HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Standing Committee on Foreign Affairs and International Development

FAAE • NUMBER 029 • 1st SESSION • 42nd PARLIAMENT

EVIDENCE

Wednesday, October 26, 2016

Chair

The Honourable Robert Nault

Standing Committee on Foreign Affairs and International Development

Wednesday, October 26, 2016

● (1530)

[*English*]

The Chair (Hon. Robert Nault (Kenora, Lib.)): Colleagues, we'll bring this meeting to order. This is meeting number 29, for those who are counting, of the Standing Committee on Foreign Affairs and International Development. I would like to continue, pursuant to the order of reference given to us on Thursday, April 14, with section 20 of the Freezing Assets of Corrupt Foreign Officials Act, a statutory review of that act.

With us today are three witnesses. Two are on video conference. We can see both of our witnesses via video conference, and I understand they can hear us over there in Geneva and in Toronto.

One of our witnesses today is John Boscariol. He's a partner and the leader of the international trade and investment law group at McCarthy Tétrault. John is in Toronto, as I said.

In front of us is Meredith Lilly, associate professor at the Norman Paterson School of International Affairs at Carleton University. Welcome, Meredith.

Last, we have Thomas Biersteker, professor and director of policy research at the Graduate Institute in Geneva.

We welcome all three witnesses to the committee. As you know, we're in the midst of a very important review of legislation. What we're proposing to do this afternoon is have all three witnesses make presentations, and then we'll go into a good hour or so of our questions and your answers.

It looks like we're going to go with John now, who is first on our witness list. Then we'll go to Meredith, and then Thomas, if that's good with everyone.

I'll turn the floor over to John Boscariol.

Mr. John Boscariol (Partner, Leader of International Trade and Investment Law Group, McCarthy Tétrault LLP, As an Individual):

Thank you very much, Mr. Chair, and thank you to the committee members and the committee clerk for inviting me to appear today to discuss Canada's economic sanctions.

The views I express today are my own. I'm not appearing on behalf of anyone else or any of our firm's clients. I have been practising in the area of international trade and investment law since I was called to the bar in 1995. My focus in my practice is on economic sanctions and export and technology transfer controls, and in particular, on how these Canadian rules interact with their counterparts in the United States and other countries.

Today I certainly want to address all the questions and comments you might have for me, but I want to use my eight minutes of initial speaking time to highlight some of the significant challenges Canadian businesses are facing under Canada's economic sanctions regime, including SEMA, the Special Economic Measures Act, and FACFOA, the Freezing Assets of Corrupt Foreign Officials Act.

I think it's important to understand the history and the context of these measures. I'm sure others appearing before you who are speaking to this are giving you a government, an academic, a policy point of view. I want to give you a practitioner's point of view of this recent history, in the context of where we are currently.

The United States has traditionally established the high water mark for broad and autonomous or unilateral economic sanctions measures. Often those measures are extraterritorial, as you see with respect to Cuba and Iran. It's really only within the last 10 years, I think, that Canada has become more aggressive in this area, implementing broad unilateral measures under SEMA and certainly outside the auspices of the United Nations.

I like to think that started, at least in recent history, around 2006 when Canada added Belarus to the area control list under the Export and Import Permits Act, which essentially prohibited any transfers of technology or any exports to Belarus. It was an extremely aggressive step and measure.

In 2007 Canada implemented sanctions under SEMA against Burma. At the time the government touted those as the most aggressive sanctions imposed against Burma by any country.

In 2010 Canada began to impose autonomous sanctions against Iran, starting with the oil and gas sector, then in subsequent years moved to banning financial services and targeting other sectors, right up until May 2013, when we put a full trade embargo in place against Iran that has since been repealed in part.

In addition to those countries, we've been imposing escalating measures against Russia and Ukraine, North Korea, and Syria. In many instances those measures are more onerous than those of the United States or our trading partners.

I'm not here today to question or debate the policy behind targeting certain countries, entities, or individuals. My primary concern is the administration of these measures. Unfortunately the system today, I believe, is broken.

As Canada has been increasing the use of these sanctions measures, the government has failed to devote even the most basic resources to assisting the business community in complying. This is despite the fact that in two of our recent Canadian budgets over the past years, Finance has promised more resources and funding to be allocated to the administration of these sanctions measures. We've seen no changes, however. There are no officials within Global Affairs Canada or elsewhere in the government who will provide guidance or assistance on economic sanctions.

The economic law section within Global Affairs Canada, staffed with a handful of lawyers, is charged with handling the permit process under 20 or so sanctions regulations. However, it's been made very clear that the lawyers there are responsible for providing legal advice to the government for that permit process and in respect of economic sanctions more broadly, but not to provide any formal or informal guidance or assistance to exporters seeking to comply with these measures. When the business community reaches out to them for even the most seemingly straightforward questions, they're told by Global Affairs to retain legal counsel.

That's great for legal business; it's great for me and maybe I shouldn't be complaining about it, but the fact is, the system shouldn't work that way. Canadian companies doing business abroad, I can tell you, want to comply with these measures, but it shouldn't be this difficult and costly.

● (1535)

In my view, the government lawyers within Global Affairs are hard working, very competent and knowledgeable, but the economic law section remains understaffed and under-resourced. While the government has continued to implement expanding economic sanctions measures over these years, it has failed to keep up by devoting any resources to the administration of those measures.

Even in the administration of the permit process, we see long delays. In some cases, over 12 months pass before we have a response to the permit application. As you expect, Canadian companies, exporters, and investors need to be able to act quickly in response to emerging international opportunities, and our Canadian sanctions system right now is ill-equipped to deal with that reality.

I note that this is a challenge for large and small businesses alike. It has its most negative impact, though, on SMEs that can't afford such delays and the expensive legal bills for the often complex advice that's necessary when the government doesn't provide direction or guidance. I've been working with industry groups and associations, including the Canadian Association of Importers and Exporters, among others, and making submissions to Global Affairs on these issues, but unfortunately, nothing has been done.

I also think this has now become a competitive issue for Canadian companies. Other jurisdictions, including Australia, the United States, and the European Union, provide significant guidance and tools for their exporters to effectively compete and allow them to do that while still complying with these measures. Canadian businesses don't get the benefit of that direction or guidance from our government, and we're at a competitive disadvantage internationally.

Just to give you a simple example, something as basic as a consolidated list of individuals and entities that are subject to an asset freeze is not available from the Canadian government right now. Canadian companies have to screen their counterparties list by list under each sanctions regulation or retain a third party screening service to do that for them. This increases costs, which is difficult, especially for small and medium-sized enterprises.

In addition to imposing this unnecessary burden on Canadian business, the failure of the government to provide this administrative support, I think, significantly undermines their policy objectives. We've seen this arise in at least two cases.

Let me give you an example with Iran where effective February 5, 2016, Canadian sanctions were significantly repealed. Iran is an emerging market of 80 million educated young consumers. It's a huge opportunity for our oil and gas sector here in Canada. What remains for sanctions under SEMA are prohibitions on dealing with blacklisted individuals and entities, as well as prohibitions against supplying listed items and related technology.

Those items include things such as aluminum and silver. Aluminum and silver are contained in solar panels, for example. The question arises as to whether solar panels are now prohibited from being shipped to Iran. That's a question many Canadian businesses have asked us, whether it's for solar panels or other products, and we've been able to get no guidance from the Canadian government on that. Canadian businesses are being frustrated in their attempts to get guidance. They find the process expensive and time consuming, and often they simply decide not to do business with that country.

This is not what the policy-makers intended by relaxing sanctions against Iran. They didn't intend for Canadian companies to stay away from that market. I believe they intended for them to participate in the market, but still comply with the limited sanctions that are in place.

There's another impact on policy. The fact that we have no guidance from the Canadian government creates a vacuum. In those circumstances, companies will look to other countries to see how they are interpreting sanctions measures, and they might start following those interpretations that other countries use.

I have some examples in my written remarks, and I'm going to have them translated and formally presented to the committee later.

● (1540)

We've seen this happening already with the Russia sanctions and the Ukraine sanctions. I feel that can't have been the intention of the policy-makers either. SEMA sanctions are made-in-Canada sanctions and they should be administered, followed, interpreted and enforced as such.

Again, I'm not suggesting we shouldn't impose economic sanctions. I think they're an important policy tool that should be available to the Canadian government to address international emergencies and crises. However, as this committee considers the use of sanctions and expanding possibly the scope of SEMA, FACFOA, or other measures, I'd ask you first to consider fixing the administration of these measures.

Canadian companies doing business abroad respect and want to comply with our economic sanctions. Please provide them with the basic tools and support to do so.

Thank you very much, Mr. Chair.

● (1545)

The Chair: Thank you very much, Mr. Boscariol. That was very useful.

I want to now go to Meredith Lilly for her presentation.

[*Translation*]

Dr. Meredith Lilly (Associate Professor, Norman Paterson School of International Affairs, Carleton University, As an Individual): Ladies and gentlemen, thank you for inviting me to appear before your committee. It is a pleasure to be here today.

[*English*]

The presentation that I'm making today is based on my experience working with Canadian sanctions legislation and policy instruments as a former foreign affairs adviser in the Prime Minister's Office, as well as my current work as a professor in the Norman Paterson School of International Affairs at Carleton University.

My presentation is based on the brief that I submitted to the committee which outlined four recommendations for amending SEMA, the Special Economic Measures Act. As the committee considers whether Canadian legislation should encompass gross violations of human rights, I would note that the United Nations has long considered gross violations of internationally accepted human rights as an acceptable rationale for imposing economic sanctions, as have the United States and the European Union.

In considering potential amendments to SEMA to also address these violations, I offer several suggestions. First, as the committee is aware, subsection 4(1) of SEMA allows Canada to act unilaterally to impose sanctions in the absence of actions by the UN Security Council. This section of the act allows Canada to introduce economic sanctions in two ways, either as a member of an international organization of states, of which the Commonwealth would be an example, that has called upon its members to impose economic sanctions against a foreign state, or unilaterally, provided that the Governor in Council is satisfied that "a grave breach of international peace and security has occurred that has resulted or is likely to result in a serious international crisis".

In 2014-15, that unilateral provision allowed Canada to act via an informal coalition of willing states, namely the United States and the European Union, to impose sanctions against Russia and pro-Russia forces over the crisis in Ukraine. Since the UN could not respond to that crisis due to Russia's veto at the Security Council, and given that Canada was not a member of an organization of states that was willing to act, Canada would not have had the legislative authority to act without the SEMA provisions as they're written. Through this example, we can see how SEMA provisions enabling Canada to act unilaterally have been usefully applied, even though Canada acted multilaterally in practice.

In considering now whether to add "gross violations of internationally recognized human rights" to the rationale for SEMA, it's my sincere hope that a similar logic would be applied before invoking its provisions. To be clear, while broadening the legislation in this way would give Canada the authority to act unilaterally, I hope that Canada would still follow previous practice and would seek to join a coalition of willing states to do so and would do so only in the absence of a recognized forum such as the UN, NATO, or the Commonwealth.

Canada has never acted in a truly unilateral fashion to invoke sanctions under SEMA. It's my view that adding human rights violations to the legislation should not be used as a rationale for doing so now.

My second recommendation relates to the implications that adding human rights provisions to this legislation will have for the test of when Canada will act unilaterally against another state. What I mean by this is that the existing SEMA legislation allows Canada to act unilaterally only when a serious breach of international peace and security has occurred and when a serious international crisis is likely to result. Therefore, by definition, the purpose of adding gross violations of human rights as a rationale for invoking SEMA must be to allow Canada to act when a grave breach of international peace and security has not occurred and when an international crisis is not likely to result, since gross human rights violations that could result in a serious international crisis such as genocide are already captured under the existing legislation. Adding the specific provisions to the act would necessarily lower the threshold for Canadian intervention against foreign states.

Therefore, if this new human rights justification for imposing sanctions is included in the act, then the act must also define what the new threshold for Canada's intervention would be. It could be, for instance, as broad as indicating that these violations have shocked the international community, or they could be much more prescriptive. For instance, the act could adopt elements from Bill C-267, a private member's bill introduced by the member for Selkirk—Interlake—Eastman. That bill seeks to invoke SEMA sanctions for those who have committed gross violations against individuals who are either seeking to expose illegal activity carried out by government officials or who are seeking to promote human rights, democratic and other freedoms, people who we would generally think of as human rights and democracy activists.

Whether the committee supports that kind of rationale or something else, it will be necessary to identify a trigger for Canadian intervention, if Parliament decides to add gross violations of human rights to the rationale for SEMA.

● (1550)

A third issue I wish to raise stems directly from my experience working with SEMA generally as it pertains to the use of travel bans. I know that you heard from folks on this the other day. Changes made to the Immigration and Refugee Protection Act, or IRPA, several years ago allow the Minister of Immigration to use public policy considerations to deny entry to Canada by foreign nationals who have been subject to economic sanctions by Canada. The minister can also ban individuals identified under the Freezing Assets of Corrupt Foreign Officials Act, FACFOA, which I know you're also studying.

Separately and unrelated to economic sanctions, these public policy considerations also give that minister the authority to ban individuals who promote terrorism, violence, criminal activity, hate speech proponents, for instance, or those who pose a public health risk to Canada. While I'm not an expert on our immigration legislation, I suspect that the minister's authority to issue travel bans remains discretionary, due to this other set of considerations.

What this means in practice is that the immigration minister must individually approve each travel ban exercise under these provisions regardless of the rationale. When we come back to economic sanctions, this discretionary authority could result in inconsistent implementation of Canadian policy if the Minister of Foreign Affairs lists a foreign national for economic sanctions but the immigration minister either declines to do so or declines to do it in a prompt fashion.

Despite this potential for inconsistency, the two ministers and the respective departments can in practice coordinate their activities to ensure that travel bans and sanctions are implemented concurrently. Nevertheless, in my mind, given that there's no convincing rationale that the Canadian government would want to impose economic sanctions against an individual yet still allow that person to come to Canada, the government may wish to strengthen the language under IRPA to remove the Minister of Immigration's discretion in this area. I recommend that the government make travel bans automatic for individuals listed under SEMA.

Finally, returning to the issue of human rights violations, I want to highlight for the committee that travel bans on their own are already a foreign policy tool available to demonstrate Canadian action and displeasure with human rights abusers overseas even if the committee declines to recommend that the government take further action on human rights via SEMA.

Under section 35 of IRPA, persons can already be found inadmissible to Canada who have engaged in gross human rights violations. The Minister of Immigration can certainly apply these provisions more liberally in the future if he wishes. While I recognize that travel bans on their own represent a relatively weaker diplomatic response than economic sanctions, Canada may wish to issue travel bans early as part of a broader diplomatic strategy to gradually escalate pressure against a foreign state.

It would also be very straightforward to prompt Canada to issue travel bans alone unlike economic sanctions, which I believe Canada should impose in concert with other willing states.

This concludes my presentation. I'd be happy to answer any questions.

The Chair: Thank you very much, Ms. Lilly.

Now we'll go to Mr. Biersteker.

Dr. Thomas Biersteker (Professor, Director of Policy Research, The Graduate Institute, Geneva, As an Individual): Thank you very much for the invitation to comment on these issues.

I've selected a couple of general questions with which I'm most familiar.

I'll give you a little bit of additional background. I've been working on the issue of primarily United Nations targeted sanctions over the course of the past 15 to 16 years, and a consortium of a group of colleagues, both academic and policy practitioners, including some from the Canadian foreign affairs department, have participated in what we call the targeted sanctions consortium. It was about 50 individuals around the world looking at the impacts and effectiveness of the UN targeted sanctions from 1990 to the present. In fact, we just published a book this past year called *Targeted Sanctions: The Impacts and Effectiveness of UN Action*, published by Cambridge University Press in 2016.

I'm going to reflect on that work, primarily focused on the UN, but I've also worked more recently serving as a member of an EU task force on EU sanctions against Iran, Russia, and Syria.

I want to focus on a couple of points. First is the question in the briefing memo about the use of sanctions and how it has evolved over time. I'll make four brief points about this.

First, today there has been a significant increase in the frequency with which sanctions have been applied. There are more UN sanctions in place today than at any time in the UN's history, at least in this past year. Even though some have described the 1990s as the so-called sanctions decade, there were twice as many UN sanction regimes in place in 2016 as there were at any point in the 1990s.

There are also record numbers of European Union and U.S. sanctions in place. After the termination of the sanctions against Siberia and Côte d'Ivoire, the United Nations has 14 sanctions regimes in place. The European Union has 38 sanctions regimes in place. The United States has 28 different sanctions regimes in place. Sanctions appear to have become a policy instrument of choice.

The second point, in terms of trends and evolution, is that all sanctions regimes today are targeted in some form. Even the U.S., although it may retain some comprehensive measures, has not applied any new comprehensive sanctions since 2000.

There are different types of targeting. You've already heard references to individual targeting. There's individual and corporate entity targeting. There's targeting on one sector of economic, diplomatic, or military activity. There is some targeting that is in fact focused on simply territories of the target country rather than on an entire country, or areas under the control of a rebel group in a country.

I don't know whether anyone there is familiar with this, but I believe the Canadian government has used something called SanctionsApp, which is an app for mobile devices, available also online, for evaluating the impacts and effectiveness of UN sanctions. We now have a menu of 76 different variations of UN-applied restrictions over the last 25 years. These are different measures.

A point that came up in the first presentation dealt with a question about what we call the challenge of keeping targeted sanctions targeted, and this is something that I've heard frequently. It's not just a Canadian problem, by the way. It's a problem in many other countries where private sector firms are having difficulty with regard to the implementation of the measures and keeping them targeted.

In our research, we have come up with a scale of combinations of targeted measures, because it's hard to single out the effects of a travel ban versus an asset freeze versus a sectoral measure. We look at the combination of measures in place by any given centre, and we've developed a five category set of classifications, almost like, I suppose you could say, hurricane classifications. Category one is just individual measures. Category two is diplomatic or arms embargos. Category three refers to sectoral, particularly commodity sanctions measures. Category four is relatively non-discriminating sectoral measures, such as sanctions on oil, sanctions on the financial sector, or sanctions on shipping. Category five would be comprehensive trade embargos.

We were interested in analyzing and trying to understand the challenge of keeping a measure, which may be designed either in New York, Brussels or Ottawa to be a targeted measure targeted and keeping the political goals and objectives consistent with what firms are logically going to do in the spot, and so on.

● (1555)

A third point about how sanctions have evolved is that we've seen —and this is a positive story, I think—an increase in the sophistication of sanctions regimes over time. There's been significant improvement in the specificity of language. This is particularly with reference now to United Nations sanctions. There were nicknames being used for designations in the 1990s. Today the UN is trying to bring its designations to what they call its OFAC standard, which is based on the U.S. Treasury model and uses biometric identifiers, Arabic script, rather than transliterations and so on in the designations criteria.

There's also been some policy learning that's gone on. I would say that the application of measures of financial asset freezes in advance, basically giving a target a warning two weeks before that they should change their policy or we will impose a financial ban or an asset freeze, obviously gives them enough time to move their assets to other locations. There has been some learning. The UN no longer threatens an asset freeze in advance of its application.

We've also seen standardization of language, routine practices, and standardized language for exemptions that we see across one UN Security Council resolution to another. Quite significantly, Canada, among others, supported this particular position. There have been, in my view, significant improvements in legal protection for individuals and for firms that have been designated with the creation of the office of the ombudsman at the UN. We've seen similar types of developments within the EU, particularly in the actions by the European Court of Justice and the European Court of Human Rights.

The fourth trend or evolution that we've seen over time is an increase in the complexity of sanctions regimes. I mentioned earlier that just in looking at sanctions regimes from 1990 to the present, we've seen 76 different varieties of restrictive measures. When we updated our app for 2016, which has just been released this past week for the DPRK and Iran in particular—Iran now being different from the DPRK.... The latest resolution on North Korea is so complex that we've had to develop an entirely new typology to understand it. Where there were outright sanctions, restrictions, or prohibitions on activities, now there are conditional measures indicating that if a country has reason to suspect a violation of the sanction, then it is legally required to take action. This might then apply to its firms. These are what we call conditional measures. The resolution includes additional measures that states are encouraged to consider. I think this is creating additional complexity, that is even building on some of the comments from the first speaker this afternoon.

If there's time, let me briefly say something about whether or not sanctions work, since that's the most common question we're usually asked about this. We're focused primarily on United Nations sanctions. I'd like to make one or two points about the effectiveness of sanctions.

Yes, sometimes they do work, but we need to understand and remember that sanctions are never applied in isolation. UN sanctions are always applied in combination with other policy instruments and most often with negotiation or mediation. Sometimes we hear in the public discourse an argument that we keep on applying sanctions, but we should negotiate. Most often, or almost always, sanctions are embedded in a negotiating or bargaining framework.

In our own analysis of the effectiveness of measures, we argue that the effectiveness varies according to the purposes of sanctions. We differentiate between three broad purposes of sanctions.

The first is to coerce a change in behaviour. That's typically the goal of many sanctions regimes. We oftentimes will see that's one of the principal objectives. We find, in our research, that coercing a change in behaviour through the application of sanctions is rarely effective not only on its own, but even in combination with other measures. It's very difficult to coerce a target to change behaviour, but if you're trying to constrain a target from engaging in some kind of proscribed activity, we find that the sanctions increase in their effectiveness by almost a factor of three.

We also argue that sanctions are important instruments to send a signal. They're more than just words, because they're words backed by costs self-imposed on the target and costs imposed on the sender. We find that in general we do not have as much effectiveness in coercing changes in behaviour, but oftentimes sanctions can play a significant role in changing the nature of forces on the ground or constraining an actor from undertaking actions that are proscribed by the international community more generally.

● (1600)

As one final point on unilateral versus multilateral sanctions, most research has concluded that multilateral sanctions are more effective than unilateral sanctions, particularly if they're UN sanctions backed by political will. These are the most effective, the most legitimate, and by some standards the only legal sanctions—but I think there are others that are legal—and both the EU and to a lesser extent the U.S. legitimize their individual unilateral sanctions measures in terms of prior United Nations decisions.

We also see that recent experience has shown that coordinated action by like-minded countries can significantly enhance the impacts and effectiveness of sanctions. Consider for example the coordinated actions undertaken that have gone beyond just the UN sanctions, particularly with regard to Iran. I'm happy to elaborate on our analysis of the JCPOA, or a similar report that we just finished for Rasmussen Global group on an analysis of the coordinated sanctions applied against Russia over Ukraine.

I'm happy to provide the committee with additional information and to answer any questions. I'd also like the opportunity to comment on the very interesting presentations of my predecessors at this time.

Thank you.

The Chair: Thank you, Mr. Biersteker. That was very good. Thank you for keeping your comments precise.

We have plenty of time for questions. I think we can get into some very good dialogue with our witnesses.

I want to start with Mr. Allison.

Mr. Dean Allison (Niagara West, CPC): To our witnesses, thank you very much.

I think, Mr. Chair, we should have had them first, because the information they've given us has been very enlightening—not that bureaucrats don't do a good job, but they do confuse the issue sometimes more than they clarify.

Thank you very much for all your recommendations. I think there are some great recommendations which we should look at, as far as that goes.

In terms of Magnitsky—I know that a couple of you are familiar with that act in the U.S.—we talked about unilateral actions versus looking at doing more across a broad base. Meredith, because I know you're probably familiar with this, in light of our private members' bills that were first proposed by Irwin Cotler and then by Mr. Bezan, what are your thoughts on the effectiveness of the Magnitsky Act and law?

I hear what we're saying, that this act is not to target governments; I realize that it's looking at individuals.

I'm hearing, John, what you said, that if we're going to look at this we need to have resources, and you're talking about some of our companies that go out to these places.

As you look at what was passed in the U.S., do you think it's effective? We just heard Thomas say that we're also sending a message when we talk about sanctions.

Maybe just comment on your perception of what the Magnitsky law in the United States has done to the whole issue around sanctions and corrupt officials.

● (1605)

Dr. Meredith Lilly: Sure. Thanks for the question.

There is some scholarly literature on the Magnitsky Act in the U. S. I'm happy to send it on to the clerk of the committee, if that's helpful. There is one particularly accessible article written about this from the U.S.

I think it's safe to say that the U.S. Magnitsky Act was absolutely successful in getting Russia's attention and telling Russia that the United States was displeased. To the previous speaker who spoke about the different reasons that you implement sanctions, from a signalling perspective the signal was, I think, loud and clear. It appears that some assets may actually have been frozen and seized, but I think you would need to seek advice from the Americans about exactly what kind of financial assets they got out of it.

Beyond that, however, since Russia posthumously tried Mr. Magnitsky and then found him guilty of tax evasion, I don't think the act was at all successful at holding those responsible to account for Mr. Magnitsky's death.

Russia also retaliated with a series of measures against the United States, including banning American citizens from adopting Russian orphans. They also developed their own list of Americans who would be subject to Russian sanctions for what Russia said were human rights violations, including U.S. Army officials who ran Guantanamo Bay.

I think that overall Magnitsky had a signalling effect and was effective in that way, but I don't think that it deterred Russia and I don't think it punished those responsible for Mr. Magnitsky's death.

Mr. Dean Allison: I'm not sure it was meant to punish them as much as....

John, the purpose of the sanctions was to target individuals who would then try to move their money offshore and take advantage of their own country so that at the end of the day their kids could go to school in other countries and they could have wealth in other countries. I hear very clearly, John, what you said, that it makes no sense if we don't have any lists consolidated, first of all, and don't have any resources.

Would you talk to that a little bit more? If we were to look at trying to form a mechanism whereby we could put people on lists, I heard you say loud and clear that unless you're going to put resources behind it, it's not going to make a whole lot of sense and it's going to be difficult to impose.

Mr. John Boscariol: That's a great point. When we add names to these lists, again I hope the committee understands that these lists are individual lists under individual regulations. When a company, especially an SME, addresses that situation, if we have 20 different sanctions regulations, each has its own list, and in theory the company has to go through each of those regulations and check the lists.

The lists get updated all the time. The Canadian government might be updating them. If they're UN lists, the UN is updating them. It's an exercise that occurs when you first on board customers or counterparties, but also in your continuing relationship you should still be scanning those lists, and many sophisticated financial institutions do just that.

The problem is that the sophisticated financial institutions can afford the third party screening services that will do all that work for you. They'll consolidate those lists. They'll put them into huge databases and the financial institutions will use that when they do implement these kinds of asset freezes.

SMEs have to pay a third party service provider to do that and it's expensive. We're asked all the time to make recommendations for third party service providers to do that. It's thousands of dollars. If an SME wants to trade with a country, let's say in the Middle East or North Africa, that isn't even subject to sanctions, because they're dealing in a high-risk area where there are sanction countries, they'd better be screening that list or they'll run into situations where they are doing business with these individuals. The lists don't key off where the individual is located; once an individual is on a list, you can't do business with them anywhere in the world.

I just want the committee to understand that when we do put additional lists in place, when we add names to lists, it's not a simple task for the business community to deal with that if the government isn't making it easier. One way to do that is to have a consolidated list published on their website. The United States does it. Australia does it. Australia sends out an email to their exporters every time their lists are updated. I think that's something we should really consider doing in Canada to make this more of an effective mechanism.

The other issue with the list is the description of the names on those lists. You need more information than simply just the name.

I'll stop there.

● (1610)

Mr. Dean Allison: Okay.

I have a quick question for Thomas.

You had a couple of comments on some of the testimony. Are there any two points that you want to make or refer to on what was said?

Dr. Thomas Biersteker: Yes. In fact, I would like to pick up the point about consolidated lists, because I think it's a very good idea. Particularly if Canada begins applying its own unilateral measures, it will be important to consolidate the different individual-centred lists.

The United Nations actually has produced, out of its now 14 different sanctions committees applying sanctions, a consolidated list. There is one location now at the UN level.

As I said, the UN is also trying to bring the amount of information up to the U.S. OFAC standard. That's another move with regard to UN lists.

To make one point, while I think it's a good idea, it won't be sufficient for the small enterprises, because if they operate in multiple international jurisdictions, they're still going to be subject to interpretations of multiple lists. That means wherever they're doing business, they'll have to be current, not only with the UN list or the Canadian list, but if they have significant assets in the U.S., they'll have to be compliant with the U.S. list, and so on.

Mr. Dean Allison: Thank you.

The Chair: Thank you, Mr. Allison.

We'll go to Mr. Sidhu, please.

Mr. Jati Sidhu (Mission—Matsqui—Fraser Canyon, Lib.): Thank you to all three witnesses. It's good to hear your words of wisdom.

Mr. Boscariol, you made a comment that we don't have enough guidance from the Canadian government, so the question is, what role should sanctions play as a tool of Canadian foreign policy?

If anybody else wants to jump in, please be my guest.

Mr. John Boscariol: Thank you for that question.

As I was alluding to in my remarks, I'm not disputing that sanctions can be an effective policy tool particularly on the signalling side. I'm not here to say that we should never use sanctions. They're a valid tool. But what's interesting, I always find, about sanctions is that their use relies heavily on private business implementing and following those laws.

One of the earlier speakers talked about immigration bans and banning entry into Canada. That's something Immigration Canada and CBSA can handle on the front lines. When you impose sanction measures such as asset freezes and trade prohibitions or investment bans, you're putting it in the lap of Canadian companies, financial institutions in particular. I'm not saying that's a bad thing. It's a necessary thing, a part of the nature of sanctions. However, let's recognize it, and if we're going to do it, let's make sure the proper resources are in place to enable these businesses to comply with those measures.

● (1615)

Mr. Jati Sidhu: Does anybody else want to jump in?

Lilly?

Dr. Meredith Lilly: Sure.

I agree wholeheartedly that travel bans place the responsibility on the federal government of Canada to implement them and to absorb the associated costs. I would just make the general comment that sanctions gained popularity as an alternative to war. I think we should bear in mind that sanctions are a serious instrument. They're quite a big stick, frankly, and they should be used sparingly. That's part of the reason I suggest that economic sanctions should be done multilaterally, not unilaterally.

When we want to use them for signalling purposes, there are a variety of non-sanctions instruments that we can also use that have less of a cost on business, that are very straightforward for Canada to implement, but at the same time don't necessarily have the same kind of impact. Travel bans require the use of the IRPA legislation. All kinds of diplomatic things can be done, including boycotting events and participation in sporting games. All these kinds of things are part of the bigger foreign policy tool kit that can be used.

I think it's important to highlight that economic sanctions largely require Canadian business and banks to co-operate. That's a good point.

The Chair: Mr. Biersteker.

Dr. Thomas Biersteker: Canada is not alone in this issue and problem. A few years ago we organized a meeting between the panel of experts for the Lybia sanctions committee here in Geneva and private sector individuals, because as the first speaker has pointed out, individual financial firms are themselves the main sources of the implementation of these measures.

The comments we heard from the private sector—from financial institutions, from insurance companies, from shipping companies—were about the inadequate information they were receiving from their governments. Particularly, I must say—this seemed to be disproportionately from the U.K.—there were complaints about Brussels. I'm not going to make a Brexit comment at this point, but it's a common problem that the private sector has difficulty getting the information it needs in a timely manner. This is not a uniquely Canadian problem. It's a problem for the private sector implementing sanctions globally.

I made reference in my comments to the challenge of keeping targeted sanctions targeted. This is keeping them consistent with the careful design of the measures, when they are actually being crafted in New York, Brussels, or Ottawa. I think the problem of keeping them targeted is a problem of what we call the dual translation problem. There are two translations that are under way: first, the translation from, in the case of the EU, a council decision, or in the case of the UN, a Security Council resolution, into national legislation; and second, the communication of that national legislation to the private sector.

At both of these points, the translation—from a council decision to government legislation, and to the interpretation of that legislation, the way it's communicated to firms and the way firms then through compliance implement the measures—can lead to a significant distortion. It could mean a narrowing, but most often it means a widening or broadening of the sanctions and particularly over Iran in the past few years, the phenomenon of widespread derisking because firms were simply concerned that if they didn't divest virtually all activities with regard to Iran, they could be in trouble with their own governments, and with other governments as well in terms of fines and penalties.

Mr. Jati Sidhu: Am I done?

The Chair: You have a couple more minutes, Mr. Sidhu.

Mr. Jati Sidhu: Okay.

On the same topic, I'd like to hear some comparison of how sanctions policy and legislation have been designed and implemented by the other countries and organizations around the world. How do you compare our policies to their policies?

Mr. Boscariol, would you like to start?

● (1620)

Mr. John Boscariol: Yes.

I have just a couple of points on that. One is Canada has a made-in-Canada policy in many of these cases and when you compare just the sanctions policy with respect to Russia, Iran, Cuba, Burma, and these other countries, they're not identical. A Canadian company has to pay attention to these made-in-Canada policies, as they do these sanctions policies from other countries.

Canadian companies in the past have often made the assumption that the U.S. is the high-water mark, so they'll just follow U.S. sanctions. They're the most aggressive, so that's got to be the safe process to follow. Frankly, that's gotten a lot of Canadian companies in trouble when they realize there are some elements of these sanctions that are more aggressive in Canada than in the United States.

The second comment I would make on that is, in the administration of these sanctions, there are significant differences and I understand the point our speaker from Geneva is making. There are complaints from companies around the world about dealing with these sanctions measures, and I get that, but I think we are unique here in Canada. To give you some anecdotal evidence on this, I deal in commercial transactions that involve trying to determine the application of Canadian sanctions. I work with sanctions counsel in the United States, Australia, and Europe, and uniformly we have situations where the Americans and the Europeans are able to get guidance on these issues and they're stunned that here in Canada we're unable to pick up the phone and at least call someone in Global Affairs and ask them how they might interpret something. That's unheard of here in Canada. While they're able to do that to some extent in the United States and the European Union, in the United States OFAC—although it's often the subject of complaints—publishes FAQs on these issues. They publish opinions on these issues. There are phone numbers you can call to speak to them about these issues. We don't have that here in Canada right now, unfortunately.

The Chair: Okay, thank you, Mr. Sidhu.

I'm now going to go to Madam Laverdière, please.

[*Translation*]

Ms. Hélène Laverdière (Laurier—Sainte-Marie, NDP): Thank you very much, Mr. Chair.

My thanks to the three witnesses for giving us such interesting presentations.

Mr. Boscariol, we have only just started our study and already we have begun to become aware of the situation you are describing, that is, the few resources provided to companies. We are not just talking about compiling a list of names, but also about the fact that an instruction guide has not been updated by the Office of the Superintendent of Financial Institutions for more than six years. We are realizing that there are flaws in the system that can even lead to a greater adherence to the established standards, just in order to avoid risk.

You spoke specifically about what the Americans are doing.

Is there a model we could consider that is particularly useful and easily applicable to the Canadian system?

[*English*]

Mr. John Boscariol: Your point about over-compliance is an excellent one. It really is for many companies, including financial institutions, an issue of risk mitigation, Even though there are situations in which they might be able to argue that one could go forward with a transaction under the Canadian legislation, if it's a grey area and they can't get guidance on a rapid basis from the Canadian government, those Canadian companies and institutions, I can tell you, will often refrain from going through with that transaction. Again, as I mentioned earlier, I think this really undermines the policy in this area.

Now, to answer your question about an example we've often raised with the Canadian government, the example or system that they have in the United States with OFAC, the answer that most often comes back is that the U.S. is 10 times our size, that OFAC is a massive department with huge resources, and this is just something that can't be replicated in Canada.

That being said, I would say we should look at the Australians. Now, I'm not an Australian lawyer, but I've signed up to the email lists that the Australian government has. I'm notified every time the Australian government adds a blacklisted entity to its sanctions list. It's very easy to do, and they have at least that aspect of it covered very well in Australia via their website. Something as simple as that could, I think, be easily replicated here in Canada.

● (1625)

[*Translation*]

Ms. Hélène Laverdière: I would like to make a quick comment about this way of avoiding risk. When sanctions were applied against Iran, Iranian students here in Canada saw their bank accounts being closed because the banks did not know how to apply the sanctions.

Mr. Biersteker, sanctions can come in three categories, or have three purposes: to change behaviour, to impose a constraint, or to send a signal.

How would you describe the sanctions against Iran? Where do they fit in those three categories in terms of their effectiveness?

[*English*]

Dr. Thomas Biersteker: Thank you very much for that question.

In our assessment we developed an approach to try to assess the effectiveness of sanctions. We differentiate among the various purposes. We evaluate the question. Was Iran coerced to changing its position on the weaponization of its nuclear program? Was Iran constrained, by which we mean, were the costs raised? Did it change its strategy in some way? Was Iran effectively signalled? Was the message clearly articulated? Importantly, was there some degree of stigmatization of Iran? It's not just the clarity of the message, but a sense of some degree of stigmatization in some areas.

The other thing we do when we look at evaluating effectiveness is differentiate country regimes by what we call episodes. In the Iran sanctions regime, we define an episode as a change in the nature of the sanction being applied, the target of the sanction, or the purpose of the sanction.

Over the course of the period from 2006 until the Joint Comprehensive Plan Of Action last year, we identified five different sanctions episodes in Iran. All of this information is available either at sanctionsapp.com or on our app device—which, by the way, I'm not selling; it's free and available. It may not work on BlackBerry, though. That may be a problem in Canada; I'm not sure.

Particularly with regard to the most recent phase, we found and made the argument that the sanctions were effective, but in the following way. They weren't effective on their own. The sanctions were effective in forcing a change in behaviour not because they brought Iran to the bargaining table—Iran had been negotiating through this period. The changes are multiple. I said earlier that sanctions are always applied in conjunction with other policy instruments. I think there are two other significant developments that led to the JCPOA, one of which was a change in the bargaining position of the E3-plus-3, or the P5-plus-1, depending which side of the Atlantic you are looking at the issue from.

Previous to 2015 there was a total prohibition on any enrichment, so the E3-plus-3 changed their negotiating position. The combination of intensified sanctions, and this is the point I made about multilateralizing, brought Europe on board and brought many other countries on board, with even trade reduction from India, from China up to a point, from Korea and Japan. It was a comprehensive strategy. That was very important, but the sanctions alone did not produce the change. It's the change in bargaining position and, I would say, certain elements of luck. The election of President Rouhani in 2013, which was not expected by most specialists of Iranian politics, also created an enabling environment. To make the sanctions effective, you needed to have some degree of luck. You also needed to have it coordinated closely with bargaining and negotiations. I would argue that this, plus sanctions, resulted in an effective outcome.

I'm sorry for the long dissertation on that, but we've thought a lot about this.

● (1630)

Ms. Hélène Laverdière: That's very interesting.

Thank you very much.

Do I still...?

The Chair: Sure.

Ms. Hélène Laverdière: Thank you, Mr. Chair.

[*Translation*]

I understand that you have certain reservations or that you believe that, if some human rights files were included in our program of sanctions, it would have to be done quite prudently, by establishing thresholds, and so on.

Generally speaking, should we make major improvements to our current program of sanctions?

[*English*]

Dr. Meredith Lilly: Do you mean under the SEMA legislation?

Ms. Hélène Laverdière: I mean SEMA and the foreign officials....

Dr. Meredith Lilly: Actually, I don't have very much to say about FACFOA, mostly because it's a fairly specific act. I think other witnesses spoke about its being a very particular piece of legislation.

It's not that I have hesitations necessarily about the government or Parliament deciding that it wants to add human rights violations to SEMA. I just feel that it's important to be clear about what it necessarily means, if the government decides to go down that route. What it must mean is that the legislation will become de-linked from the idea that an international crisis is imminent. It creates a new test for determining when Canada should or should not intervene in the actions of other sovereign states.

I don't want the moment to pass by without the committee or others stopping to take note of the seriousness of doing this. There are lots of ways by which, if the committee decides that Canada wants to stand up for human rights globally and wants to reach into other states—because that's what SEMA is basically trying to do—and take action against human rights abusers.... That's something that Parliament can by all means decide. It's just that at the same time, legislators need to also decide under what circumstances Canada would do so.

On the one hand, if Canada were to head down that road, there could be a lot of pressure from various groups for Canada to intervene in a whole series of human rights causes around the world. I think it's important to think about the circumstances under which Canada takes a position, via legislation anyway, that this is something the government wants to do.

I hope that's helpful.

Ms. Hélène Laverdière: Yes, that's quite clear.

The Chair: *Merci*, Madame Laverdière.

We're going to go to Mr. Saini, please.

Mr. Raj Saini (Kitchener Centre, Lib.): Thank you all for being here today.

Mr. Boscariol, I have a question for you specifically because you mentioned Belarus in your opening comments. I want to ask a specific question because it seemed to me that the intervention we had was different from the intervention of the United States or Europe, in the sense that we didn't have any economic sanctions. We had them on an area control list and we controlled what could be exported to them, but the United States and the European Union had them under a different regime, which caused a lot of difficulty for businesses in Canada and also for foreign subsidiaries that were doing business in Canada.

What can we do as a committee to make sure that our businesses in this country are on the same level playing field to make sure that there's alignment between what we're doing and what the rest of the world is doing?

I use Belarus as a specific example because that situation tended to cause confusion with certain enterprises in Canada.

● (1635)

Mr. John Boscariol: It's a good point. Our Belarus measures are export controls. They're not economic sanctions. What the U.S. did with Belarus was in large part a list-based sanctions measure. They identified certain parties you couldn't do business with related to Belarus and the Belarus government. In the case of Canada, it was an export control. It didn't really restrict Canadians who were abroad from doing business with Belarus.

However, it was a very aggressive export control. To put a country on the area control list is a massive step, I think. We did it with respect to Burma. North Korea is on that list right now. When Belarus was on it, it meant no exports could go to Belarus. It also meant that no technology transfers could occur, and that tripped up a lot of Canadian companies. Belarus used to be a kind of silicon valley of the old Soviet Union. There are a lot of legacy operations there with computer producers and software developers. There are many software companies in Canada that had been working with software developers in Belarus, and they unknowingly got offside when they were transferring technology to Belarus as part of that software development.

I wouldn't characterize the measures from the United States or the EU as more aggressive, necessarily; they're different. But I can tell you that putting Belarus on the area control list presented a very difficult situation for Canadians and for Canadian subsidiaries of U. S. companies, because the U.S. didn't implement a measure like that. Many U.S. companies weren't aware that Canada had this measure in place. Their Canadian operations may have gone ahead and done business with Belarus because of that.

A large part of my practice is just what you've identified, which is situations in which the U.S. and Canada are not completely aligned on sanctions measures, and with the EU or Australia and other countries. That creates a lot of difficulty for Canadian companies.

From a policy point of view, I think it's a bit of a different issue. From a policy point of view you may decide that you want to be aligned. It is much easier for Canadian businesses, if we're completely aligned, but that's no longer a made-in-Canada policy. It requires us to align ourselves with the U.S.—I don't think you'd see the reverse case, in which the U.S. would necessarily align themselves with our policies—but it's a more challenging prospect, because I'm not sure it's always the best Canadian policy to just do what the Americans are doing. If that were the case, we'd have no success in Cuba right now.

Mr. Raj Saini: Mr. Biersteker, I have a quick question for you. May I call you Thomas?

Dr. Thomas Biersteker: Please. It's easier.

Mr. Raj Saini: One question I have for you concerns judicial review. I know you did some work on the Watson report with the United Nations. Part of Resolutions 1989 and 1904, I believe, involved the fact that you created an ombudsperson to look at whether to retain certain people and entities on a list or to remove them from a list.

Do you think that's an important part, having these sanctions in legislation? What kind of guidance can you give to us as to what we can do here in Canada?

Dr. Thomas Biersteker: Thank you very much for that question.

Yes, I worked very closely with a former colleague at the Watson Institute at Brown University, Sue Eckert, who was the assistant secretary for export controls in the Clinton administration.

We made a number of recommendations and suggestions for ways of addressing what was fundamentally a very serious problem, the absence of due process for individuals who were designated, individuals who were put on the list.

When the other nations first started applying individual sanctions, I asked someone at the secretariat who was overseeing the policy, “Did you think about the human rights implications of having the Security Council listing individuals?” At the time, he said, they were so concerned with changing and amending the comprehensive sanctions against Iran that they simply didn't ask this question; no one even thought about it. they thought they might be going after politically exposed persons, but no one thought about due process rights of individuals.

We were commissioned by the governments of Switzerland, Sweden, and Germany to explore different ways of addressing this problem at the UN level. We didn't give policy advice. We simply organized the different options that were on the table and evaluated them in terms of the extent to which these different institutional options would address the fundamental due process violations of notification, access, right to a hearing, and effective remedy.

Ultimately, the Security Council, although there was a lot of opposition in 2006, things changed in 2008 or 2009, probably because of the change in administration in the U.S. particularly. There was the introduction of the office of the ombudsperson. In fact, the first ombudsperson was a Canadian national, I think, Kimberly Prost. She was a former prosecutor at the ICTY.

What Kim did in the office is interesting. I tell this to my students of institutions; it's a very interesting story. She actually, in 18 months, managed to take an office that was strongly opposed by permanent members of the Security Council and in effect give it a reverse veto. That means that recommendations made by the ombudsperson are binding unless all 15 members of the council overturn those recommendations. I talked about the improvement in legal procedures. This is actually quite a dramatic and quite a significant development.

My legal colleagues will not agree that the ombudsperson has effective remedy, because ultimately, the decision remains at the Security Council level. But I argue that not a single one of the ombudsperson's recommendations has ever been overturned by the council, at this point in time. I think it's actually a fairly innovative and important mechanism.

The reason we argued so strongly for it was that the Security Council's individual designations were increasingly being delegitimized by legal suits, particularly in European courts. Even with the EU trying to implement UN sanctions, it was finding it was losing about two-thirds of the cases relating to designations in the European Court of Justice. That has levelled off to about 50% today.

In the EU, of course, it's handled differently. Here in Switzerland we're not in the EU, but in the European Union, it's handled through the court system.

I think it's important that when making individual designations, these questions be addressed and taken seriously; otherwise there are fundamental due process violations. All I would argue—this is perhaps a [*Inaudible—Editor* statement—is that all individuals have rights, even individuals charged with committing war crimes and other criminal activities of [*Inaudible—Editor*] terrorism cell. I think it's important to introduce these kinds of measures and to take this as seriously as it deserves.

Our current campaign is to some extent to get the UN to extend the mandate of the ombudsperson from the counterterrorism committee under Resolution 1267 to other committees, because the issues are fundamentally the same.

● (1640)

The Chair: Thank you, Mr. Saini.

Colleagues, that's the end of the first round. We have a significant amount of time left, so we'll be able to get through the second round easily and maybe go beyond that.

We'll go to Mr. Miller.

Mr. Marc Miller (Ville-Marie—Le Sud-Ouest—Île-des-Soeurs, Lib.): Ms. Lilly and gentlemen, thank you for appearing and thank you for taking what is a broad approach to this panel and the examination at hand. What has become evident in a number of the appearances of witnesses before us with respect to the legislation and its operationalization is that we started out thinking about where the holes are in this legislation and where we can fill them and how it can be put in place in the most desirable way as part of Canadian policy and effective enforcement of these legislative tools, and quickly we've gotten into a few observations that are rather surprising. One is the inability to impose them in an effective way, and another is the potentially perverse effects that imposing them has, absent a broad multilateral approach.

I'm glad you've raised that point, because as we look at potentially putting in place something that would address gross violations of human rights, the issues you raise today are particularly important in making sure that this legislative tool, if deemed desirable by Parliament, actually works.

The current legislation, which is supposed to deal with something equally if not more grave, you've said either doesn't work, is very difficult to put into place, or creates disincentives or perverse effects on Canadian business, as Mr. Boscariol stated. It's particularly intriguing—and it won't be part of my intervention, but as we start to engage more with Iran—that what you've seemed to suggest is that Canadian business is at a disadvantage compared with partners who can react more quickly.

The question I have is with respect to gross violations of human rights and what we need to do; with where you see an opportunity for Canada to act, and—any one of you can answer this—with a focus on the potential countermeasures facing a country that is much more powerful than us both on an economic level and a political level and potentially a partner, whether acting unilaterally for a country like ours.... One, is such an approach desirable from a legal and political perspective? Two, would it actually work? Three, one of you gentlemen raised the rule of law—condemning people essentially before they're judged—but also the perverse effect that it can have on Canadian citizens as a result.

I know that's a long statement, but go at it as you see fit.

● (1645)

Dr. Meredith Lilly: Thanks for the question.

Whether gross violation of human rights should be added to the act or not is a decision that you're going to have to make, but I guess I would say that it's important to bear in mind that there are already lots of ways that gross violations of human rights could be acted upon under SEMA today, provided that there's a view that an international crisis is imminent.

In the example of—

Mr. Marc Miller: —under that threshold.

Dr. Meredith Lilly: Okay. Under that threshold, I'm not a big proponent of Canada's acting unilaterally in this way through the use of SEMA, although I think there are many things that Canada could do unilaterally outside of SEMA, including such things as travel bans, which fall entirely under Canada's authority. The difference between travel bans and economic measures is that it's entirely, I think, within Canada's right, and Canada absolutely should make decisions about who comes and goes from our country. We're a sovereign state, and if we don't want gross human rights violators coming here, they shouldn't come. IRPA already allows for that.

In taking actions against a foreign state about human rights violations that occur outside of Canada, it's very much my view that it's something that, if Canada wants to go down that road, it should be doing on a multilateral basis through SEMA. Otherwise, there are all kinds of other foreign policy tools available, including doing things such as supporting human rights groups on the ground who publicize a lot of this stuff and help it to see the light of day.

Others may have views.

The Chair: The gentlemen who are with us by teleconference, do you have anything you'd like to say?

Mr. John Boscariol: It's John here, and I'll take a very quick crack at that.

You may recall the situation of a Mr. Abdelrazik, who was a Canadian stuck in Sudan and was unable to return to Canada because he was on a UN list. The UN can screw these things up sometimes. Sometimes people are on lists who shouldn't be on them. You'll recall in that case our Federal Court scolded the Canadian government at the time for not allowing him to come back to Canada, although eventually he did come back to Canada.

I can tell you from my experience in representing companies on Canada's lists that the process for getting them off when you know there's been an error is very difficult. You have no insight, no transparency into that. There's no due process. Understand, for companies as well as individuals, when you put them on a list, even if they may not be able to come to Canada, or the companies may not be able to do business with Canadians, the impact is worldwide as soon as you put someone on that list. Banks around the world search the Canadian list; their databases include U.S., Canadian, Australian, and EU lists. There is a huge impact when you put someone on that list. So I think if we're going to expand the number of people on these lists in Canada, we need to have a better mechanism in place to protect people against wrongful designations.

● (1650)

The Chair: Thank you.

Go ahead, Thomas.

Dr. Thomas Biersteker: I agree very much with Mr. Boscariol's points about the importance of having procedures available. If there are mistakes made, there need to be procedures available for the presentation of information. The biggest problem historically has been that most of the designations, in sheer numbers, have been related to counterterrorism. The information that serves as the basis for these statements of case tend to be from classified sources, and this is why it's difficult to have a fair, full hearing in the aftermath.

I do think it's important to have procedures in place, and rigorous procedures too. Something the United Nations did under Resolution 1822 in 2008 was it simply went through all of those lists to make sure that they had adequate information, that they still agreed that the designated individuals should remain designated. The size of the list is less important than the quality of the list.

In different countries there are different ways in which these lists are constructed. In the United States, the list is constructed through a fairly elaborate inter-agency procedure where representatives from a number of different federal departments determine the basis of designation. This procedure includes the justice department as well as others, so it's not the product of a single agency or a single department of government. It's an inter-agency decision.

With regard to the UN, it's a political decision, and technically it's argued to be a preventive measure. People are put there on the basis of reasonable information in the spirit of trying to prevent certain actions from taking place.

On Professor Lilly's points, I'm not conversant with the details of Canadian legislation, so I'm not in a position to say whether or not the means are available. In respect of concerns about gross violations of human rights, I think it's important for any sovereign state to have the capacity to make a determination and exercise its policy in that area. I agree with her, however, that it's very difficult, and I think her previous comments about establishing benchmarks and having procedures is something that would be important to introduce.

I have a slight disagreement with something she said in her opening statement, although it may just be a matter of interpretation. As to UN sanctions, the United Nations invokes human rights in every resolution, but rarely are human rights violations the principal reason for UN action. This is is mainly due, I think, to technicalities in the UN charter. For example, the sanctions on South Sudan are motivated by concerns about potential genocide and concerns about the result being framed not in human rights but in armed conflict. They would attempt to obtain a ceasefire, negotiate a settlement, get implementation of that settlement, and ultimately resolve it.

So although the UN has in theory used the doctrine of the responsibility to protect, interestingly it's only been used in one case, in two episodes, and that was in Libya in 2011.

The Chair: Thank you, Mr. Biersteker. Thank you, Mr. Miller.

For the benefit of the committee, are the witnesses aware of any analysis that has been done when these individual or economic sanctions are put on vis-à-vis the economic effects on our own industry and our own companies in Canada? Of course, if the discussion here this afternoon is to expand into gross human rights activities, that would probably include a number of potential economic sanctions on further countries and have more impact on the small and medium-sized businesses, and obviously our larger corporations.

I'd be interested in hearing from you an analysis of whether that exists, whether we are doing that now in Canada, and whether there are studies available as it relates to not just the message we are sending, but the effects we are having on our own corporations.

I'll just leave that with you; I'm not looking for an answer right now, but I think it's something we will have to tackle at some point as we look at how we want this legislation to read. Of course, there are private members' bills in the Senate and the House of Commons that sort of reflect this argument of expanding our reach, so I would be very interested in knowing what your views are on that at some point.

Thank you for that, Mr. Miller.

I'll go to Mr. Kent.

● (1655)

Hon. Peter Kent (Thornhill, CPC): Thank you to all the witnesses for reminding the committee, and more important, the Canadians who are following these hearings, just how many definitions there are of sanctions and the intent of the different sorts of sanctions, whether it is to penalize, to shame, to persuade, to restrict, or, as has been referenced here, to send powerful signals. I regret that I'm old enough to remember the first UN sanctions, imposed against Rhodesia in 1966—90% sanctions, trying to force the country to comply with UN direction, which were largely unsuccessful because they were flagrantly breached by South Africa.

I'd like to come back, today, to the Magnitsky Act as it was passed in the United States, recognizing that in Canada both SEMA and the Freezing Assets of Corrupt Foreign Officials Act have sort of responded to issues of the day and been updated as conditions and challenges arise in different ways.

As I read it, the Magnitsky Act is certainly effective in sending a signal and shaming the particular country in question, but its ultimate purpose, as designed, is to ostracize or isolate corrupt criminal individuals and their wealth and basically bar them from removing themselves, their families, and their ill-gotten gains to the United States. As the Canadian Parliament passed a motion last year, it would do the same in Canada.

I'm just wondering—for Dr. Lilly first, but our other witnesses as well.... I think the patron of the Magnitsky Act, Mr. Browder, is hoping that individual unilateral legislation banning or blocking these individuals and their wealth would have the multilateral effect—as more and more pleasant places around the world close their doors—of targeting not the individuals in FACFOA, who are senior officials in government or high-level criminals, but the jailers and the policemen—as Mr. Browder said, the engineer who drove the train to Auschwitz. We are seeing more and more, particularly in Russia but also in other countries, these low-level criminals accumulating vast wealth and then seeking to move it to safe havens around the world.

Dr. Meredith Lilly: What is your question, Mr. Kent?

Hon. Peter Kent: If imposed by other democracies, it effectively becomes multilateral, even though it is designed as unilateral.

Dr. Meredith Lilly: Right. If Canada were to act through SEMA, either by broadening the provisions under SEMA or by passing an individual Magnitsky Act, the intention would be for Canada to act together with the United States, and I think the desire by Mr. Browder, which he's expressed in the past, is that includes the European Union, as well. I think that is his motivation, and I think he's spoken to this committee in the past. One of the very big differences between the United States, the European Union, and Canada, as has already been said, is our relative size. It's not a bad thing that Canada is not a prime destination for corrupt money around the world. That's a good thing. The ability of the United States and the European Union, particularly because the United Kingdom is a global financial centre, to have, potentially...and I don't know the extent to which assets and funds are located in these countries, but the idea is that potentially these countries would have more impact. Not knowing the state of Russian finances in Canada, but assuming it's not a primary destination for corrupt money, if Canada were to pass this, then I think it would largely be a symbolic measure.

● (1700)

Hon. Peter Kent: I ask this because of the evidence in the Vitaly Malkin case, where immigration, for example, blocked him consecutively at the border and refused him entry, and effectively his wealth, but it was overturned eventually on the argument before an immigration court on the definition of “entrepreneur”, despite credible evidence of his embezzlement of UN development funds, his criminality, and the millions that he did get into the country. He's been denied citizenship, but nonetheless he got in because of a dysfunction between various Canadian government departments. CSIS has a file and immigration has a file, but the Mounties don't seem to have a file because they have other priorities, they said.

Dr. Meredith Lilly: I have heard you speak about this man before, but I don't know anything about the individual case, beyond what's in the news.

Hon. Peter Kent: Okay.

I wonder if our other witnesses would care to comment.

Mr. John Boscariol: I would add that these targeted measures, which I think they've referred to as smart sanctions, are a step forward. They've been used more often recently. To the extent that we're able to avoid the broader measures, which are blunter sticks, when we impose financial services bans, or import or export bans, and instead are able to narrow this to individuals, provided the proper protections are in place, then I don't see concerns with this. I do see a very strong signal that's sent when Canada signs onto that, even if it is largely symbolic on the Canadian side.

These days there are more and more reports about allegations of wealth being moved to Canada by corrupt officials, largely in the Far East. We know Canada is struggling with that, and there's money laundering allegations there. I'm not sure Canada is as isolated from that as others may think. There is money moving into Canada that might be illegitimate, and these measures may be appropriate to target that. I would keep in mind, though, that because of its size, as Meredith mentioned earlier, the United States is the main player here. When someone is designated national or listed by the United States, then that has implications around the world. I'm not saying Canadian companies necessarily always follow that designation and refuse to do business with them, but that has a huge reputational impact. When they make a move like that, whether Canada does anything or not, that can still have a very large impact.

Hon. Peter Kent: Professor.

Dr. Thomas Biersteker: I have one observation that goes back to the point I made earlier about the different purposes of sanctions. In my opinion, all sanctions send a normative signal of one sort or another. That signal is not always very clearly articulated, and so there are often times when we find that the message is not adequately communicated simply by an administrative action or even the passage of a new resolution. One needs to have a combination of not only a signal being sent, but also a communications strategy with that signal. If you wish it to be effective in sending a signal, you need to do more than simply add someone to the list or take someone off the list. You need to combine this with a communications strategy that makes clear why the measure is being applied. Otherwise, the effectiveness of the signal is reduced. People might not notice the significance of how another country has added this person to their list. In fact, it needs to be part of a larger political communications strategy.

I can assure you, this is a serious problem within the European Union. When the RELEX group meets in Brussels on a weekly basis, adding two names or taking two names off the list, without any communications strategy, it's quite ineffective.

On the same theme, I was recently in Russia, talking with people about the sanctions. It's a perfect illustration of that failure. Although I think the sanctions being applied on Russia, at least from our analysis.... I think Canada was first, even ahead of the U.S. and Europe, in applying restrictive measures on Russian individuals over Ukraine. If the message isn't clearly communicated, it's not going to have an effect. A good example of the ineffectiveness of the signal at the moment is the fact that, apparently, most of the Russian public believes Russia's countermeasures against Europe on agricultural products are actually additional European measures against Russia. Here's an illustration of having the measures but not controlling the communications. Now, I'm not saying it's easy to control the communications in Russia today, but it's nonetheless a clear example of the disconnection between the normative, symbolic act and the communication of that act. It's something to think about if you want to use sanctions.

Later on I want to come back to the chair's query about costs on Bern, because there may be some guidelines from the European side.

● (1705)

The Chair: Thank you, Mr. Biersteker. Thank you, Mr. Kent.

I'm going to go now to Mr. Levitt.

Mr. Michael Levitt (York Centre, Lib.): Thank you all for your presentations here today.

I want to stay on the previous topic from MP Kent and focus a little bit on Magnitsky, while broadening it. Before the Senate at the moment is the global Magnitsky act. It's something that Parliament addressed previously, and it is certainly something of concern to a number of the members of this committee, and that is broadening the scope and being able to hold gross human rights abusers to account outside of Canadian borders.

We've heard, Ms. Lilly, your feelings that it's not necessarily the way to go, and that it creates a whole set of other problems for Canada. If I were asking you to design for us a system that could be effective.... We know the goal. The goal is to have a voice on a number of levels, signalling and in actual terms, to hold gross human rights violators to account. If we consider this as a priority, what would be your recommendation about how to best achieve it, given that it's a complicated issue? Could you tell us how to go about doing that?

Dr. Meredith Lilly: I'll be clear: it's not that I'm saying not to proceed; I'm saying that if we choose to proceed, we should do so carefully, and I'm saying there are ways. When I say not to act unilaterally, I believe Canada shouldn't be acting alone. However, if we think of the example of Russia and the crisis in Ukraine, we used legislation that allowed Canada to act unilaterally, and to then act in concert with the U.S. and the European Union. They don't form a recognized group of states, those three groups. That's how we're able to use SEMA and its unilateral provisions to act in a concerted way. If the committee wants to proceed, then provided that it's with the idea of working together with other willing states, I think that's one thing Canada should do.

● (1710)

Mr. Michael Levitt: Let me interject. Again, we are seeing other like-minded countries that hold human rights as a massive priority—like the U.S. right now with the bill before the Senate—actually putting into place these acts, so down the line, as we go about designing whatever it is we are going to do, we are seeing like-minded states that we can act in co-operation with—especially as countries are dropping out of the ICC at the moment, which is a great concern. Countries that need to be held to account the most are pulling back, causing the need for more unilateral actions or actions that aren't through traditional mechanisms in the international community.

Dr. Meredith Lilly: Certainly, it's recognized that in the United Nations, for instance, it is increasingly difficult to get a Security Council resolution for states to act in that forum multilaterally.

I would, though, recommend ways to ensure that multilateral action takes place, even if it is with a coalition of the willing. Right now, SEMA provides authority for Canada to act entirely unilaterally. It's just that, in practice, Canada hasn't done that. It's fairly broad in allowing Canada to act on its own if it wishes. That's one point.

The second point is that it would be important to anchor the provisions to some kind of threshold. I think the ones that are recommended by Mr. Bezan with respect to.... Not having spoken to him about the bill, I can picture using the text, as it is reflected, in the example of a well-known human rights activist being killed by extra-judicial processes in a country, and using legislation to call that country or the people involved to account. Anchoring it to the activities of the people whose human rights have been grossly violated would be one way to do it, or having some other kind of threshold that at least anchors why Canada is involved and why it sees the necessity to become involved.

Those are the two points I would make.

Mr. Michael Levitt: Thank you.

Mr. Boscariol, may I ask you the same question? You can either continue or start your own. If we know what we want to build, how do we build the beast so that it's effective?

Mr. John Boscariol: As I've already said, I prefer using the smart and targeted sanctions. That's very much what we are talking about here. I know everyone has the best of intentions when it comes to gross human rights violators, and we want to make sure that we not only send that signal you were talking about earlier, but actually put into effect something that has real meaning and that is put into effect by our exporters, banks, and big financial institutions so that they are really participating in this and it's effective. As I said before, they are on the front lines of this.

I am not against broadening it to gross human rights violators, but my caution here, as we go forward in doing this, is that we have to fix the administration of this. I may sound like a broken record, but I'll give you a quick example. When names are put on the Canadian list, often it's just a name that's added to the list, and no other detail. We've had situations.... This happened with Burma sanctions in the last few months, where there was a name on it. We act for a company that was thinking of engaging in transactions with a company by that name in Burma. There were slight differences. We had a suspicion that it could be that entity, so we called up Global Affairs, but they could not give us any assurance as to whether that was the entity named or not. It's a crazy situation. If we can't get that guidance, if we can't properly identify who these parties are on these lists and enable companies and banks to identify them, it's not going to have any practical effect.

● (1715)

Mr. Michael Levitt: I think that's something which all members of this committee.... Some of the deficiencies in the areas you're talking about came out loud and clear in some of the earlier testimony we heard from department and other officials. I think we've taken that on board.

Mr. Biersteker, do you want to give a short thought on the issue as I put it forward?

Dr. Thomas Biersteker: Certainly. I think the idea of holding gross human rights violators to account is important. It's important that Canada and other countries that are strongly committed to the support of human rights globally have the capacity to act in this way.

I also agree very much with Professor Lilly about the importance of acting multilaterally, because acting unilaterally, especially with a relatively smaller country, is not likely to be effective. I think the reason it's important at this point in time is that, somewhat depressingly, we've seen a weakening of international norms in the past five years and maybe closer to a decade. With regard to that, and not just because I study the UN, I think in all instances this action should be taken first and foremost within the UN system, because sanctions under those contexts are going to be not only accepted broadly as legal, but also as more legitimate than other actions that are being taken.

At the same time, and we have to be honest about it, the UN is currently blocked on these issues. This is the first year since we've seen annual updates on our work on UN sanctions that there have been no new sanctions in place. Russia has blocked virtually every sanctions proposal at the council in the past year.

It means that in certain cases, and Syria is a perfect example, countries would want the capacity to take on some kind of multilateral action, even though it's a second best option. The first best option would be to do another under UN auspices. If that doesn't work, then I think it's important to have a forum for expressing concerns about what's happening in Syria.

Mr. Michael Levitt: Thank you.

As I had said before, I think it's the deterioration of some of the mechanisms to hold individuals and countries to account. With the UN and the ICC we're seeing challenges right now. We may see this as an emerging area where more like-minded countries are being able to coordinate with new legislation in this area of gross human rights violations.

The Chair: Thank you, Mr. Levitt.

Colleagues, we have 15 minutes left, and there are three members who have some questions. Let's try and stick to five minutes. We'll go to Mr. Kent next.

Hon. Peter Kent: Thank you very much, Mr. Chair.

I'd like to come back to the sanctions applied abroad, specifically, Mr. Boscariol, to the Iran example that you spoke to earlier.

You said the system is broken. You reminded us that Global Affairs will not share advice of any sort. Very often it is suggested that you get a lawyer and then the lawyer—and I assume you've been in this situation—inquires of Global Affairs and is told that advice is not available, and that it's up to the lawyer to advise you to the best of the lawyer's knowledge of the situation. Is that pretty much it?

Before you begin your answer, when we asked the minister earlier this year what companies had been delisted from our sanctions list, the answers weren't provided by Global Affairs. Many individuals like yourself had to compare...had to go to the U.S. list to find out which companies were on the list, almost company by company. Could you describe how you managed your way through that period with your clients?

Mr. John Boscariol: Yes.

To address your first question, that's right. Companies will sometimes come to us after they've already attempted to get that advice from Global Affairs, although often it's before. Frankly, as legal counsel, we still have a role, regardless of whether we're getting direction from the government, to advise our clients as best we can on moving forward with a transaction, for example, that involves Iran. Often, it means that we can't give them a clear legal opinion that there's no issue under Canadian law. We have to identify the risks with moving forward.

As I was mentioning earlier, it often means that when a company sees those risks, and those risks often arise because there's no guidance from the Canadian government, the company feels that they're better off simply not proceeding with the transaction. It's not worth the cost. Or, if they want to proceed, and they have to continue to retain legal counsel to help them through the steps and all of that, that's costly for companies. For them it becomes a big headache to proceed, and it's easier for them just to say they are not going to engage in trade with that region for the time being until there's more clarity.

I'm less familiar with the situation you mentioned in the second part of your question, Mr. Kent, in terms of who is on and off the list. I can tell you from a Canadian point of view that is not as readily available, and hasn't been in the past, as it has been from other countries like the United States. We've had situations where orders in council have been passed adding parties, but those orders were not published for a day or two, which is a problem sometimes, especially for banks that need to be right on top of it as soon as that comes into force. We've had to struggle with that. In the past, sometimes we've seen it on the PMO website, and sometimes it's on the Global Affairs website. Sometimes when it's on the Global Affairs website, that list is called an unofficial list. There's still a lot of uncertainty around that listing process and identifying those parties quickly for Canadian companies and banks to respond quickly.

● (1720)

Hon. Peter Kent: Thank you.

The Chair: Thank you very much.

We're going to Mr. Fragiskatos and then to Mr. Wrzesnewskyj.

Try to keep it tight, and we'll get through everyone here today.

Mr. Peter Fragiskatos (London North Centre, Lib.): No problem.

I want to ask Mr. Biersteker a very basic question but one which I think is very fundamental.

How do we know that sanctions work? What measures are in place to monitor that? I know it's a very simplistic question, but I ask it with this in mind. If the aim of sanctions is fundamentally to encourage a change in behaviour, to take one example, there are many factors that precipitate a change in behaviour that might not have anything to do with sanctions. I'm thinking of changes in the organizational structure of a particular regime. I'm thinking of greater access to financial resources, for example, among the opposition that can then, once they have those resources, put pressure on the governing powers and bring about change that way.

How do we know that sanctions actually work when there is a change and that there weren't other factors that brought about that change?

The Chair: Mr. Biersteker.

Dr. Thomas Biersteker: Thank you so much for asking a methodological question, if I may.

I'll tell you how we do it. We try to be as systematic as possible, recognizing that it's very difficult to know exactly when these measures are effective. I've already mentioned that we differentiate by purpose. We look at coercion, constraint, and signalling separately. Within each, what we do is we first look at statements, either European Council statements or UN Security Council documents. In the case of Russia, we looked at statements made by leading officials to identify the core purposes of the sanctions. Sometimes sanctions aren't intended to change behaviour. For example, the sanctions of the counterterrorism regime were largely focused on constraining al Qaeda, and today ISIL, rather than persuading them to change their behaviour. In most cases, sanctions have simultaneously tried to coerce—

Mr. Peter Fragiskatos: I'm going to have to interject there. I'm sorry, but I only have five minutes.

Even when the aim is to constrain and that goal is achieved, the containment of a particular entity, let's say al Qaeda, could be coming through a multitude of other factors. Think of the disputes between bin Laden and Zarqawi about al Qaeda's structure, and there are many other examples. That's a leadership dispute and it's one reason al Qaeda was contained. Even then I wonder how we know which measures are in place to ensure that sanctions are effective. I'm thinking metrics here. Yes, it is very methodological, but I think it's fundamental and to the point.

● (1725)

Dr. Thomas Biersteker: I appreciate that and I'm sorry if I was going too much on purposes. We tried to say coerce X to do Y, constrain X from doing Y, signal X about the violation of the norm. That's only the first step. The second step is to ask what happened. There may be evidence that al Qaeda was constrained. We can determine that on a five-point scale, from no effect whatsoever to strong evidence of constraint being number five.

A separate question altogether is what the effects of sanctions are on that outcome. What we do is we first look at all the other policy instruments, just as you've identified them. Was there a threat of force? Was there the use of force? Were there covert actions? Were there other sanctions in place? Most important, were there acts of mediation or negotiations under way? We look at everything else going on before we try to assess whether sanctions made a modest, major, or significant contribution to the outcome. That's how we evaluate.

We also ask ourselves what we call a counterfactual question which is a simple “what if”: what if there had been no sanctions? We try to go through an exercise systematically. We do that for every single episode, all three purposes, and we publish the rationale. We don't just give a number, we actually say why we gave it that number. So we're trying to be transparent. That's how we do it.

The Chair: Thank you.

Now we'll go to Mr. Wrzesnewskyj now please.

Mr. Borys Wrzesnewskyj (Etobicoke Centre, Lib.): Mr. Biersteker, I'd like to continue where Mr. Levitt finished off.

It was referenced earlier that at one point UN sanctions appeared to be quite effective. Unfortunately, they're being blocked by Russia currently. We also see that Russia is using other methods of blocking sanctions and new sanction regimes within the European Union. In many ways, there's been a corrupting of political elites. A former German chancellor is an employee of Gazprom these days. So holding out hope for multilateral sanctions with our European allies might not be realistic. We do care about human rights, and we do care about human rights violations. Perhaps we should be looking to our American allies, our Australian allies, to find a multilateral way that is perhaps a narrower multilateralism than what we've been used to in the past. I would like your thoughts on that particular point.

Dr. Thomas Biersteker: It's been suggested to me that I missed the beginning part. Is the question addressed to me?

Mr. Borys Wrzesnewskyj: Yes, it is, Mr. Biersteker.

Dr. Thomas Biersteker: I just missed the beginning. It didn't come through, sorry.

I think we'll see. As you know, the current European sanctions are scheduled to expire at the end of January 2017. The council met last week, and there are some indications that the sanctions are likely to be continued. I'd be happy to send you and members of the committee a report we just wrote for Rasmussen Global, where we looked at the economic impact of Russia's countermeasures on all 28 members of the European Union.

One of the things we discovered is that the burden is quite disproportionate on different countries. The Baltic republics, Poland, and Germany had the greatest reductions in trade as a result of primarily both the European measures as well as the Russian countermeasures. At the same time, businesses have been quite quick to adapt. What we found is that in many cases business is not waiting for the European Union to decide whether to continue sanctions, because they've already diversified their trade. Many companies and many firms have found new markets. They acted very quickly as soon as the markets were closed.

One of the interesting points that we discovered is that some of the countries that are the most strongly opposed to sanctions are the least affected in material terms. Greece, although it makes statements opposing the sanctions, has found its trade with Russia has increased in the past year and a half. That has something to do with the situation in Greece, as well, but it's an interesting dynamic. We wrote this report primarily to inform the debate in Europe, and we were applying the methods I just described to the previous questioner.

I was surprised. I did not expect there would be very much in the way of evidence of constraint on Russia, or restraint being exercised, and we've found quite a number of instances where Russia could have done more and did not. Sanctions were not the only factor by any means, but they do appear to be important in some cases. We'll see. I think we'll know in a month or so. We're currently presenting this report in various capitals—Berlin, Paris, London—in the next couple of weeks, so we'll see what reactions we get.

Thanks.

● (1730)

Mr. Borys Wrzesnewskyj: Thanks.

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

I appreciate the patience of our witnesses. I want to, on behalf of the committee, thank all three of you very much. This was a very good start for us, and a better start than some of the earlier discussions we have had.

One of the issues that I'd like you to consider and get back to us in writing if you could is the idea that if the European Union has a timeline on sanctions and then does a review, would it make some sense for Parliament to have a structure where it's allowed to do a review, other than just allowing the government through its order in council process to make decisions as to when they want to remove sanctions? Then it would be more robust and allow the ability for us, as members of Parliament, whether it's necessary to be in camera or not...but the reality of it is that it is left up to others, and there's no.... It so happens that there was a five-year review; otherwise we probably wouldn't be having this discussion today. I would be very interested in your sense of how that might work if we were to expand the structure of SEMA beyond what it is today to human rights violations, as an example. How would we deal with those individuals who might be put on a list unnecessarily, and that had a huge impact on their business or opportunities, and then it gave us the undesired result, if I can put it in those terms?

On behalf of the committee, we look forward to your giving us more information on some reports. Mr. Biersteker commented that there are some reports out there that we've not had a chance to look at which would be very useful to our discussions.

On behalf of the committee, Mr. Biersteker, Mr. Boscariol, and Ms. Lilly, thank you very much for your time. We very much appreciate it.

I think the committee realized that I was not seeing the clock when it came to individual members, but I think it had a better effect as far as the flow of the discussion goes. I was not intending to cut off the witnesses when they're giving us very valuable information. Again, thank you very much.

Colleagues, I will see you on Monday.

The meeting is adjourned.