive tendering process.

For this reason, we strongly support the inclusion of language in the soon to be negotiated federal-provincial infrastructure funding framework agreements that prohibits the use of federal funds to support projects awarded under unreasonable preferences, or exclusionary tender policies, or are awarded directly to public entities without the benefit of a truly competitive tendering system. The one caveat is with regard to the situation where the limitations are required by applicable prevailing law.

Moving to red tape, Mr. Chair, which is also the subject of this committee study, we'd like to help stretch infrastructure dollars under the new Building Canada plan by ensuring that the changes to environmental assessment, the kinds of practices that were used on the stimulus program, for example—and with the new environmental assessment reforms that have been introduced and are now in law—are strongly supported, because they reduce needless overlap. We're talking about there being no need for the federal government to have a duplicate process of review or assessment or otherwise, for situations in which provincial jurisdictions, or jurisdictions that are closer to these projects, perform environmental assessments that are up to the standards expected for those projects. We expect to see the kinds of good lessons that we learned on the stimulus program, and indeed that have been enshrined in the new environmental legislation, used on those projects to ensure certainty and timeliness.

Similarly, we believe that the use of the expedited application processes that were used under the stimulus program should also be adopted. We heard how in many cases municipalities and other entities under the stimulus program had one-page application forms. The red tape, if you will, and the bureaucracy that was normally associated with trying to get a project approved under one of those programs, was very much fast-tracked so that, as the expression goes, we could get shovels in the ground very quickly. We would like to see the kinds of lessons we learned there continued in the infrastructure programs.

Reducing red tape shouldn't be limited just to the Building Canada plan. We also see scope for the elimination of red tape on federal infrastructure projects that could yield similar cost savings.

•(1545)

One example is industrial security clearances. Contractors today are required to obtain industrial security clearances for their firms and their employees on federal government projects, from each of the government departments they are working for. Since ultimately CSIS and the RCMP do all the clearances, a single clearance should suffice. However, what we have found in some situations is that there is no recognition or reciprocity between departments on these industrial security clearances; hence there's duplication, uncertainty, and cost added to our industry to bid and work on these projects.

We understand measures are being considered that would address this, but they can't come too soon from our perspective.

We're also concerned about the red tape costs and burden that may be added to federal projects if measures announced in the recent federal budget aren't done with full consultation with the industry, in particular the measures to engage or promote apprenticeship on federal construction projects and to encourage other levels of government to do so through the Building Canada plan.

While we absolutely agree with the intent of the program, which is to get more apprentices trained and apprenticeships completed, we want to ensure that the measures put in place are not arbitrary, but are meaningful, effective, understood, and certain so they do not create an unneeded barrier or additional red tape for contractors participating on those projects.

Finally, Mr. Chairman, there's one other issue when it comes to competition, and that's with respect to public-private partnerships. All P3s are not publicly funded. An unfair competitive situation has arisen with Canadian contractors participating on P3 projects here in Canada. It has to do with foreign companies being able to use their export credit agencies to help them obtain letters of credit or other kinds of liquid security required by long-term lenders on projects here in Canada.

Our members have been able to take advantage of Export Development Canada's domestic powers. You'll recall this was a temporary measure that was introduced as part of the stimulus program. There are now proposals to restrict access by Canadian firms to those domestic powers. We believe that will significantly limit the ability of Canadian firms to compete on a level playing field with foreign construction firms on major P3 projects that are eligible for EDC domestic financing, because they will have their export credit agencies in tow when they compete on those projects.

Mr. Chair, I'm going to stop there. I'd be happy to answer any questions.

The Chair: Thank you very much, Mr. Atkinson.

We'll now move to Mr. Sean Reid. You have 10 minutes.

•(1550)

Mr. Sean Reid (Director, Federal and Ontario, Progressive Contractors Association of Canada): Thank you, Mr. Chair.

Good afternoon, everyone.

It's my pleasure to be here on behalf of the Progressive Contractors Association of Canada, to share our perspective on how competition can make infrastructure dollars go further.

PCA commends the committee for initiating this study, which addresses a topic of critical interest to our member companies and their employees. We believe it should also be an issue of great importance to every Canadian.

Let me start by introducing our organization. Progressive Contractors Association of Canada represents and supports progressive, unionized employers in Canada's construction industry. Our member companies employ over 25,000 skilled tradespeople across Canada, unionized primarily by the Christian Labour Association of Canada, a unique and modern union, not affiliated with the Canadian Labour Congress or the traditional building trade unions.

My colleague Brendan will speak more about them in a few minutes.

The goal of PCA as an association is to ensure that Canada has a fair and open construction industry, cooperative labour relations, and a robust, inclusive, and highly capable workforce. We believe in open competition in which no sector is given artificial or unfair advantage over another based on union affiliation or lack thereof.

PCA contractors are very much at the centre of infrastructure construction in Canada. Today our member contractors are building over 40 water treatment and waste water facilities across Ontario alone, and several more throughout western Canada.

Our members built the Sea-to-Sky Highway, the Port Mann Bridge, and the Pitt River Bridge in British Columbia. Much of the Anthony Henday Drive ring road in Edmonton was built by a PCA company. Our members account for 40% of all energy and resource sector construction in B.C. and Alberta. Several members of this committee may also be familiar with the work our member companies did in building the terminal buildings at Toronto's city centre airport.

In short, our member companies are leaders in building Canada's economy and the infrastructure that supports it. Despite our clear qualifications, however, regulations and policies in several Canadian provinces and municipalities prevent our members and their workers from bidding on many federally funded infrastructure projects, not because we aren't qualified to do the work, but simply because our unionized employees are not unionized by certain select privileged trade unions.

The scope of this issue is substantial. In Ontario, public infrastructure projects for the City of Toronto, the City of Hamilton, the City of Sault Ste. Marie, and the Greater Essex County District School Board are all off limits to PCA member firms.

In Manitoba, major infrastructure projects such as the Red River Floodway expansion project and the East Side Road project are off limits to PCA member firms.

In addition, projects for Ontario Power Generation, Hydro One, Bruce Power, and Manitoba Hydro are all the exclusive domain of a handful of trade unions and their affiliated contractors, not PCA members and our workers.

The committee has heard testimony over the last two weeks on the scope and cost of this issue of closed tendering. PCA would like to underline the following. First, this is not a static problem; it's one that is growing. This is not about fair wages and employee compensation. In addition to being an issue of fiscal and economic responsibility, it is also one of fairness for all Canadians. Let me elaborate.

The issue of closed tendering is not a static problem, but rather a problem that is growing. In Ontario, the first restrictions began in Toronto and Sault Ste. Marie decades ago. Then, in 2005 the City of Hamilton became subject to a tendering monopoly by the United Brotherhood of Carpenters and Joiners of America.

- (1555)

Today it appears that the Region of Waterloo will soon be subject to the same carpenters union-only restrictions. In December 2012, the carpenters union applied to the Ontario Labour Relations Board to certify the Region of Waterloo. If certification is granted, not only would the region's employees become members of the union, but the region would also be prevented from contracting with any company whose employees were not members of the carpenters union.

While the matter is still before the board, industry consensus is that certification will be successful, and Waterloo will be the site of Canada's newest construction monopoly. As a result, some \$200 million of Waterloo's annual capital budget will be subject to closed tendering, bringing the total scope of the closed tendering crisis in Ontario municipalities alone to approximately \$1 billion annually.

Let me provide one other example of how closed tendering will impact Waterloo. Since December 2009 the region has tendered over \$140 million in water and waste water infrastructure projects, of which 27 companies pre-qualified to bid on those highly specialized projects. If closed tendering had been in place over that same period, only two companies would have pre-qualified to bid on those projects.

As I am sure you know, when you shrink a potential market of bidders by over 90%, costs will inevitably go up, and they will go up dramatically. Unless something is done to permanently put a stop to this, we have every reason to believe that more municipalities in Ontario and in other regions of Canada will soon be closed off.

Contrary to the opinions of some, this is not about fair wages or employee compensation. The City of Hamilton had a fair wage policy in place prior to being certified by the carpenters union, yet once closed tendering began, city staff reported that the costs of major infrastructure projects such as water treatment plants would inflate by 40% simply because of dramatically reduced competition.

PCA members are ready to adhere to fair wage policies if necessary. We simply want the right to bid regardless of the union affiliation of our workers. Let me quote Hamilton city councillor Lloyd Ferguson, who's chair of the city's public works committee. In a February news article about closed tendering, he said:

It's a huge issue; it's a very difficult issue for us.... Less competition, higher price. It's that simple.... Government money should be spent to the best-qualified, lowest-bid contractor, not because of any particular union affiliation.

We could not have said it better ourselves.

Finally, closed tendering is not only an issue of fiscal and economic responsibility, it's also one of fairness and equality for all Canadians. How can it be that in 21st century Canada, a taxpaying skilled tradesperson or small business owner in Hamilton can be systematically excluded from the right to bid on publicly funded projects in his or her own city? This is not because of lack of skill, not because of lack of experience, but because the person carries the wrong union card or no union card at all.

As Canada finds itself in the midst of mounting fiscal challenges for governments at all levels, PCA is asking the federal government to take action. It's time to address the needless cost inflation of closed tendering and construction labour monopolies. We are asking the federal government to help solve this growing problem once and for all by instituting a requirement that all federally funded projects be subject to fair and open tendering, regardless of union affiliation or lack thereof.

Thank you very much, and I'll be happy to answer any questions.

The Chair: Thanks, Mr. Reid.

Now, Mr. Kooy. Welcome, and thanks for coming. You have 10 minutes.

Mr. Brendan Kooy (Regional Director, Eastern Ontario, Christian Labour Association of Canada): Thank you, Mr. Chair, and good afternoon. I apologize for my tardiness.

I appreciate the opportunity to speak to the committee on behalf of the Christian Labour Association of Canada, or CLAC.

The issue of fair and efficient use of federal infrastructure funding is one that is critically important to CLAC and our members. More importantly, this is an issue that gets to questions of basic democratic fairness in Canada. We are very encouraged that it is now being studied and discussed at this level, and we are pleased to be able to share our thoughts with this committee.

CLAC is an independent, multi-sector, all-Canadian trade union which was founded in 1952 and now represents more than 55,000 workers across the country in a variety of industries, but particularly for the purposes of this committee, in construction and mining. To date, CLAC is recognized by five different provincial labour relations boards and the Canadian Industrial Relations Board and has been certified more than 2,000 times as a trade union.

CLAC was founded upon Christian social principles such as integrity, partnership, fairness, respect, and community. CLAC takes a cooperative, common-sense approach to labour relations.

Nationally, CLAC represents more than 42,000 workers in the construction industry. These workers work for some of the leading contractors in Canada—PCL, Ledcor, Kiewit Corporation, JV Driver, Maple Reinders, North American Construction Group—and work on some of the major public and private sector projects across the country.

In the construction industry, CLAC stands out from the single-craft international building trades unions in that it represents workers of multiple trades under one collective agreement. This approach promotes fewer jurisdictional work disputes, greater workplace cooperation, and increased efficiency on the job site.

CLAC's approach, while unique, is just one example of alternative construction unions in Canada. It used to be that in order to work on major infrastructure projects in Canada, workers had to join old-style craft unions represented by the building trades. In those days, particularly the 1950s and 1960s, the international building trades unions were seen as the only solution available for providing the stability needed in the industry.

However, times have changed. There are now more options for construction workers in Canada, and these new approaches to labour have developed into mature, effective organizations. Construction workers can still choose to be members of the international building trades unions; they can also choose not to join a union; or they can choose to join one of the many alternative unions such as CLAC, the Communications, Energy and Paperworkers Union, the international woodworkers alliance, the Canadian Construction Workers Union, and the list goes on. We firmly believe that construction workers in Canada should have the right to join a union of their choice or not to join a union at all.

We believe that workers, as both citizens and taxpayers, should have equal access to perform construction work on public infrastructure projects that their tax dollars pay for, regardless of their union affiliation. Denying citizens access to publicly funded work because of private choices is unfair and runs contrary to Canadian democratic principles. Unfortunately, today in Canada, from Toronto to Waterloo, from Manitoba to B.C., workers across this country are denied access to work on projects that their tax dollars pay for.

Mr. Chair, we would like to point out three very detrimental effects that public infrastructure construction monopolies have on Canadians, sacrificing things like price, priorities, and principles.

Let me begin with price. Mr. Reid has already spoken very concisely on the matter. I would like to offer a couple more examples. The evidence is clear: construction monopolies mean that the federal government pays anywhere between 10% and 40% more, or receives 10% to 40% less for its infrastructure investments. Recently, the federal government invested \$755 million in two large infrastructure projects in Toronto: the Spadina subway line and the Union Station revitalization. It has also invested, in a separate project, \$46 million on the Duffin Creek water pollution control

plant in Durham, just outside of Toronto. The first two projects were closed for bidding; the latter was open.

Mr. Chair, CLAC members built that Duffin Creek water pollution control plant, but were not allowed to work at Union Station or on the Spadina project. The only difference between the Duffin Creek project and Union Station is a municipal line. I ask, is this fair to those workers? Is it fair to taxpayers in these Toronto ridings that their federal tax dollars buy up to 40% less because of a municipal line? We submit that it is not.

• (1600)

Moreover, closed bidding prevents other federal priorities from being achieved. This government has prioritized hiring apprentices and employing under-represented groups in the construction industry, such as young workers, women, and disabled workers, as part of its jobs plan. It has also done very well by encouraging training and hiring from within aboriginal communities. Closed bidding prevents these priorities from being met. Allow me to offer you an example of how this is currently playing out in Manitoba.

Currently, all Manitoba Hydro work is closed to all contractors except those affiliated with the international building trade unions. To bid on Manitoba Hydro work, contractors must agree to hire workers from the building trades. If non-building trades workers, such as CLAC members, wish to work on these projects, they are forced to switch unions.

Ledcor, a firm that works across the country and a signatory to CLAC, is interested in bidding on the next hydroelectric dam project, but is presently excluded from doing so. Meanwhile, there is unhappiness among the Manitoba Métis and aboriginal populations that building trades contractors are not meeting their local hiring obligations.

With the bidding process closed, infrastructure work is bound to be only done by the international building trade unions. Unions that may do a better job of fulfilling the government's goals of employing apprentices, young workers, and aboriginals are shut out of the process. This limits the pool of private sector stakeholders that can assist the government in meeting its job creation priorities.

Finally, let me address what we believe to be the most important point: principles.

Mr. Chair, the result of closed bidding is a breach of fundamental democratic principles that public funds and public projects should be open to all qualified workers regardless of their private association, in this case, their union affiliation. CLAC members, workers who belong to alternate unions, and non-union workers are all barred from being able to access publicly and, in many cases, federally funded projects across the country. Due to closed bidding restrictions, these Canadians cannot work in communities in which they pay taxes, not because they're not skilled, trained, or proven workers, but because they belong to the wrong union.

Let me be clear. This is not an anti-union issue. This is a fairness issue. We do not submit that the government should seek to deprive workers of their right to join a trade union; however, it is neither good nor fair public policy to allow one or more unions to monopolize publicly funded work.

Over the past decade we have, unfortunately, seen the amount of construction monopolies across the country grow: the City of Hamilton, the City of Waterloo, the Toronto Transit Commission, BC Hydro projects, Manitoba Hydro projects. The question you should be asking yourselves is, will you allow this problem to continue to spread? Infrastructure spending has and will continue to be an integral part of the federal government's budget, and it is quite reasonable for the government and for taxpayers to expect that money to be spent fairly and competitively.

Mr. Chair, we encourage this committee and the federal government to continue to pursue solutions to these problems. We believe that as a first step the federal government can adjust procurement requirements for projects that receive federal infrastructure funding to prevent against voluntary project labour agreements with only selective unions. Provinces or municipalities cannot be allowed to be hoodwinked into agreeing to project labour agreements that restrict open tendering and access because of union affiliation, or lack thereof, for taxpaying Canadians.

Additionally, CLAC believes that the government should make it a priority to invest in a study to find out the true costs for taxpayers of construction monopolies across the country. Taxpayers have a right to know what the exact costs and job access implications are of closed construction markets in Canada.

Thank you for your time today. I will be happy to answer any questions that the committee might have.

• (1605)

The Chair: Thanks very much, Mr. Kooy.

We'll now start with Mr. Aubin, for seven minutes.

[*Translation*]

Mr. Robert Aubin (Trois-Rivières, NDP): Thank you Mr. Chair.

Good afternoon gentlemen. Thank you for being with us. I only have seven short minutes. Unfortunately, that is not enough time for all of my questions, especially since I would like to hear answers from all three of you. I will therefore try to give each of you some time.

From what I have gathered, there is an interesting element that stood out in M. Kooy's presentation. For once there seems to be a distinction made between two things. On the one hand, there is a

basic principle: he would like to have an open tendering process. On the other hand, there is a completely different issue: an increase in costs in the case of closed tendering. It seems as though we go from one to the other very quickly, as if there were a cause and effect relation, which may not always be the case.

Do you have examples of projects, putting aside any union affiliations, where a single company was the accredited bidder, therefore preventing any form of competition?

[*English*]

Mr. Michael Atkinson: I don't have an example, but I want to clarify and make the point that our position is that we would oppose any kind of restriction. Whether that's going to impact competition is going to be very dependent upon the marketplace. For example, we would also be here telling you we're very much opposed to a public entity restricting competition to non-union contractors, particularly in a marketplace where they don't have much of the market share.

[*Translation*]

Mr. Robert Aubin: All right.

[*English*]

Mr. Michael Atkinson: It's likely to impact the competition.

Similarly, we've opposed and been in front of federal committees before saying that federal funds should not be supporting local or regional preference policies where the out-of-province or out-of-county bidder has to be your 10 or 15—

[*Translation*]

Mr. Robert Aubin: Thank you, I understand this principle well. I would like to know how one tries to strike a balance between this existing restriction and the practically inevitable increase in production costs.

My second question is as follows: have any of your organizations carried out a study demonstrating that there is an increase in costs when there is closed tendering?

• (1610)

[*English*]

Mr. Sean Reid: I would simply say that the City of Hamilton has done its own study and found their reduction of bidding elevated the cost of the water treatment plant, for example, by up to 40%. The City of Hamilton has also found tendering scenarios that have elevated the cost by up to 80%. They've conducted that research. I think I quoted in my remarks the comments from the public works committee chair who reflected that. They said it is very clear in their experience that when you control for wages—and keep in mind they had a fair wage policy already—the simple reduction of 90% of the bidders in some cases inflates the cost. That's clearly spelled out in their experience.

[Translation]

Mr. Robert Aubin: I suppose you have already been faced with closed tendering processes for which some of your partners and members were not able to submit a bid.

Why do certain provinces or large municipalities deliberately choose to use the closed tendering process? There must be something in it for them. I imagine that the political representatives, whether they be provincial or municipal, are interested in getting the maximum value for their money, just as we are.

[English]

Mr. Sean Reid: I would challenge you on that.

One premise that municipalities chose to affiliate is that in every Ontario case they did not make that choice. Those were certifications initiated by the trade unions in Toronto, Sault Ste. Marie, Hamilton, and now in Waterloo. In every one of those cases there was no input.

I should also say that the way the certification system works for these municipalities is they don't get any input on the terms of their collective agreement either. This is not only involuntary certification, it's the involuntary terms and conditions to which they have to adhere. That's an important statement to correct, that in most cases jurisdictions do not choose to go this way, if given the option.

[Translation]

Mr. Robert Aubin: Am I to understand that I should extrapolate the model that you are giving for Ontario and apply it to the rest of the provinces in Canada?

[English]

Mr. Sean Reid: Certainly, I believe in many cases that is the case. It may not be entirely. I can't say for sure that it's the case in every one of the situations. Again, in the case of numerous jurisdictions, a historic certification is associated with it that was not entered into voluntarily by that jurisdiction. I can't say with 100% certainty that's the case every time. That is certainly the prominent case.

[Translation]

Mr. Robert Aubin: Mr. Kooy, unless I am mistaken, in your presentation you suggested that our committee or the government undertake a study on the cost of monopolies. In my opinion, it is logical and obvious that there could be an increase in costs for infrastructure projects if we were faced with monopolies.

Are we really facing a problem with monopolies in Canada? Even among unionized companies I imagine that competition ensures that market forces are at work.

[English]

Mr. Brendan Kooy: We are absolutely dealing with monopolies.

Mr. Reid went over several examples in Ontario—the City of Toronto, the City of Hamilton, the City of Sault Ste. Marie, and soon, it appears, the City of Waterloo as well. In Manitoba, there's Manitoba Hydro work and the East Side Road project. In B.C. there's all of the BC Hydro work that's being done in the Columbia River basin. Those are all situations where if you're not a member of the right union, and in those cases, the international building trades unions, you have no access to that work.

Do I submit that's a monopoly? Yes, absolutely.

• (1615)

The Chair: You're out of time, Mr. Aubin.

Next is Ms. St-Denis.

[Translation]

Ms. Lise St-Denis (Saint-Maurice—Champlain, Lib.): Thank you Mr. Chair.

I will continue in the same vein as my colleague.

You say that there are cost increases of 10% to 40%. Can you explain the reasons for these increases?

You say that when there is a closed tendering process, there may be cost increases. How can one show that these costs would not be as high if it had been an open tendering process?

Is it implied that workers are not members of the right unions. Is it because your unions have less money? Yet you say that they are paid the same way.

What are the differences that explain these cost increases?

[English]

Mr. Sean Reid: Mr. Atkinson might have some interesting thoughts on this as well, but I will start by saying that one of the significant differences between certain construction companies is the model of labour of the work that gets done.

In our context, with the CLAC and with our contractors, there's only one union for all the workers employed in that. If I'm an electrician and there's a board in the way and I need to get at the transformer that is behind that board, in a craft-based or traditional building trade model, I have to wait until the labourer has finished what he's doing so he can come over and move that board before I can access the transformer and start working on it.

That creates jurisdictional issues and productivity drains that don't exist in either a non-union environment or an alternative union environment. That's one example of the differences in the models. There are advantages in some of the ways that a traditional building trade is organized and there are advantages associated with our models.

I think where you see the cost inflation is when you take out all of the innovation associated with the way that businesses are organized and the way they manage productivity in their workforce and simply scale it down to one or two of virtually the same kind of company. That's where you see the price inflation.

Mr. Michael Atkinson: I would say that any time those artificial restrictions are imposed on competition, whether it's through closed bidding, putting in regional preferences and keeping non-local contractors out, etc., one sees immediately that prices, innovation, productivity, etc., suffer as a result. There's nothing that breeds productivity and innovation more than competition, open, level, fair competition.

I think that's a principle that has been embraced by our country, certainly in our international dealings, certainly through the Agreement on Internal Trade, etc., and it's not a situation of saying—we certainly aren't saying—that unionized construction costs more than non-unionized construction. What we're saying is that when you restrict competition in an arbitrary manner like this, you stifle the competitive pressures that thrive in a free and open marketplace, and that cannot work to your benefit.

[Translation]

Ms. Lise St-Denis: For generations, people in Canada have fought for well-organized unions and good working conditions. However, you are telling me that it would be much more advantageous for you if workers were not unionized or if they were part of a union, and I don't really understand this part, where anyone can do whatever they wish.

Unless I am mistaken, that's what you are telling me.

[English]

Mr. Michael Atkinson: No. What I'm saying is as a taxpayer here in the city of Ottawa, I would be very upset with the local city government if they restricted bidding to city of Ottawa contractors only in the same way. Whether they are union or non-union doesn't matter. You're restricting competition for an arbitrary idea that somehow you're going to help the local economy by restricting competition to only Ottawa-based contractors.

That's the point we're trying to make, that these are artificial restrictions on competition. Again I want to underscore we're not union bashing here. Our association and I would be in front of you to complain just as vehemently if a municipality were restricting competition to non-union firms only.

•(1620)

Mr. Sean Reid: What is clear is that history tells us those labour unions, the labour movement, fought for more than anything the right to associate with whomever they wish. If they wish to associate with a building trade union, a CLAC union, or no union at all, they should have that right. That shouldn't preclude them from the work they do.

I believe that's what the labour movements fought for all those years.

[Translation]

Ms. Lise St-Denis: Do I have time to ask another question?

[English]

The Chair: You have a little over a minute.

[Translation]

Ms. Lise St-Denis: I would like some clarification on the question of P3s.

You said that P3s posed a problem because of foreign industries. I would like to hear further explanations of this.

[English]

Mr. Michael Atkinson: Because of the long-term financing involved in these projects, the financiers for performance security require liquid instruments like letters of credit. However, contractors in North America have been using the bonding industry for that

performance security. They don't necessarily have the balance sheets to support letters of credit and have been using the bonding facility to leverage their balance sheets.

EDC, Export Development Canada, through its temporary domestic powers has been able to help some of those Canadian firms obtain letters of credit or this liquid security that's required on these projects. However, there is a proposal to further restrict the ability of Canadian companies to use EDC's domestic financing powers on these projects. Our fear is when international or foreign companies come, they have in tow their EDC-type agency, their export credit agencies, and they have the ability to achieve that security.

Our concern would be if the measures are as restrictive as those being proposed for EDC, that might impair the ability of Canadian firms to compete on P3 projects here in Canada.

The Chair: Thank you very much.

I'll now move to Mr. Poilievre for seven minutes.

Mr. Pierre Poilievre (Nepean—Carleton, CPC): Madame St-Denis suggested you and the CLAC were trying to direct business away from unionized workers. You represent unionized workers. You are a union at the CLAC. Is that correct?

Mr. Brendan Kooy: Absolutely.

Mr. Pierre Poilievre: So you obviously don't want to take business away from unions. You are a union.

Mr. Brendan Kooy: Yes. As I mentioned in my opening remarks, this is certainly not an anti-union issue. We are a union.

Mr. Pierre Poilievre: Okay, so that settles that.

Mr. Brendan Kooy: We represent workers.

Mr. Pierre Poilievre: So you probably wouldn't want to put yourself out of business by banning yourself from competing.

Mr. Brendan Kooy: I don't think that would be too smart.

Mr. Pierre Poilievre: Mr. Atkinson, you're not in favour of banning unions from competing either.

Mr. Michael Atkinson: No.

Mr. Pierre Poilievre: In open competitions some of your unionized members win—

Mr. Michael Atkinson: Absolutely.

Mr. Pierre Poilievre: —against their non-union counterparts.

Mr. Michael Atkinson: Absolutely.

Mr. Pierre Poilievre: And we are in favour of that happening when they are the most meritorious bidder. I think all of us should be. You were just saying that level playing field, open competition, best team wins.

Are any of you familiar with the United Nations Universal Declaration of Human Rights?

Mr. Sean Reid: I couldn't recite it for you, but I'm vaguely familiar.

Mr. Pierre Poilievre: I can, with the help of my iPad.

Article 20(2) says, “No one may be compelled to belong to an association”. Do you believe the forced union monopoly on construction in Hamilton and other similar jurisdictions is a form of compelled association?

Mr. Brendan Kooy: In my opinion, workers certainly lose an element of choice in those circumstances. If you're a carpenter today living in the city of Hamilton, certainly you lose the ability to work on a good chunk of work, public infrastructure work, in your own city.

• (1625)

Mr. Pierre Poilievre: Article 20(1) of the declaration allows for freedom of association, so there's a positive freedom and also a negative freedom. I just mentioned the negative. The positive one is that you have the freedom to associate with an organization. If you ban workers in Hamilton in the construction field from working with the CLAC or another non-qualifying union, are you not violating their freedom of association rights?

Mr. Sean Reid: I can speak to that a little bit.

One of our largest members in Ontario almost exclusively does water treatment work, and they self-perform virtually all of that work, which means they have plumbers, carpenters, labourers, electricians, the whole thing, hundreds of workers.

They cannot do a single water job in the city of Hamilton. Workers who have worked for this company for 25 years cannot do work in the city they live in, Hamilton. This company is based about 10 minutes outside of Hamilton. If they want to do work in what they've been trained to do, which is to build water treatment plants, in the city of Hamilton, they have to find another company to work for—

Mr. Pierre Poilievre: —or move to another city.

Mr. Sean Reid: —or move.

Mr. Pierre Poilievre: Here we have a government policy that is banning someone from being part of the union that they want to join if they want to continue to work in their field.

Mr. Sean Reid: Effectively, we do.

Mr. Pierre Poilievre: That seems to be a clear-cut violation of both the United Nations Universal Declaration of Human Rights and paragraph 2(d) of the Canadian Charter of Rights and Freedoms, which guarantees freedom of association and is the very basis upon which labour associational rights rest.

Let's look at the situation in Kitchener-Waterloo. I'm going to read from an article by Peter Shawn Taylor. He is the editor-at-large of *Maclean's* magazine. He lives in Waterloo. He said that in Hamilton:

...two workers signed carpenters' union cards and were thus able to impose a union agreement on the entire city forever. As a result, the pool of eligible bidders for construction contracts in Hamilton was reduced by over 90 per cent. Of the 260 firms that had previously bid on city jobs, city staff calculated that only 17 were affiliated with the carpenters union.

So competition has been reduced by roughly 90% to 95%.

He went on:

Hamilton calculations show a 10 per cent increase in costs due to union-monopoly rules, or about \$4 million to \$10 million per year, for routine capital projects. With regards to a massive \$1.1-billion waste-water treatment plan, the cost is estimated at an additional 20 per cent to 40 per cent.

We are talking \$200 million to \$400 million in extra costs as a result of a monopoly that the province imposes on the City of Hamilton.

Mr. Sean Reid: Right. The same would be true for the \$800-million light rail project in Waterloo that's soon.... It has about \$200 million of funding from the federal government in it.

Mr. Pierre Poilievre: He also referred to a \$200-million project in the city of Toronto:

Even a 10 per cent hike amounts to nearly \$20 million in extra costs. In Toronto, Coun. Karen Stintz has put the price of restrictive union rules at \$100 million a year.

We're talking about serious money here. This policy is making it impossible for a lot of seniors to stay in their homes because they can't afford the annual tax increases to pay for inflated infrastructure prices on their property tax bill.

Mr. Sean Reid: More than that, it's the price of monopoly in a large municipality like Toronto, where \$100 million is flushed down the drain. You could build four water treatment plants in smaller municipalities in southern Ontario with that money. For every monopoly that exists in a large urban municipality, there are five, six or seven municipalities on a smaller scale that are getting the short end of the stick.

• (1630)

Mr. Pierre Poilievre: People are sitting in gridlock traffic because municipalities say they can't afford infrastructure upgrades, meanwhile we're seeing \$200-million, \$400-million price inflation on a single project in one municipality alone.

Mr. Sean Reid: Yes.

Mr. Pierre Poilievre: Mr. Atkinson, what percentage of your members are unionized in the businesses that you represent?

Mr. Michael Atkinson: I don't have a figure on that, because it's something we wouldn't ask them to report on, but if you go by market share, it's whatever the market share is. It would be approximately the same percentage.

Mr. Pierre Poilievre: Thanks.

The Chair: Thank you.

Mr. Toet, for seven minutes.

Mr. Lawrence Toet (Elmwood—Transcona, CPC): Thank you, Mr. Chair, and thank you to our guests this afternoon.

I want to start with you, Mr. Reid. I was hoping you could expand on a comment that you made in your statement. You said that the Manitoba Red River Floodway expansion is off limits to PCA contractors. I know there are many who would argue that this would not be the case. There's a difference of opinion on that. I'd like you to articulate why you would make that statement, and how you see that very clearly defined as they are not allowed to be on that site.

Mr. Sean Reid: I can't speak too much to that specific project, but generally in Manitoba, the situation is the following, and I think Brendan articulated this a little bit as well.

Technically in some cases you can work on one of those infrastructure projects, as long as you join the right union. Essentially, to Mr. Poilievre's point earlier, so long as you're willing to forfeit your right to freely associate, you can work on the Red River project.

We think, and our workers think, that is an unacceptable option. We have companies that, because of the unique labour model that we enjoy, as I mentioned earlier, self-perform all of the work. This means they have hundreds of different tradespeople who are fiercely loyal to that company, who have worked there for many years, and the company will not.... That's their business model. They've built their business model on having these employees on their team. They're not going to suddenly wake up one day and pretend they're a building trades company and forfeit their business model. That's unacceptable to the business owners as well.

Mr. Lawrence Toet: Mr. Kooy, could you comment on the same thing. You talked about Manitoba Hydro and the international building trade workers union that you had to be a member of there. Have you had any discussion with Manitoba Hydro on the reason for those parameters? Have you ever had an opportunity to interact with them on that?

Mr. Brendan Kooy: Personally, no, but I know that my colleagues in Manitoba absolutely have, and unfortunately they've made little headway in that regard.

My understanding of the situation in Manitoba is that Manitoba Hydro is not under any contractual obligation to sign project labour agreements on things like hydro projects, or the East Side transportation initiative, or the Red River Floodway expansion to give that work to building trades unions; however, that's exactly what's happening, and a lot of those large projects are receiving federal funding.

You can imagine our frustration as a union, and the frustration of Mr. Reid's members, our signatory contractors who are affiliated with CLAC, who are told essentially that they cannot bid on those contracts, that work, unless they want to operate under the building trades model. For our members, as Mr. Poilievre pointed out, they have freely chosen to associate with CLAC for whatever reason, and we think they're good reasons and we respect that, and so it's frustrating for those workers as well to be told, no, their company cannot employ them on those projects unless they decide to be forced to switch unions.

Mr. Lawrence Toet: Thank you.

Mr. Atkinson, I was very intrigued by a comment that you made, which was something different, something we hadn't really heard throughout the testimony we've had so far. You talked about the environmental assessment aspect of things, and some of the changes in the environmental assessment, and one project, one assessment that's been brought forward.

I just wanted to get some clarification from you on that. Would you support any weakening in environmental protection in that process, or are you very strongly convinced of the fact that the assessment must be equivalent? If you went with a provincial assessment must it be equivalent to a federal assessment or better? Should the protection never be allowed to be dropped, and must it be maintained at a very high level?

• (1635)

Mr. Michael Atkinson: We've always said that we support diligent, vigilant environmental assessment. Our problem is that we have to wait for that green light to go on to develop a project. The worst thing that can happen is that the green light goes amber or goes red because of lack of certainty of the process, and that's what has been causing the problem.

Absolutely we want to see an environmental process that truly hits the intended purpose of the legislation, that lives up to that standard. But we want to ensure that when that process is undertaken, it's done on a timely basis and it's done on a certain basis, so that when the green light goes on and allows our members to develop that project, we can go with confidence, knowing that the light is not going to go amber or red again because of the assessment process being questioned or because of overlapping jurisdictions.

That is the problem. The problem was never one about protecting the environment; the problem was about the red or green tape that was associated with an uncertain, unclear, and untimely process.

Mr. Lawrence Toet: From experience, then, have you run into the situation where it was green and then went amber or red?

Mr. Michael Atkinson: Yes.

Mr. Lawrence Toet: Do you have an idea of what kind of cost that would add to some projects?

Mr. Michael Atkinson: Well, sometimes it's the entire project that's gone.

Mr. Lawrence Toet: Right.

Mr. Michael Atkinson: The investors have said, "Look, we don't have to do it here in Canada."

Mr. Lawrence Toet: The uncertainty drives the investor away, and the project doesn't happen period, which is a great loss.

Mr. Michael Atkinson: Correct.

Mr. Lawrence Toet: Never mind whether it's done efficiently in the construction phase, it's—

Mr. Michael Atkinson: When it comes to the private sector and money, certainty is everything.

Mr. Lawrence Toet: Yes. Very good.

I have a general question for each of you. We keep coming back to the fact that the open tendering and the open process.... I'm a big supporter of that process, going forward. However, would you also believe that the ability of the company to perform the work is obviously a very important component of it, and their ability to do that work safely should be an important component, and also their understanding of the...?

There's sometimes a historical context to why you would prefer a particular supplier. They may have historical knowledge of that particular field. You talked about waste water. In an expansion on a waste water facility, there may be a good reason that you may not go with the lowest tender; there may be a historical understanding of that particular facility that would give an advantage. Quite often it also gives a price advantage, but it may not necessarily be the case.

Is price the absolute bottom line on everything to you, or do you see that there has to be a need to look at the overall picture?

Mr. Michael Atkinson: There are many project delivery methods and many contracting methods, and not all of them are assessed or evaluated on price alone.

In fact, P3 projects are a perfect example of that. Essentially it's a design-build project from the point of view of the actual construction. Yes, it can involve operation, maintenance, and financing, but in a design-build situation, price is not the only criterion. You're looking also at the elements of the design that best fit the owner's needs with respect to the ongoing operation and maintenance of that facility.

The owners themselves can very much pick the criteria. We don't have a problem with that, provided the criteria are well known to the bidders and applied in an even and fair manner.

Mr. Sean Reid: I would add that this essentially is what a robust pre-qualification process is supposed to accomplish: is it a safe, reputable, experienced, otherwise competent firm to do this work? Once we've whittled the pretenders out, we then have a competition that may eventually get down to the lowest bid.

What you're talking about is essentially what any competent municipality or jurisdiction will do in a pre-qualification process.

The Chair: Thank you.

Mr. Sullivan, for five minutes.

Mr. Mike Sullivan (York South—Weston, NDP): Thank you.

Mr. Kooy, what percentage of your collective agreements are voluntary certifications as opposed to board-ordered certifications with votes?

• (1640)

Mr. Brendan Kooy: I can't speak to those exact statistics at this time.

Mr. Mike Sullivan: Is it 25%, 40%? Do you have no idea? There are some.

Mr. Brendan Kooy: There are some. I would challenge you to look at other unions as well, because voluntary recognition is something that happens across the board.

Mr. Mike Sullivan: Okay.

Mr. Atkinson, you suggested there should be no limitation, except for, to use your words, "technical" or by a "law", on how the federal government does its contracting.

What I'm hearing from the three of you is something to do with provincial or municipal laws, not federal laws. I don't think the federal government is going to put any limitations, although they have suggested that perhaps some of their hiring through apprenticeships should be attached to some of their money. But there are no federal laws or requirements that would limit the spending of federal money, are there?

Mr. Michael Atkinson: On the principle, we want open and free competition without restrictions. On the fine point of how you get there and how you would use infrastructure agreements to do that is where we introduce this caveat: be sure what you're doing in those circumstances. The City of Hamilton may be a perfect example. It's not by choice that the City of Hamilton finds itself in that situation.

Is the appropriate remedy there to cut off federal funding? That's the second question.

I think that's where your question was going, and that's why I answered it that way.

Mr. Sean Reid: Perhaps I might add that I don't think we would ever quibble with the federal government insisting on certain environmental standards on infrastructure projects. It seems to make perfect sense to me that it would also seek to uphold basic fairness when it comes to freedom of association.

Mr. Mike Sullivan: Well, except that this government has told us on a number of occasions that it is not in the business of telling the provinces and municipalities how to spend their money, or indeed how to spend the money the federal government gives them. On a number of occasions we have suggested a federal public transit strategy, for example, and it was rejected on the basis that the federal government is not going to tell the municipalities what to do and how to do it. How a municipality governs itself is up to that municipality, and I would assume it would take the same position.

It also takes the position that competing with foreign firms is something it is in fact seeking. In the comprehensive agreement on trade with Europe, the government seeks to correct the mistakes it made in the free trade agreement with the United States, whereby no competition is permitted from across the border on local or provincial contracting. It will correct that with the agreement with Europe, where European firms will be free to bid on municipal and provincial things, which flies in the face of one of the things you are looking for.

I would say that you have an uphill battle with this government.

Mr. Sean Reid: Our hope is that this committee will be united in believing that fairness and freedom of association is something for this federal government to stand up for. I would hope that everybody on this committee would agree with that.

Mr. Mike Sullivan: I think there is a different definition of what is fair and what is not fair. If a municipality determines that it's in its best interest to hire locally, which is something Mr. Atkinson suggested is not a good thing, that seems fair to the individuals who live in the area around the project that is being built.

In my humble riding of York South—Weston, which has the lowest wages in Toronto and the second lowest in all of Ontario, and the lowest family income, we have suggested to the province that if it's going to spend what was supposed to be \$300 million, but because of cost overruns it's now at \$2.5 billion for this project, and it's using non-union contractors, it should be spending some of that on training apprentices and on hiring people locally. It's not interested, and yet that's one of the good things the federal government has signalled it wants to do, but it's one of the things you've suggested, Mr. Atkinson—

Mr. Michael Atkinson: Not hiring locally.... We're opposed to regional preferences for businesses; in other words, a situation where it is indicated that if price is the only criterion, you still have to be 10% to 15% lower than the local guy. That could contribute to a situation in which you scare away non-local bidders completely, or you have a situation in which you're subsidizing local business, and all you're doing is subsidizing local businesses in a way that they can't compete, because they're going to find it awfully difficult when they get out in the real world.

• (1645)

The Chair: Your time is up, Mr. Sullivan. I know you were eager to go.

Mr. Watson, you have five minutes.

Mr. Jeff Watson (Essex, CPC): Thank you, Mr. Chair.

Thank you to our witnesses for appearing here.

Does closed competition occur in federally funded projects only, as opposed to those where we participate with lower jurisdictions of government, with the provinces and municipalities?

Mr. Sean Reid: It's occurring in federally funded and jointly funded projects.

Mr. Jeff Watson: Which federally funded projects are you aware of?

Mr. Sean Reid: When I say federally funded, I mean in most cases joint projects.

Mr. Jeff Watson: I'm asking about where the federal government is the direct funder because there is a federal asset.

Mr. Sean Reid: To my knowledge, there are no examples of federal assets today that have been built subject to closed tendering protocols.

Mr. Jeff Watson: So this is essentially happening in projects where we're joining provinces and municipalities in funding.

Mr. Sean Reid: Correct.

Mr. Jeff Watson: Okay.

Is this closed tendering itself occurring under provincial labour laws?

Mr. Sean Reid: The closed tendering is occurring.... I suppose some of the guiding parameters exist—

Mr. Jeff Watson: It's the ease with which they can certify and obtain a monopoly within a given municipality.

Mr. Sean Reid: Yes.

Mr. Jeff Watson: Is that a fair way of crystallizing it?

Mr. Sean Reid: I think what's important here is the federal government is contributing hundreds of millions of dollars to projects.

Mr. Jeff Watson: That's not lost on me. Maybe I'm picking up a little on where Mr. Sullivan was going. I don't expect the federal government is going to ask the province to change its labour laws to discourage the practice.

The practical question is, what can the federal government do when it is participating in a jointly funded project where this is an issue?

Mr. Michael Atkinson: I'm going to skip to another irritant we have—

Mr. Jeff Watson: I'd like an answer to my question rather than skipping to another irritant.

Mr. Michael Atkinson: Okay. What can the federal government do? One thing they can do is ensure competition, period, and not fund projects that are going to be constructed by owned forces, by municipal forces themselves.

Mr. Jeff Watson: Is that legally high risk, do you know, or do you have an opinion on it?

Mr. Michael Atkinson: Ask Nova Scotia. The Province of Nova Scotia right now has its own asphalt plant, its own chip seal plant, and by its own admission, it's still 40% higher than what the private sector was offering them.

Mr. Jeff Watson: Good.

Closed competition, Mr. Reid, I think it was you who mentioned that the Greater Essex County District School Board was one area where you are shut out of competing. Penny Allen, who is superintendent of business and treasurer of the school board, has been quoted in the media, citing that the extra costs associated with closed tendering are in the range of 10% to 20%. She knows that because for three years, I think it was, she tracked every purchase order on this to extricate themselves from one of six unions they were certified under.

That is an example where we have a body that has been able to quantify the costs of closed competition. That doesn't involve federal funding, but I think it gives a credible local example where that happens.

Open competition has its own challenges, the practice of using MERFs, market enhancement recovery funds, STABs, stabilization funds, and JTFs, job targeting funds. Mr. Kooy, does CLAC use MERFs or STABs or anything similar when it's hoping to bid on contracts?

Mr. Brendan Kooy: No, we never have, and I don't see our doing that at any time in the future. Do you mind my elaborating on that point?

Mr. Jeff Watson: No, that's sufficient.

In an open competition situation how could the federal government address that kind of level playing field in bidding where that would not be...? Can we prohibit that from entering the equation in bidding?

Mr. Brendan Kooy: I don't think that's an issue the federal government would want to take on. I think that's a prime example whereby workers have the ability to join one union or another. CLAC does not subscribe to the theory of stabilization funds or creating this pool that signatory contractors can dip into—

• (1650)

Mr. Jeff Watson: If the federal government is funding a project that is won by a union using a STAB or a MERF, we are in effect replenishing the STAB or MERF and allowing them to perpetuate the process of continuing to underbid others.

Mr. Brendan Kooy: When members join those particular unions that have those funds, they make the choice and take the risk, you might say, of joining a union where their contractor is paying \$1, \$2, \$3 an hour into that STAB fund and risk that contractor being less competitive.

Mr. Jeff Watson: Mr. Atkinson, you raised the issue of industrial clearances under the red tape. I think your statement was that we should eliminate them. I want to clarify that because that's the terminology I wrote down as I heard you say it.

I want to clarify. Is eliminate duplicate requirements for them from several federal agencies more what you—

Mr. Michael Atkinson: Correct, to have a streamlined uniform approach.

Mr. Jeff Watson: Okay.

The Chair: You're out of time, Mr. Watson.

Mr. Jeff Watson: I was just starting, but thank you.

The Chair: Thank you.

Ms. Mathysen, for five minutes.

Ms. Irene Mathysen (London—Fanshawe, NDP): Thank you very much, Mr. Chair, and thank you to the witnesses for being here.

Forgive me, but I'm not sure whether it was Mr. Atkinson or Mr. Reid who talked about the difference between the craft shops and non-union contractors in the ability to multi-task, the freedom to have people move around the site and do various tasks.

In that freer situation, is there a concern or a possibility that an unskilled individual might do the work of a skilled individual, work that he or she is not competent to do, and jeopardize or compromise the quality of the work?

Mr. Sean Reid: No.

Ms. Irene Mathysen: Why not?

Mr. Sean Reid: What I'm referring to are the more rudimentary things that need to get done, like moving stuff out of the way in order for people to do their job. This is not about somehow doing work that somebody is not qualified or certified to do. That's what certifications are for; that's what licensing is for. This is about the frankly mundane work of just being able to do your job without having to wait for somebody else to do theirs.

Ms. Irene Mathysen: I suppose, but I can see the possibility that someone could overstep his or her bounds and there could be a problem.

Now, Mr. Kooy, I don't know much about CLAC. I'm awfully sorry, but I'm not terribly familiar with it, so I have some questions about it.

Recently the government moved a private member's bill to compel unions to do a lot of reporting in terms of how they undertake their business. I'm wondering how you feel about the reporting

requirements in that new legislation. Are they going to impact your members? Are they going to impact you and, if so, in what way?

Mr. Brendan Kooy: CLAC would be subject to the exact same reporting requirements as any other trade union in Canada under Bill C-377. When the bill was first introduced, we certainly did make submissions to the government in terms of some flaws that we saw with the bill. But to answer your question, we would be subject to the exact same reporting requirements.

Ms. Irene Mathysen: What were those flaws? What concerned you?

Mr. Brendan Kooy: Basically—

Mr. Jeff Watson: Mr. Chair, on a point of order, we're not having an examination of Bill C-377. We are talking about how to make infrastructure dollars go a little further.

I think the first question was definitely in line, and I wasn't intervening on a point of order at that point, but this conversation is now departing from the actual study. Now she wants commentary on Bill C-377.

Ms. Irene Mathysen: Mr. Chair, I didn't interfere in Mr. Watson's lines of questioning, and I don't expect him to interfere in mine.

The Chair: I think he's just raising a point that we remain on a topic today, so I'll ask that you stick to that topic as much as possible. Bill C-377 isn't before us.

Ms. Irene Mathysen: Would Bill C-377 interfere with your ability to bid competitively to have the access you're looking for?

• (1655)

Mr. Brendan Kooy: No.

Ms. Irene Mathysen: No. Okay, so you have no concerns at all in that regard.

Mr. Brendan Kooy: Not related to the subject matter here today. No.

Ms. Irene Mathysen: Okay.

Again, I'm not entirely familiar with CLAC. In terms of your policies and how you and your union support workers, obviously if you're going to be competitive and able to get the contracts that you deserve, you need to have a good relationship with your workers. For example, how do you support bargaining and how do you feel about back-to-work legislation, or anti-scab legislation, things like that?

Mr. Brendan Kooy: I'll address the question about collective bargaining and try to bring it back to this context by saying that we negotiate very competitive collective agreements. We certainly believe in workers being paid fair market wages. In the construction industry, as it relates to work on infrastructure projects, our members are paid very competitively, sometimes even above the wages that the international building trades unions negotiate.

Ms. Irene Mathysen: I appreciate that very much.

That kind of comes back to what Madame St-Denis was talking about. When you talk about unfair competition, it's not about wages; it's not the compensation that workers get. So where does the unfairness come from? Why would a cost overrun of 40% exist with a trade union group that you would regard as having unfairly gained a contract?

The Chair: Go ahead and answer.

Mr. Brendan Kooy: That's a very good question. I would point to the example of the City of Hamilton.

Before the City of Hamilton, in 2005, became signatory to the carpenters union, many of our signatory contractors and our members performed work in the city of Hamilton. The City of Hamilton, prior to 2005, had a fair wage policy. Our contractors abided by that and our members were paid under that policy. You're very correct in pointing out that this is not necessarily a wage or compensation issue. Speaking to the economic side of the issue, it's a lack of competition that creates those cost overruns. When you shrink the pool of bidders by over 90%, you lose the ability to possibly get a lower number on who can do a particular job. That's the economic side of it.

The fairness side of the issue, from our perspective, is that our members have freely chosen to join our union and work for contractors who are signatory to our union. By doing so, they find themselves on the outside looking in in places like Hamilton, Toronto, and Waterloo, because they are not able to work on certain projects because their contractor is not able to bid on them.

The Chair: Thank you very much.

Mr. Poilievre, for five minutes.

Mr. Pierre Poilievre: Mr. Atkinson, do any of your members compete for business outside of Canada?

Mr. Michael Atkinson: Yes.

Mr. Pierre Poilievre: Do you think that they would potentially compete for business in Europe?

Mr. Michael Atkinson: Yes.

Mr. Pierre Poilievre: If, as some suggest, Canada were to pursue anti-competitive policies that ban foreign competitors from bidding on Canadian-based projects, do you believe that European jurisdictions would ban Canadian companies from doing likewise?

Mr. Michael Atkinson: I can't speak for the European countries. I can say, however, that from our perspective, our board of director's position on this is that reciprocity is the key. To the extent that those markets are open to Canadian firms, then the markets in Canada should be open to them. From that perspective, reciprocity is the key.

Mr. Pierre Poilievre: Great.

From the point of view of the CLAC, how do you become certified as a representative of workers? In a heartbeat—we don't have a lot of time—what is the threshold required for your union to be certified for a bargaining unit?

• (1700)

Mr. Brendan Kooy: We follow the exact same procedures and application procedure in every province or jurisdiction in which we seek certification as other unions do.

Mr. Pierre Poilievre: Right. Typically does that mean you get either a card or a vote, and you have to get 50% of the vote?

Mr. Brendan Kooy: That's correct. It's nominally different in every region across Canada.

Mr. Pierre Poilievre: So a majority of workers whom you represent have obviously chosen to be represented by you.

Mr. Brendan Kooy: Yes.

Mr. Pierre Poilievre: Okay. So you don't force a group of workers to join your union.

Mr. Brendan Kooy: Absolutely not.

Mr. Pierre Poilievre: Okay.

In the instance of Hamilton and now Waterloo, we have two workers forcing all workers to join one union. That is exactly how the certification happened. Do you think this is a fair certification practice?

Mr. Sean Reid: If I could jump in, I would say it's more than just all of the work. If this were just about the two workers representing the 20 carpenters who happen to be on the staff of the City of Hamilton, that would be one thing, and we can argue that wouldn't be fair either. But this is actually about two workers making a decision for the thousands of workers in the City of Hamilton who had been doing work for the City of Hamilton before that.

Mr. Pierre Poilievre: So basically two, and in the case of Waterloo, again there were two workers who happened to be working on a blue shed at a library, and they were able to apply and secure certification for all of the Waterloo region. So the thousands of workers who are employed doing this kind of work in the region were certified because two people wanted to be.

Mr. Sean Reid: For workers who were working on the 200 million dollars' worth of annual capital budget for the region of Waterloo, yes.

Mr. Pierre Poilievre: That's because two people wanted it.

Mr. Sean Reid: Correct.

Mr. Pierre Poilievre: I mean, I have never heard of a certification process in the world that works like that. There are a lot of different ways you can certify a union, but to have two people certify hundreds or even thousands of workers is astonishing.

We have a lot of people with labour experience on the other side. I don't know if they can come up with an example where two people forced hundreds or thousands to join a union and then forced taxpayers to pay an inflated price of 20% to 40%.

How is it possible that two people can make that decision for all those workers, those thousands of workers, and hundreds of thousands of taxpayers?

Mr. Sean Reid: This is Canadian labour relations.

Mr. Pierre Poilievre: Well, maybe that's the problem.

The Chair: Speak a little louder, Mr. Reid. Thank you.

Mr. Sean Reid: This is simply the reality in numerous jurisdictions, most notably in Ontario. It's true; it doesn't make any sense. It's simply a—

Mr. Pierre Poilievre: The federal government has included a condition in its previous Building Canada agreement with Nova Scotia that protected workers and taxpayers with open competition. Is that not so?

Mr. Sean Reid: That is my understanding. As I said before, the federal government places all kinds of conditions on transfers of money. That's what the Canada Health Act is for. I would hope the federal government is in the business of placing certain conditions on fundamental rights and freedoms. This is another fundamental right and freedom that needs some addressing.

Mr. Pierre Poilievre: Okay.

The Chair: Thank you very much.

Now, we'll go to Mr. Sullivan. You have five minutes.

Mr. Mike Sullivan: Thanks, again.

One of the concerns you have is that public entities not be permitted to bid on public contracts. I'll give you an example where that happened, where public entities were actually expressly forbidden.

This federal government decided it was time to build a rail system between Union Station and Pearson airport. The previous Liberal government was the one that came up with the idea. It was to cost \$200 million and was going to be entirely a private sector thing. The TTC and GO Transit were prohibited from even thinking about it. It had to be the private sector. So we had a competition in which there was one bidder competing against himself. Ultimately that bidder was awarded the contract, and the TTC and GO were not permitted to. Is that an open competition?

• (1705)

Mr. Michael Atkinson: Well, our position would be that the public entity has the right to compete in that open competition. The problem has been, though, that there isn't any competition. There is no tender. They just decide they're going to do that work. We have a situation now where some public entities are not just doing their own work, but are seeking to be pre-qualified and bid on work in other provinces.

Mr. Mike Sullivan: So your issue isn't with whether or not the public entity can do the work, but that it be an open competition—

Mr. Michael Atkinson: Correct.

Mr. Mike Sullivan: —between that public entity and other... which is what should have happened in the previous Liberal government's position. In fact what ended up happening was that the competitor backed away eventually, after five or six years, and left it to GO to do, and we're now reaping the benefits of that.

In terms of non-union situations, we were made aware last time of the situation in building the Canada Line in Vancouver, which was done primarily with.... Some of it was done with temporary foreign workers from Costa Rica, who were paid \$3.57 an hour. The employer, the private sector contractor, was later found to have violated the law, and owes tens of thousands of dollars to those individuals. Is that something that, by going non-union, is going to save the taxpayers money, somehow, by paying people so little they can't afford to live?

Mr. Sean Reid: I'm not entirely sure I'm qualified to speak to that. I don't know that he is, because neither of us are non-union. I represent unionized contractors, and he represents a union. So I'm not sure what to tell you on that.

Mr. Mike Sullivan: Mr. Atkinson, then, you do represent contractors who are in a union.

Mr. Michael Atkinson: Yes.

There are two questions. One is whether non-union construction workers can live up to the same standards and comply with the same labour conditions, etc. as unionized workers. Absolutely. Law-abiding contractors do so. No matter what their union affiliation is, law-abiding contractors obey the law.

As far as temporary foreign workers go, if that individual did violate the terms and conditions of the LMO, then absolutely, throw the full weight of the law against them. That's absolutely a situation that should not continue.

Our industry, quite frankly, has used the temporary foreign worker program only because the permanent entry program up until recently didn't work for us at all. We've streamed most of those workers into becoming permanent residents and permanent parts of our workforce; and indeed, we would never want to have a situation in which we were paying them any less than what we were paying Canadian citizens or permanent residents.

Mr. Mike Sullivan: Are you saying you are now streaming temporary foreign workers into permanent residency?

Mr. Michael Atkinson: Yes.

Mr. Mike Sullivan: I understood that was extremely difficult now.

Mr. Michael Atkinson: The Canadian experience class was created just for that purpose.

Mr. Mike Sullivan: So, is it possible in construction anyway?

Mr. Michael Atkinson: Yes.

Mr. Mike Sullivan: Okay.

With regard to the notion of red tape and green tape—and that's the first time I've heard of green tape, and I must say I had to chuckle when I heard it—does that mean somehow that environmental restrictions are some form of red tape turned green?

Mr. Michael Atkinson: No, it's bureaucracy under the guise of environmental protection. It's not environmental assessment; it's simply jurisdictional fiefdom building and uncertain law.

What we want is a situation in which a truly vigorous environmental assessment is done once and with certainty, so that after the green light goes on, we do not get the amber light or red light stopping a project, delaying a project, or causing that project to go away. It's the certainty of the process. When we talk about green tape, we're talking not about environmental protection but about the unfortunate bureaucracy that arises. It has nothing whatsoever to do with environmental assessment.

Mr. Mike Sullivan: Do you believe that a contractor should be permitted to change their construction methods in order to speed things up even if they are in opposition to the environmental assessment that they were given?

Mr. Michael Atkinson: No. Again, if you have an environmental plan and there are environmental conditions you have to meet, that's just like meeting any condition on a contract. That's what you are legally obligated to meet.

• (1710)

The Chair: Your time is up, Mr. Sullivan.

Mr. Daniel, go ahead for five minutes.

Mr. Joe Daniel (Don Valley East, CPC): Thank you, Mr. Chair.

Thank you, witnesses, for being here.

The suggestion from my colleagues across the way is that it is riskier to actually give projects to people like you. I wonder if you can talk about that a little more. What's your track record in terms of projects that you've taken on in which your members have run out of money partway through, have had gross overruns, have not completed the job on time, etc.? Can each of you talk to that?

Mr. Sean Reid: I'm not familiar with any examples like that. We built the Port Mann Bridge. We built the Pitt River Bridge. We built 40% of the oil sands. We've built 40 water treatment plants in Ontario. We built the Centre Island airport on time and on budget. We know how to do this stuff. We do it well. We simply want the right to bid on work regardless of our workers' union affiliation.

Mr. Brendan Kooy: I can't speak so much from a contractor point of view, but one aspect I would like to talk about is safety. To the question—and I know it hasn't come up yet—of whether CLAC is as safe as other unions, I can say wholeheartedly that it is absolutely. In terms of risk factors from that perspective, there is no greater risk with giving a job...and worrying about health and safety issues on a site, as opposed to giving a job to another contractor who's affiliated with another construction union.

Mr. Joe Daniel: Mr. Atkinson, do you have any comments?

Mr. Michael Atkinson: Well, I know that our members, in some cases, have agreements both with traditional building trades and with CLAC. In some provinces they are non-unionized and in other provinces they are unionized. So, very much the same employer uses the labour relations situation, depending upon the jurisdiction, that puts them in the best competitive position.

If you're going to use a brush and say that all those are bad and all those are good, from the employer's perspective you're talking about the same group of individuals. They have a foot in all the camps.

Let's remember that at the end of the day, the quality, timeliness, and efficiency of the construction are all determined by independent third parties that don't particularly care what your union affiliation is.

Mr. Joe Daniel: In reality there is no difference in terms of the risk of giving you the contract versus one of these restricted unions that would take up the job, yet they would be charging 20% to 40% more for the job.

Mr. Michael Atkinson: Yes, but our point is in restricting or limiting the competition, it doesn't matter who you limit or restrict it to, that's going to impact the price. It doesn't matter whether you're

union-free, whether they're traditional building trades, or whether they're the CLAC union, if you restrict the competition to a few, you're welcoming that kind of situation.

Mr. Joe Daniel: When we talk about CLAC, for example, are you collecting money on behalf of your employees that actually goes to political associations, to different groups or projects that have really nothing to do with the job?

Mr. Brendan Kooy: No, we do not, as a matter of conscience, send any money to political parties. We do not support any political parties, provincially or federally, and we do not give any sort of directive to our members as to whom to vote for.

Mr. Joe Daniel: Are there any comments from the other side?

Mr. Sean Reid: CLAC is well known for not using member dues or member funds to support political causes of any sort.

Mr. Joe Daniel: That is, in fact, your competitive edge. You're actually able to bring projects in at a lower price when you compete for some of those things for those sorts of reasons. Are there other things that affect the pricing you can bid for on some of these contracts?

Mr. Sean Reid: If I were selling our contractors to you today, I'd wax eloquent about all kinds of competitive advantages. But Michael is absolutely right when he says that actually this is simply the exercise of when you scale the number of bidders from ten to two you will get price inflation. It has proven out time and time again, and that could be two non-union contractors and you shut out all the CLAC and the building trades, and it could go the same way. It's the market monopoly influence that actually changes the price dramatically on these things.

• (1715)

Mr. Joe Daniel: Do you want to talk a little bit about your competitive edge with regard to how you make these bid processes?

Mr. Sean Reid: We have fantastic contractors. One reason is the labour model that I talked about earlier, which has a significant productivity advantage over many of the competition, yet we have a strong labour partner that ensures our workers are well cared for, well compensated, and have a strong voice. We actually think our competitive advantage is we've taken the best of both the other sides and brought them together. That's what sets us apart from the rest.

Thank you for that chance to advertise our contractors.

The Chair: Thank you.

Mr. Poilievre, for five minutes.

Mr. Pierre Poilievre: On the issue of competition, let's look at the Hamilton example. According to the City of Hamilton, the number of eligible bidders has dropped from 260 to 17 because those 17 are linked to the union monopoly.

Of those 17, Mr. Atkinson, would it be safe to assume that not all of them would be in a position to bid on every single project?

Mr. Michael Atkinson: That's probably a fair assumption, yes.

Mr. Pierre Poilievre: Some of them have work orders that mean they have no more capacity and therefore they're not in the next round of bidding for projects X or Y.

Mr. Michael Atkinson: Correct.

Mr. Pierre Poilievre: That means we're not talking with 17 bidders in some cases and we could be talking about one or two because there is only a fraction of the 17 allowed that are in a position to bid.

Mr. Michael Atkinson: Yes.

Mr. Pierre Poilievre: Is there any guarantee that the one or two bidders in a scenario like this that charge the extra 20% or 40% on the project will pass that all on to the worker in higher wages and benefits?

Mr. Michael Atkinson: You're assuming that in those situations the inflated price comes completely from the pricing and not from something that's unique or strange about the job to begin with—

Mr. Pierre Poilievre: If I can—

Mr. Michael Atkinson: —and that the risk allocation is normal or traditional and isn't a situation in which they're throwing money at it because more risk is being put on the private sector. There are a lot of assumptions there.

Mr. Pierre Poilievre: Let me maybe be more precise.

I'll just quote again from Mr. Taylor, "With regards to a massive \$1.1-billion waste-water treatment plan, the cost is estimated at an additional 20 per cent to 40 per cent."

The price inflation is linked to reduced competition. Does that extra price inflation end up in the pockets of workers necessarily?

Mr. Michael Atkinson: I think you know the answer to that one.

Mr. Pierre Poilievre: So what we're doing here is we're not guaranteeing high wages; we're guaranteeing fewer bidders, which means higher costs. We don't really know how much of those costs the employer actually passes on to the worker.

In other words, this policy is not designed to help working people. It's designed to limit competition and drive up costs, is it not?

Mr. Michael Atkinson: I can't answer that question, because the City of Hamilton, if you're talking about the City of Hamilton, finds itself in this situation through no fault of its own, or through no desire on its part.

Mr. Pierre Poilievre: Right. Yes.

Mr. Michael Atkinson: It's hard to know what's going on in their minds, but they've been very public about what the impact is. That would suggest to me it's a situation they would rather not be in and would like to be out of.

Mr. Pierre Poilievre: Hamilton did not choose to be in this situation. We all agree on that. Nor is Kitchener-Waterloo choosing this labour monopoly. It is being imposed by provincial labour certification rules.

Was there ever a vote at either Waterloo or Hamilton city council to favour this union monopoly?

Mr. Sean Reid: No.

Mr. Pierre Poilievre: Right now we have a situation where two employees imposed on a municipality a union monopoly, imposed upon all construction workers in Hamilton the obligation to join, against their will, a single union, and the obligation of Hamilton taxpayers to pay 20% to 40% higher prices for projects, and finally, the obligation of the federal government to pay higher prices for the projects it funds in that jurisdiction.

• (1720)

Mr. Sean Reid: Correct.

Mr. Pierre Poilievre: That is the sum total of this policy.

Mr. Sean Reid: Yes. Ultimately the sum total of this policy is that taxpayers pay more.

It's particularly insulting to the tradesperson who is a taxpayer in the jurisdiction where he can't do the work.

Mr. Pierre Poilievre: Right.

The Chair: We've finished our first round, and we have a few minutes left.

I'll give one question to Mr. Aubin and one question to Ms. St-Denis.

Then I have Mr. Watson and Mr. Poilievre.

[*Translation*]

Mr. Robert Aubin: Thank you, Mr. Chair.

I would hope that one day we could produce a report that does not only focus on the city of Hamilton. I would like to know why the cities or the provinces are advocating closed tendering.

Earlier, I listened with delight as Mr. Poilievre reminded us of the Universal Declaration of Human Rights. I was wondering what didn't quite fit with that argument. It seems to me that if I were a doctor, for example, I would have a hard time using the Universal Declaration of Human Rights to justify the fact that I didn't want to be a part of the Collège des médecins du Québec, the province's medical association. Likewise, if I were a lawyer it would be difficult to have the right to defend cases before the courts without being a member of the Quebec Bar Association. I would think that expertise is recognized through membership in these professional associations. They probably serve as a guarantee for those who have to work with the people in those professions.

Based on your experience and your knowledge, do the municipalities or the provinces who choose closed tendering do so in order to guarantee a certain expertise? When you were refused access to that tendering process, what were you told you were lacking?

[*English*]

Mr. Sean Reid: First, just to clarify, are you asking what reasons these provinces are giving us for why we can't bid?

[Translation]

Mr. Robert Aubin: I would like to know why the provinces and municipalities choose closed tendering. Maybe you can answer the other way around. I get the impression that they are looking for a certain guarantee or expertise that they don't believe they can find with you, whether they are right or wrong.

I would like to hear your opinion on this matter.

[English]

The Chair: I think he's clear on the question.

Mr. Sean Reid: They don't choose to do this, in most cases.

I don't want to discount what we're talking about. We're talking about \$1 billion of capital budget annually, in municipalities alone, that is subject to this monopoly. None of the municipalities affected in that \$1 billion willingly chose to be subject to these tendering monopolies.

The Chair: Ms. St-Denis, one question, please.

[Translation]

Ms. Lise St-Denis: Do you work throughout Canada? There was talk of going to work in Europe. Do you have contracts in Quebec for example? If not, why is that?

[English]

Mr. Sean Reid: Brendan, you might want to speak to that too. Do you want to speak first?

Mr. Brendan Kooy: CLAC members currently work in Ontario, Manitoba, Saskatchewan, Alberta, B.C., and Yukon, Nunavut and Northwest Territories. We have not yet expanded into Quebec or the maritime provinces.

Mr. Sean Reid: If I could just add to that, you're actually not allowed to expand.

Mr. Brendan Kooy: That's correct.

In those provinces, specifically in the construction industry, there's legislation that indicates specific unions.... In the Maritimes specifically, it's only the international building trades unions that are allowed to represent workers as construction unions in those provinces.

There is currently a legislative bar in those provinces that prohibits our members from working there.

• (1725)

The Chair: Do you have anything further to add to that, Mr. Reid?

[Translation]

Ms. Lise St-Denis: Are we talking about a provincial law?

[English]

Mr. Sean Reid: That's a provincial law.

The Chair: Thank you.

Mr. Watson, one question.

Mr. Jeff Watson: Thank you.

Mr. Atkinson, you raised the issue of foreign export credit agencies—I presume that's state financing versus commercial

financing in foreign countries—as an advantage for foreign P3 bidders on Canadian projects. I presume the most analogous use of EDC would be to help our companies bid on foreign P3 projects, not support domestic companies in domestic P3 bidding projects.

What is the solution here? Is it to restrict foreign P3 bidders on Canadian projects from using state financing and they'd have to come up with some sort of commercial financing? Would that then drive down the number of bidders and drive up the cost of a P3 project?

Mr. Michael Atkinson: That's an excellent question.

One of the solutions we're looking at, at least with respect to the immediate concern we have, and that is the proposed regulatory changes to EDC's domestic powers, is to carve out some kind of an exemption, or at least some kind of pre-approval from ministerial authority, provided it's timely, to allow Canadian firms faced with that situation...where they know that without EDC's support, or some other vehicle to enable them to provide that kind of financial security, that they are going to be at a competitive disadvantage.

Mr. Jeff Watson: State financing for domestic projects when you're faced with a foreign state.

Mr. Michael Atkinson: Correct.

Mr. Jeff Watson: Okay.

The Chair: Thank you.

Mr. Poilievre, one question.

Mr. Pierre Poilievre: Can you elaborate on how this union monopoly has prevented aboriginals from obtaining employment opportunities?

Mr. Brendan Kooy: In the example I gave with Manitoba Hydro, really, it's a lack of competition. If there's one union or a group of selective unions that have sole jurisdiction over a certain amount of work, they may do things well or they may do things poorly. To take an issue like employment of local aboriginals or the Métis population in Manitoba, we have had feedback from those populations that the building trades unions are in fact doing a poor job and they're not meeting the requirements. However, the situation dictates that no other group will have a chance to do it better because our signatory companies and our union cannot do that work and we do not have a chance to prove ourselves in terms of how we may do that work better.

With regard to the situation across the country, we work with aboriginal groups to encourage apprenticeship training in local employment with aboriginal groups. We have a very strong track record of doing that. However, in Manitoba, unfortunately, we don't have that opportunity.

Mr. Sean Reid: If I could quickly add one thing, this gets back to the previous question as well. This is actually not just about CLAC versus the building trades. The same construction monopoly that happens in Waterloo that the carpenters union has affects LiUNA, the labourers union, who also do carpentry work.

In Nova Scotia, or any other province, even in some maritime provinces, if the carpenters union certified a municipality today, the Labourers' International Union of North America would be shut out just as much as the CLAC would be. This is not simply a one-union issue. This is one union, the carpenters union in many cases, having a monopoly over everybody else.

The Chair: Okay.

Mr. Kooy, Mr. Reid, and Mr. Atkinson, thank you very much for being here.

I hope everybody has a good weekend. We'll see members back here on May 21.

The meeting is adjourned.

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