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Chair

The Honourable Robert Nault

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• (1530)

[English]

The Chair (Hon. Robert Nault (Kenora, Lib.)): Colleagues, I'd like to bring this meeting to order.

Pursuant to the order of reference of Thursday, April 14, 2016, and section 20 of the Freezing Assets of Corrupt Foreign Officials Act, our statutory review of the act continues.

This afternoon two witnesses will be joining us.

Mr. Thomas Juneau is here in person. He is an assistant professor at the University of Ottawa.

We also have Richard Nephew, who is the senior research scholar, Center on Global Energy Policy, Columbia University. He's on video conference from New York, New York.

Welcome to both of you.

As per our process, we will allow you to make some opening comments, and then we'll go into questions from the committee members.

Mr. Juneau, I'll start with you. Then we'll go to Mr. Nephew. Then we'll go to questions from the committee members.

I'll turn the floor over to you, Mr. Juneau

Dr. Thomas Juneau (Assistant Professor, University of Ottawa, As an Individual): Thank you very much.

My presentation today will focus on the role of sanctions as a tool of foreign policy. More specifically, I will discuss how imposing sanctions can have some short-term benefits, but constrain future options and end up bringing more costs than gains.

My starting point at the beginning is that the government's commitment to re-establish diplomatic relations with Iran is good policy. It is in Canada's interest to regain its foothold in Iran for diplomatic, consular, commercial, and strategic reasons. Being back in Tehran will provide Ottawa with valuable eyes and ears on the ground; facilitate the management of difficult consular cases; better position Canada to develop trade ties with one of the Middle East's largest economies; and allow the government to develop channels of communication with a key regional power.

Having a Canadian channel in Tehran could also potentially position Ottawa as a source of information for Washington, which is obviously not there, and potentially as a messenger. It is not a

coincidence that in 2012 Washington was not happy with Canada's decision to suspend bilateral ties.

Reopening Canada's embassy in Tehran is much easier said than done, in large part because of the legacy of actions taken by the previous government. As I have said in other circumstances before, it booby-trapped Canada's bilateral relations with Iran. This is in part—not completely, but in part—why after one year into the current government, relations have not been re-established and progress has been at best very slow.

Particularly the previous government passed the Justice for Victims of Terrorism Act which, alongside modifications to the State Immunity Act, empowers victims to sue perpetrators of terrorism, and countries listed as supporting them, for loss or damage that occurred as a result of a terrorist act committed anywhere in the world. The Conservative government designated two countries on the list of state sponsors, Syria and Iran.

This process allows for the seizure of property owned by Iran in Canada in connection with a judgment against it. There currently are about 10 cases before the courts, including many initiated by American citizens.

From the Conservative government's perspective, this was successful policy. If you define success as institutionalizing a political goal and raising costs for those seeking to reverse that outcome, it worked. It has made re-establishing relations very difficult.

Moving ahead, Ottawa faces two scenarios: to keep Iran on the list or to remove Iran from the list of state sponsors of terrorism. The first scenario appears more likely for now. Foreign Affairs minister Stéphane Dion has said publicly that the government has no intention of removing Iran from the list, at least not until there is significant improvement on the democracy and human rights front in Iran, which is very unlikely in the short to mid-term.

It's not entirely clear what procedural hurdles Iran's listing as a state sponsor of terrorism poses. Notably, Global Affairs Canada has said publicly that it does not prevent contact with Iranian authorities, and that it does not, on paper at least, prevent the re-establishment of diplomatic relations. But it's the politics of the issue that make it very difficult. Moving to re-establish diplomatic relations with Iran without delisting it would expose the Liberal government to criticism from the Conservatives, and from others, that it is engaging a regime that sponsors terrorism. Technically, this would be accurate as criticism, since Iran, it is a fact, provides material support to groups that are listed as terrorist entities by Canada, especially Hamas and Hezbollah.

This scenario, in any case, faces another major difficulty: From Iran's perspective it is not appealing at all. I am not aware of definitive formal public statements by the Islamic republic on this. But clearly, logically, it is reluctant to be seen as endorsing or playing along with a Canadian process that designates it as a state sponsor of terrorism. Besides the political dimension from Iran's perspective, reopening embassies would expose Iranian assets in Canada to seizure by Canadian courts if relations were re-established.

According to a second scenario, which doesn't seem likely for now at least on the basis of what we know but it's still worth discussing, Ottawa could delist Iran. Procedurally, this is straightforward. The designation on the list of state sponsors of terrorism is the product of a decision by cabinet. Iran could, in principle, be removed from the list by an order in council with no legislative action required. This could be done either through a biennial ministerial review planned for by the law or if Iran applies in writing and makes a request to the Minister of Foreign Affairs that it no longer be listed.

The second possibility is very unlikely, as I just cannot see Iran legitimizing the process by sending us a letter asking us to delist it. Delisting Iran would raise the additional issue of what to do with ongoing cases before Canadian courts under the Justice for Victims of Terrorism Act.

• (1535)

Domestically, the challenges are primarily political for the Liberal government, since this would equate to a statement that the government considers Iran not to be a sponsor of terrorism. This would expose the government, politically, to criticism that it is soft on terrorism, but it would also be inaccurate, since Iran, and this is a fact, supports groups that are on the Canadian list of terrorist identities, like Hamas and Hezbollah.

There's another layer of challenge that has to be added to explain the slow pace of progress. After one year, publicly at least, we have seen virtually no progress in discussions between Canada and Iran. The reality is that this is just not a priority for either country. Canada barely registers in Iran. The Conservative government's hostility towards Iran, for example, labelling Iran as the greatest threat to international peace and security, was met in Iran, to the very limited extent that it was noticed, with a mixture of puzzlement and head-scratching.

Under the right conditions, many elements in the Iranian regime would be willing to reopen embassies in the two countries. Moderates around President Rouhani could be willing to use this to showcase it as a success in their strategy of engagement. At the same time, Iran's foreign policy agenda is overflowing, and it is very difficult for a country like Canada to get even a bit of attention in this very busy agenda.

It's not clear where things go from here, given obstacles to the two scenarios I mentioned, listing or delisting Iran. I would suggest two other scenarios looking ahead.

A third one is that discussions get bogged down in the technicalities and legalities, mostly but not exclusively as a legacy of the Justice for Victims of Terrorism Act. The issue slips down the agenda in Tehran and Ottawa, and basically you have a perpetuation

of the status quo. I don't have a crystal ball. I'm not willing to make a 100% certainty prediction, but I would not be surprised if after four years of the current government we still don't have embassies in Ottawa and Tehran, simply because of the complexities mentioned here.

A fourth outcome could see the emergence of a compromise between the two sides, to save face by trying to figure out a way to satisfy some of their priorities, not all of them. What format such a compromise could take, I don't know. The U.S. and Cuba have had interests sections, not embassies, for decades, or at least they used to. Is that a possibility? I don't know. Perhaps something in the middle will have to be explored if something is to happen before four years.

To conclude, the hurdles imposed by the former government are surmountable, but it will take time and it imposes costs. This may count as a success for the previous government, from the perspective of defending a non-engagement, but it is bad public policy for the country as a whole. It prevents Canada from achieving its limited but real objectives in its relations with Iran at the diplomatic, consular, strategic, and trade levels. This is even more the case since Canada already lags behind most of its European allies in re-establishing or rebuilding relations with Iran. We start with a handicap. We don't have the historical, diplomatic, and trade presence that other countries—not only like France and Germany, but even smaller ones like Italy and Austria—have in Iran. We are steadily losing ground.

This shows, and I'll conclude on this, that sanctions are a risky foreign policy instrument, to be used with prudence and with the awareness of possible longer-term consequences. Sanctions may allow a state to achieve shorter-term goals. In this case, with Iran over the years, the goal was to weaken it, to try to compel it to change its behaviour. In this case, they did have a fair bit of success. But sanctions also become entrenched institutionally, bureaucratically, and politically. They can then become much more difficult to lift than their built-in procedures would suggest, because of this entrenchment. When that happens, as I think is the case here, the gains made in the past are replaced by costs in the present and in the future.

Thank you.

• (1540)

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

Now we'll go to Mr. Nephew.

Mr. Richard Nephew (Senior Research Scholar, Center on Global Energy Policy, Columbia University, As an Individual): Thank you very much for the invitation to speak with you today. I'm honoured to be asked to address this committee and to offer my views.

You asked in particular for my thinking with respect to Canadian and international sanctions against Iran in the context of your legislative review. I took a careful look at the questions you are asking during this review. I believe I am best equipped to address three in my statement, and I look forward to addressing any others with your questions. I'll prioritize how effective sanctions are in compelling behaviour change on the part of state and non-state actors, what the relationship is between the imposition of sanctions and a variety of international goals, and whether unilateral sanctions are more or less effective than multilateral ones.

To the first, I believe strongly that sanctions can be quite effective if they support an underlying policy that is sensible, coherent, and achievable. For non-state actors, the ambition of sanctions is much more narrow—simply denying access to resources and capabilities that can be used for harm. In this they're essentially as effective as any other law enforcement tool or device.

For states, to be kind, this is not always the case. Sanctions are all too often looked at by international leaders as a tool to be employed when nothing else seems to work and when a policy-maker wishes to appear decisive. Most of the sanctions regimes imposed in Africa over the past two decades bear this hallmark: measures preventing use of the global economy by insurgents who are not using it; measures freezing the assets of entities that have none; and embargoes on weapons and goods that only smugglers provide, in any event. These kinds of sanctions are imposed mostly to assuage the consciences of the sanctioners and to demonstrate to their population that they've done something about the problem. All too often these sanctions are embedded in policies that have no chance of success, or where there is little interest on the part of senior officials to press forward with implementation...and ultimately seeking diplomatic resolutions to the problem at hand.

To my mind, the critical variable is not the form of sanction used or the manner in which it is employed, but rather the consistency of the sanction with the overall policy and degree to which that policy is accorded appropriate seriousness and status in the sanctioning government. In the case of Iran, I believe sanctions were effective because they were part of a policy that was embraced the world over, attentively pursued by senior officials of all the major countries and balanced with a sense of strategic purpose and desired outcome that everyone could understand. That policy, with sanctions as the leverage, created a situation that Iran needed to escape, the only escape being the nuclear agreement that we reached.

Seen through this lens, it is possible to answer the second question about the applicability of sanctions to broader multinational goals. In my view, they have become a primary tool for international statecraft, because they offer a source of leverage for addressing problems that might otherwise have to rely on force. In this, sanctions are a significant tool for maintaining international peace and security and for addressing the various threats to the international order, such as proliferation, terrorism, and violations of human rights.

To be truly effective in addressing global problems, however, they have to be multilateral in effect. This is less because the underlying problems are multilateral in nature—though certainly it helps to accord legitimacy to sanctions as a tool in fixing them—and more because the nature of the global economy demands partnerships to

achieve effectiveness. Witness the U.S. embargo on Cuba. True, for a few years in the 1960s Cuba had a rough time, but with the Soviet decision to support the Cubans, they were able to persevere until the 1990s, when Venezuela took over.

Iran is another case in point. U.S. sanctions were exhausted in 1995, but starting in 1996 the United States was able to apply pressure by taking away the option for Iran to evade the punishment by going to non-U.S. sources for goods, services, and technology.

One could imagine a scenario in which one country so completely governs the economic future of another—China and North Korea, say—and therefore has the ability to implement sanctions pressure akin to a global embargo on its own, but those cases are exceedingly rare in the global economy today. This demands intense co-operation and coordination among partners or, failing that, an overriding ability on the part of one state to compel the economic behaviour of other entities.

To some extent, this is what happened with Iran from 2006 to 2013. But as my friends in Washington may soon find out if they try to go it alone with sanctions pressure on Iran, they are dramatically overstating the power of the U.S. economy to dominate the economic, political, and legal decisions of others. Foreign partners of the United States have the ability to block adherence of their companies to U.S. sanctions legally, and those same companies have banks and can de-risk themselves from the U.S. market if sufficiently concerned about the impact of sanctions. I fear that without co-operation in the future, this is precisely the scenario that will take place with Iran.

• (1545)

Sanctions can be useful and effective, but they have to be wielded properly, with clear goals and an ability to bring the desired leverage to bear on the desired target. This takes care, patience, and sophisticated analysis. Sanctions are not what you do when you can't think of anything else. They're what you use to create leverage to solve problems.

To the specific case that my fellow witness was referring to earlier, as an American looking humbly at the Canadian system, I can see right here a difficulty in the Canadian terrorism sanctions that goes right to this argument. Without the ability to sustain international pressure on Iran to change its support for terrorism and support for things like Hezbollah, Canada is to some extent harming itself and its ability to move forward with the relationship with Iran that it may not wish to do at this point any further. I think that ultimately, as Canada looks to address this issue in the broader sanctions regime, it's worth thinking about the degree to which its effectiveness in implementing sanctions, and the multilateral nature of most of them, can be brought to bear on this particular problem as well.

Thank you again and I look forward to your questions.

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

We're going to go straight to questions and we'll start with Mr. Allison.

Mr. Dean Allison (Niagara West, CPC): I'll just start by thanking both the witnesses for their testimony.

Mr. Nephew, I'm going to ask you some questions.

Before I start, I noticed we got a press release that there were 15 people added to sanctions just before our committee started, so I don't know if that was just timely for us, or what that was. That's interesting. I note that.

You had some testimony before the Senate foreign relations committee in July talking about sanctions, and talking about the agreement one year later. I think it's fair to say that you said you think we're safer than we were a year ago. Obviously, the election hadn't happened at that point in time at your federal level. I guess my question is, what are some of the greatest risks around the joint comprehensive plan of action as it relates now to Mr. Trump, who as president-elect has said he's not really that supportive of what's going on.

I realize that one of the things you talked about in your testimony is the whole issue of uncertainty. The fact remains that even in Iran it's around complicated environmental...it's tough to deal with. They're concerned about setbacks and all these other things that could happen.

Just give us your lay of the land today in terms of that action plan and what you think the U.S. will do. It's what you said as well. It's easy to say that you're going to do this and do that, but it's tougher to execute. I think both of you said in your testimony that doing it unilaterally isn't nearly as effective as multilaterally. If you could just give me your comments around that, that would be great.

Mr. Richard Nephew: Sure, I'd be happy to.

Before the election, I said there were three primary challenges to the JCPOA: politics in Washington, politics in Iran, and then the practical issues of implementation. I think with Trump's election, we've seen one of those issues brought immediately to the fore. Ultimately, Trump was more measured than a number of other Republican candidates for president in how they spoke about this issue. He implied on the one hand that he felt the deal was a disaster because Iran was left with too much nuclear capability. On the other hand he was upset that the United States wasn't in the market to sell surface-to-air missiles the way Russia was, and that perhaps there were economic benefits that weren't tapped by the United States.

I think it's pretty clear that the advisers he's assembling are hostile to the Islamic Republic of Iran and hostile to JCPOA. I think that very soon, in 2017, there will be an effort to renegotiate the JCPOA or to threaten U.S. withdrawal from it. I think that would be very complicated, to say the least, because of politics in Tehran.

Ultimately, the presidential elections coming up in May in Iran may be the final nail in the coffin. A lot of folks in Washington don't believe that Iran has politics. I can assure you they do. Those politics are going to be hostile to any attempt by the United States to force changes, especially the sorts of very severe changes that I would imagine Trump would demand.

We might not get to the third issue, which is the practical implementation issue. There have already been some technical problems on both sanctions relief and the nuclear side. I think those

have been managed thus far, but they require a sense of trust and co-operation among the parties. They have that with Obama and Rouhani. I don't think they have that necessarily with Trump and his replacement.

I think the JCPOA is in for a very serious test in the next six months. My hope, candidly, is that Trump listens to some other outside experts who are going to tell him, as I have, that renegotiation, I think, is a mirage, and that you have to accept the benefits you have with the deal, rather than chase after that mirage. But I'm not confident that this is going to be the choice taken.

•(1550)

Mr. Dean Allison: Although you were optimistic about it, I think one of the things you did suggest was that you cannot be complacent at all. In other words, you thought the deal made some sense, and it would make the world a safer place, but you said very clearly, don't be complacent and to make sure there are checks and balances.

Based on the fact that we think Iran came to this conclusion because of economic issues, etc., what are your thoughts in terms of the long term? Is this something that, in your opinion, they're going to hold to in the short term while they restart some of their economic issues? We've already seen their GDP bounce back after years and years of decline. Do you think they're playing that game? It's kind of hard to figure out what they're doing, but what are your thoughts, and will the world continue to look hard at what they're doing? We've already looked at heavy water and some of these other things that have been produced.

What are your thoughts around making sure that people follow through and they're actually doing what they say they're supposed to be doing?

Mr. Richard Nephew: Enforcement is absolutely essential here. The deal itself is only as good as what it prevents, and if it doesn't prevent Iranian nuclear expansion, then it's a problem, and it isn't as worth preserving at that point.

I think the real issue is that no one has yet shown me, anyway, anything with confidence that says we'll get the same positive result with regard to Iran's nuclear program without having the JCPOA. I think my biggest fear is that we'd be jettisoning something that's working even if there are some implementation issues that, again, are fairly reserved in their consequence. I mean, a little bit too much heavy water in Iran's current nuclear context is fairly insignificant towards the nuclear weapons purpose and far less significant than what they might do if the Iranians have to back out of this.

I think, ultimately, the real issue with the JCPOA is that it was always going to be a fairly tentative agreement since there wasn't buy-in by all the various different factions of all the various different parties. It was most pronounced in Washington and most pronounced in Tehran. The degree to which hardliners in both capitals are of the same mind, looking at one another, and seeing nothing but hostile intent, I think, has been very damaging to the JCPOA. This is why compliance thus far has been so important, and I think that the degree to which Iran has complied, and they have, and the degree to which we've complied on economic relief, and we have, is a positive. I think it will give the Iranians pause before they think about backing away from the deal on their own. My hope is that Washington has the same sort of pause now when it considers what the risks are.

Mr. Dean Allison: Thank you.

The Chair: Thank you, Mr. Allison.

Mr. Saini, please.

Mr. Raj Saini (Kitchener Centre, Lib.): Gentlemen, good afternoon to both of you. Thank you very much for coming here.

Mr. Nephew, I'd like to start with you. You've written some articles, and I'd like to quote something that you wrote. You wrote that "...outright resolution should not necessarily be the objective of enhanced sanctions against Russia."

I'm sure that you have the same thoughts regardless of the targeted country, so can you explain the appropriate role of what sanctions should be and how they can be part of a foreign policy tool for the government?

Mr. Richard Nephew: I think that sanctions are most useful in creating a desire on the part of another state to change policies that they otherwise want to keep. Ultimately, these are places where we feel like we have an interest, but we don't have a direct stake. It's not like the Russians have invaded western Canada or western United States, so we don't have the ability necessarily to direct force of arms and direct pressure against the Russian government for direct interference with our own affairs, but we want to try to achieve a resolution. Sanctions provide that leverage. They give you something to trade. They give you the ability to say, "If you will stop doing x , or start doing y , we will stop imposing sanctions against you."

From this perspective, they are starting points for a conversation. They are a starting point for diplomacy that gives both sides the ability to claim something good and then back away when they have achieved at least something positive. This is where, on that Russia piece, I think it comes down to a question of what is good enough in terms of a resolution of the situation in Ukraine. That's a decision that the Ukrainian government has to make. They have to tell us when they feel comfortable, in my view, about what their situation is in eastern Ukraine and Crimea. If they said they were satisfied with the situation as is if the Russians back out of eastern Ukraine, then maybe that's a situation that we can live with, even if it's not the absolute initial objective of sanctions as they were imposed by the United States, which also dealt with Crimea and dealt with broader political issues there, too.

My point is that sanctions provide leverage to make a deal. They need to be not looked at as an absolute quid pro quo. They are a part of the diplomatic tool kit.

• (1555)

Mr. Raj Saini: I had a follow-up question, but I can't resist asking you this question, especially since Mr. Allison brought up the point. You talked about JCPOA and about Mr. Trump's recent election. We know that the JCPOA was signed by the P5+1, so if one country dissociates itself from that agreement, how less effective would it be if only one country out of the P5+1 did that?

The second question I have is on something you brought up, or I think Mr. Allison brought up, which is heavy water. We know that right now the Iranian regime have twice exceeded their heavy water requirement. We also know that part of the agreement was to extend the ability for Iran to have a nuclear weapon from two to three months to up to a year. Looking at these things in totality, could you comment on that?

Mr. Richard Nephew: Sure, I'm happy to.

On the issue of the effectiveness of one country withdrawing, it depends on the one country. The United States had the lion's share of sanctions that were affecting business activity in Europe and Asia, because we threatened access to the U.S. market if countries and companies didn't co-operate with our efforts. Our ability to threaten banks like HSBC, and major Chinese banks, and companies as diverse as European, Asian, and Indian ones, is what gave a lot of those sanctions power. The U.S.'s ability to withdraw from the JCPOA and reimpose all those sanctions puts back all the problems and costs that Iran cut a deal to get out from under.

If Russia, for instance, which didn't have any unilateral sanctions that had any real impact, were to reimpose, that impact on Iran is much less. For the United States, because of the structure of our sanctions, because of the leveraging of the U.S. economy against Iran and these business interests, I think there's an outsized role provided by the U.S. economy, and thereby by the United States. It's not an inherent legal issue, it's a practical issue of what the ramifications are.

Briefly on the issue of heavy water, from a technical perspective, Iran has zero use now for excess heavy water. The reactor they could have used to produce plutonium has had its innards filled with concrete. They don't have the ability to use that heavy water now. If they were to try to start that reactor, it would take them a couple of years and then four years' worth of production of heavy water and use of the reactor to have enough weapons-grade plutonium.

Heavy water from a technical perspective, in my view, is insignificant. It is important from an enforcement perspective. This is what goes to the issue of what's Iran's resolution. They have not been sending out one barrel at a time of heavy water when they've had these overages. They've been sending out tonnes. The idea is they go in an arc up and then go below the threshold, and then they arc up and then go below the threshold. That's a technical process that's constantly ongoing. The only way they would stop that is by stopping production altogether, which the JCPOA didn't envision.

Mr. Raj Saini: Mr. Juneau, I don't want to forget you. Thank you very much for your comments also.

You wrote in one of your articles, “One must not confuse a highly visible—but ultimately no more than tactical and symbolic—victory with the vastly greater costs the program has imposed on Iran.”

What do you think the ultimate goals of the sanctions regime should be and what is the importance of leverage in making sure that we advance our foreign policy goals also?

• (1600)

Dr. Thomas Juneau: In the current post-JCPOA context?

Mr. Raj Saini: Yes.

Dr. Thomas Juneau: At this point, the JCPOA calls for a lifting of a lot of the sanctions, but not all of them. It's been pretty clear on paper at least that it's the nuclear-related sanctions that are lifted. Other non-nuclear sanctions are not lifted, whether it's for human rights, for support for terrorism, or other issues. Some of that was discussed by the other witness.

At this point, because the relationship with Iran remains adversarial, we may wish for more rapprochement, or no more, but it does remain adversarial. Again, as was discussed by the other witness, sanctions remain an effective tool of leverage for Canada, for the U.S., for the P5+1, for the west as a whole.

I don't recall exactly what was the context when I wrote those words. In my view, the challenge with sanctions that Canada is currently dealing with in the very narrow context of Canada's objectives is that we can't lift some of these sanctions. Even though the built-in procedures to lift these sanctions on paper are relatively straightforward and simple, the politics around them and the path dependency that was built in through the process has institutionalized and has routinized the sanctions in many ways.

Now Canada is stuck with some of these sanctions. The current government wants to lift them, but it is extremely difficult to do so. That is very problematic, I find, for the simple reason that the country has painted itself into a corner, and it can't just say, “Well, I'll walk on the paint.” Canada has cornered itself. It has tied its hands with these sanctions and would like to move forward but can't because it is very difficult. That, I think, is bad policy from a very technical perspective because movement is almost impossible.

The Chair: Thank you, Mr. Saini.

We'll go to Madam Laverdière, please.

[*Translation*]

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

Thank you both. Your presentation was very interesting.

My questions are along the same lines as those of Mr. Allison and Mr. Saini regarding U.S. sanctions and the U.S.' participation in a joint comprehensive plan of action.

Mr. Nephew, you mentioned the possibility of renegotiating the agreements. Rather than renegotiating them, do you think the United States would simply withdraw unilaterally? Is that a possible scenario?

[*English*]

Mr. Richard Nephew: I think it very much is a possible scenario. It's something that some opponents of the nuclear deal have said they want to do. I don't think it's the most likely scenario now. I think that Trump will attempt to say, “I'm a businessman. I do business. We renegotiate deals all the time, and so I'd like to renegotiate this deal.” My biggest concern is that his demands will be so onerous that it will be the equivalent of walking in with an ultimatum: either sign on this dotted line or we walk away. I don't think that will be very effective.

[*Translation*]

Ms. Hélène Laverdière: Thank you very much.

Mr. Juneau, you mentioned in your presentation, which was also very interesting, that imposing sanctions entails risks. The risks you described in general terms, however, are those associated with the Justice for Victims of Terrorism Act.

Can we or should we make a distinction between this very specific act and the usual sanction mechanisms pursuant to other acts? Should the committee draw certain lessons from all of that?

• (1605)

Dr. Thomas Juneau: Thank you very much. That is a very good question.

In answer to your question, I must point out that I am not an expert on sanctions in general. My expertise is more in the Middle East, Iran, and Canada's relations with this region. I would be reluctant to comment on sanctions in general because that is not my areas of expertise.

In the specific case of relations with Iran, this must be seen as a missed opportunity. As a result of the constraints that Canada has imposed on itself by creating a mechanism that is now extremely complicated to eliminate, it closes doors for itself. In terms of foreign policy in general, the idea that a state would impose constraints on itself does not make any sense, in my opinion. The state is penalizing itself, without any other country being involved. In general, other countries impose constraints on us, but in this case we have imposed them on ourselves.

In the case of Iran, of course, the missed opportunities are limited, and we must not blow this out of proportion. Canada-Iran relations will never be important to Canada or to Iran. The trade and diplomatic potential is very limited, but there is all the same a ceiling, as low as it is, that we will not attain because of these sanctions. There is some trade potential, but there is also the consular dimension. We saw this in the Homa Hoodfar case, which was resolved a few months ago. We do not know why the case was resolved, it remains a mystery, but we can at least conclude from the publicly available information that not having an embassy in the country certainly did not make things any easier.

There have been consular cases with Iran in the past and there will very likely be others in the future. We have to look at this as a missed opportunity for the country, which runs counter to our national interest.

Ms. Hélène Laverdière: When you talk about this missed opportunity and this complex mechanism that we have used and that closes doors for us, you are not referring to the multilateral sanctions we have taken with our partners, but specifically to the Justice for Victims of Terrorism Act, is that correct?

Dr. Thomas Juneau: Absolutely.

In this case, I am referring to the unilateral dimension, given that Canada, in general terms and in the case of Iran, follows other countries at the multilateral level.

When the UN Security Council decided for instance to adopt sanctions against the United States, Canada followed suit. For all practical purposes, we have no influence in this regard.

This is not a reproach against the current government or the previous government. We are quite simply not an important player. We do, however, have a bit of flexibility unilaterally and in our direct bilateral relations with Iran.

I would stress once again that there are not that many missed opportunities, but there are some.

Ms. Hélène Laverdière: There are some though, and I can tell you that I am among those who consider engagement and dialogue absolutely necessary.

Should the Justice for Victims of Terrorism Act be reviewed?

Dr. Thomas Juneau: In my opinion, the answer is an unqualified yes.

I did not say so specifically in my presentation, but I think my assessment was clear and that this act has a negative impact on Canada's national interests.

The main thrust of my presentation, however, is that it is a very complex situation. Not only is it complicated to remove Iran from the list of states that sponsor terrorism, but repealing or significantly amending the act involves a process that is politically much more complex. That is what I was getting at.

Ms. Hélène Laverdière: Okay.

Purely out of curiosity, Syria and Iran have been identified as countries that sponsor terrorism, but other countries could have been added to that list at the time.

Dr. Thomas Juneau: Yes, potentially. As to Syria, we can scarcely refer to it as a country right now. So we can set it aside.

In my opinion, the problem with this act is not so much the countries that are not on the list because, given the definition of sponsoring terrorism, there could clearly be others. Iran sponsors terrorism. There is no doubt of that. That is not problematic to my mind. What I am concerned about is the way the act disables Canada.

Ms. Hélène Laverdière: Okay. Thank you.

[English]

The Chair: *Merci.*

Mr. Levitt, please.

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

Professor Juneau, I want to dig down a little into your hypothesis that our government's decision to not eliminate sanctions is some sort of political trap that we're caught in and not an act of principled policy, because that's certainly the way I see it.

In making the announcement when the P5+1 sanctions were eliminated, Minister Dion framed it as follows. He said that our eyes are wide open. He went on to say:

Canada will lift its sanctions but will maintain a level of mistrust for a regime that must not have nuclear weapons, a regime that is a danger to human rights and is not a friend to our allies, including Israel.

He also pointed out the state sponsor of terrorism, that there must be an accountability for those things before any reduction in Canada's additional sanctions would be taking place.

I'm wondering if you could look at the situation with Iran now. Are we not seeing Iran as a country that has increased its rate of executions under Rouhani, and they've actually gone up over the last couple of years?

In terms of incitement against Israel, rocket launches with kind of cryptic messages on the side targeting the State of Israel. In terms of state sponsor of terrorism, Hezbollah, Iran's proxy, is functioning on the ground in Syria adding to the catastrophic situation being faced in areas like Aleppo and others. With all of these things, given the state of intention, that the additional sanctions would not be lifted until there was accountability for Iran's human rights record, and its record of the state sponsor of terror, and its record of incitement against the State of Israel, does that not suggest we have a principled policy that we've chosen to follow, rather than just a political statement?

• (1610)

Dr. Thomas Juneau: Thank you. That's a good question. That human rights in Iran are bad is undeniable. You did not hear me deny that, or challenge the individual pieces of your question. One small point that I would emphasize, though, is to say that executions under Rouhani increased is factually true, but not very useful in the sense that the president in Iran is not the one who determines policies in terms of human rights and political reform. That is from the supreme leader, who is obviously not elected, but the president doesn't decide these things, so to say that it increased under him is certainly true, but it's not.... I don't want to say relevant, but it's not—

Mr. Michael Levitt: I think we could add to that list of human rights abuses that are continuing and increasing there the treatment of LGBTQ and also women, not to mention foreign nationals that are being imprisoned and tortured in jails.

I'm sorry. Continue.

Dr. Thomas Juneau: You don't have to convince me that human rights are bad in Iran. I absolutely agree with you on that.

Where I do think the discussion at a foreign policy level is useful is that from my perspective, there's nothing to gain from shunning a country like Iran. It is a nice pat on the back to say we are taking a principled stand and we're not talking to that regime, but there are things to talk about with that regime. It's an absolute cliché to say it, but we talked to the Soviet Union during the Cold War, and there were things to talk about.

Engagement...and I'm not a member of the Liberal Party and I'm not endorsing them politically, but on a technical basis, I do agree with what was said on multiple occasions that engagement doesn't mean agreement. The point of diplomacy is to discuss things we disagree with.

Mr. Michael Levitt: Let me point something out. I am a member of the Liberal Party for what it's worth, and we're not talking about the engagement here. The engagement is something we are doing, and we're delivering the hard messages on some of these issues.

I'm questioning your statement that the decision to not remove further sanctions is something you see as our being stuck in a political situation. I'm saying to you that I believe our policy of engagement includes keeping the principled position on sanctions in place until some of these other issues are resolved, and not rushing into it.

Dr. Thomas Juneau: We can agree to disagree on this one, but ultimately, my view is that foreign policy is about the calibration of multiple priorities. For human rights to be the only priority in the relationship with a country like Iran, or any other for that matter, is not optimal.

As small a country as Canada is, as limited as its impact on the world scene is, it can, along with allies.... The best impact in terms of improving, promoting, and encouraging political reforms on democracy, human rights, and other fronts will come when engagement on human rights comes with other aspects, whether it's trade, whether it's diplomatic relations, and so on.

I don't see any proof that engaging only on the basis of human rights and therefore, not engaging...that making decisions only on the basis of human rights can lead to optimal outcomes from our perspective.

The other point I would add is on the plain inconsistency of that. Canada has relations with Saudi Arabia, and I think I'm safe to say that human rights in Saudi Arabia are worse than in Iran, or certainly not better. Are human rights raised in our issues with Saudi Arabia? Of course they are, but we have other interests too: business, strategic, consular, educational, and so on.

From my perspective the argument that we shouldn't engage with Iran solely on the basis of human rights is widely inconsistent.

● (1615)

Mr. Michael Levitt: Let it be said that I was pretty clear it wasn't just the human rights issues. It was also the issues that are very serious in terms of the state sponsorship of terror, and we're seeing that play out on the ground in Aleppo right now with Iran's proxy Hezbollah.

I'm just saying to you it's not purely a human rights issue. We've also seen leadership by Canada at the UN annually in terms of

holding Iran accountable for some of these things, working with like-minded allies.

Again, it was just the positioning of this as our being somehow trapped and not able to move for political reasons as opposed to what I believe to be our foreign affairs minister taking a principled stand, engaging, but also not reducing all sanctions until we're at a point where Iran has changed its behaviour in the international forum.

Thank you very much for that.

The Chair: Thank you, Mr. Levitt.

Mr. Miller, please.

Mr. Marc Miller (Ville-Marie—Le Sud-Ouest—Île-des-Soeurs, Lib.): Thank you, gentlemen, for coming today.

I want to continue on the human rights path, although on a different tack. Richard, perhaps the first question is for you.

Generally, the realm of sanctions, whether unilateral or multi-lateral, has been reserved for areas of high politics, nuclear interests, interests where the behaviour of an actor in question to be sanctioned has threatened international peace and security. The migration towards sanctioning individuals and not states on the basis of a level of human rights violation that is deemed to be intolerable generally answers to a call to condemn based on a moral imperative, as Mr. Levitt alluded to.

I'm wondering what the limits to that approach are intellectually, and even from an idealist perspective. We have disagreements with our closest ally as to the death penalty. We have disagreements with the way certain European countries behave. I'm not talking about a relativist moral slippery slope. I'm simply talking about where we draw the line. Effectiveness is one argument, but it doesn't necessarily counter the moral imperative.

There is also a beauty in freezing someone's assets that are situated here where they have committed a gross indecent act. It would be reprehensible to let them derive gain from those assets.

I'd like you to take a few minutes to reflect on that sort of tension that we're facing, from a geopolitical and trade perspective.

Thanks.

Mr. Richard Nephew: I'm happy to. I think this is a great question. It's the kind of question that, as a former State Department and White House sanctions person, I wrestled with all the time.

I don't think there is a perfect answer here, but I'll give you my sense of both the effectiveness but also the moral dimension here. In my view, it's perfectly reasonable for sanctions to target individuals for gross human rights violations, to freeze their assets, and to deny them access to one's country. I see no reason why Canada should let the head of Evin prison or the lead torturer for the judiciary of Iran into Canada, or, frankly, into the United States.

The issue I have had is when the desire to target individuals for individual bad acts comes up to the state level. Here, like the other witness, I have some real concerns with making a decision that because there are human rights violations, we will not permit other kinds of issues to be addressed, or with putting all the various different world geostrategic issues on the balance for human rights. In my view, that's a decision that could be made, but I think that then you have issues of uniformity and of common global standards, which I think become a problem.

As you say, there is a bit of a dispute over the death penalty between us, and ultimately, I think that if you were to condition your ability to do business with the United States on that, it would be counterproductive for Canada and counterproductive for the United States.

To my mind, we need to decide the level of effectiveness that we think sanctions can bring, attached to the kind of global harm we see. In my view, human rights have not been proven at a state level to be an effective prompter of sanctions, and sanctions haven't been effective in resolving them. We've had very significant sanctions on Iran for its nuclear issues but also more broadly, and human rights in Iran are as bad as they've been. I don't think that is going to change because of sanctions being imposed from the outside.

Frankly, the sense of risk that a country faces over human rights, sanctions, regime change, and so forth could actually create an impetus for more human rights violations. I don't think that's necessarily a cycle that anyone wants to engage in.

In my view, in summary, I think that human rights on a personal level are a perfect reason to impose sanctions. I don't think anyone needs to invite into their country someone who's accused of gross human rights violations and so forth, but when it comes down to whether there are geostrategic issues that we need to sort out, as we've done with Saudi Arabia, with China, and with countries around the world, we sometimes have to hold our noses to deal with those larger issues. As the other witness said, that's where foreign policy prioritization comes into effect.

• (1620)

Mr. Marc Miller: Thank you.

[*Translation*]

Mr. Juneau, you said that closing the consulate and our sanctions against Iran have hurt us a great deal, particularly with respect to trade with that country. You said that we are practically behind the wall.

Can you elaborate on this with examples of the negative impact this has had on Canada?

I would also add that you can sign up for a membership on our party's site at liberal.ca, and it is free. Just joking, of course.

I will let you answer my question.

Dr. Thomas Juneau: I must say that I am rigorously non-partisan in my analyses.

It is very difficult to answer your question specifically because very little is known, at least publicly, about consular issues. That is why, in the case of Homa Hoodfar, which was resolved earlier this

year, we do not know why she was imprisoned by the Iranian authorities—taken hostage, for all practical purposes—or why she was released.

Was she taken hostage simply because of disputes between the factions in the Iranian regime, given that hardliners wanted to obstruct the moderates' efforts to engage?

If that is the case, it is independent of any action by Canada. The fact that she came from an English-speaking country is actually a plus. There are often people from Australia, Britain, the United States, and Canada, but there are also cases of people from France. If Homa Hoodfar was released owing to the evolving disputes among the various factions, that is relatively independent of any Canadian action and, as a result, of the presence or absence of a Canadian embassy in Iran.

I maintain that it is in our interest to have an embassy in Teheran for consular, diplomatic, trade, and other reasons. I am not prepared to conclude, however, as regards consular disputes and on an ad hoc basis, that not having an embassy did in fact harm us. It is impossible to determine that since there is so little public information about these cases. First of all, we do not know why they occurred, or how or why they were subsequently resolved.

In the case of Ms. Hoodfar, there is a plausible hypothesis. Without the slightest evidence, it is possible that the Iranian authorities feared that she might get very sick in prison. The Iranian authorities are not angels. They have no regard for human rights, but they are aware of public relations issues.

The death of Zahra Kazemi 13 years ago was a public relations disaster for the Iranian government. At the highest level of the Iranian government, the decision might have been made to make sure this kind of thing did not happen again where a person with dual citizenship died in prison. On the other hand, Iranian citizens very often die in prison, and that will not stop. To my knowledge—and perhaps I am mistaken—, this was the last case of a person with dual citizenship. Homa Hoodfar was ill and older, and that could be why she was released. We cannot be sure, however.

Mr. Marc Miller: Thank you.

[*English*]

The Chair: Thank you, Mr. Miller.

Mr. Kmiec, go ahead, please.

Mr. Tom Kmiec (Calgary Shepard, CPC): I am going to start with you, Professor Juneau.

I want to start on Iran and pick up some of the questions Mr. Levitt had. I have a problem, because he took all my questions, and the comments I was going to make as well.

I think one of the good things the government has done is continue the previous government's policy on Iran. It's not just human rights; it's their nuclear weapons program, the aggression they've shown towards our regional allies in that particular area of the world, and the continued support for terrorist groups. It's basically complete ignorance when it comes to ceasing the defence, promotion, and support they give not just to Hezbollah and Hamas, but also to the Palestinian Islamic Jihad. They played a role in the attempted bombing of an Israeli diplomat on February 13, 2012. In Bahrain, there was a bomb plot on September 30, 2015. It's consistent. They have not stopped doing this, both to our allies and to other interests that we have in the region. They have Quds militiamen in southern Iraq. They played a role in Afghanistan, and they are playing a role in the civil war in Yemen.

Why should we make it simple for them to rejoin the international or western world and have access to finance and travel for members of their regime? On one side, I guess, our sanctions have worked to constrain them and delay their weapons programs, and have maybe given them food for thought in the relations with others. Why should we restart our relations with them in full and reward them with an embassy?

• (1625)

Dr. Thomas Juneau: First of all, I do agree with your starting assessment that Iran's foreign policy has not fundamentally changed, before and after the JCPOA, so I think at that level we are in agreement.

I would make a side point that I find—and this has been one of my big areas of research—that critics of Iran, to put them into a very broad category, tend to exaggerate the extent of Iran's influence in the region. Iran has extremely limited influence in Bahrain. Its support for some opposition factions is very limited and doesn't make a difference on the ground. It's the same thing for Yemen. The Houthis are not proxies of Iran. The Houthis are not puppets of Iran. Iran has a very limited influence in Yemen.

Other elements you mentioned I would agree with, but I did want to make that point.

I would disagree with the conclusion that reopening the embassy in Iran is making things easier for Iran, which is the way you phrased it. I think that's a mis-characterization of diplomacy, to be perfectly blunt. The point of diplomacy is to try to promote our own interests. We do have interests in Iran. We have consular interests. There are trade interests in Iran, and there are other reasons to be there. I don't think that by simply shunning them we can advance these interests. Having an embassy in Iran, having a limited trade.... We are never going to have big trade relations with Iran, not just for political reasons. They are far; we are far. We're not a big economy, so let's keep that in mind.

We are not advancing these interests just by taking the moral high ground.

Mr. Tom Kmiec: Mr. Nephew, since you have worked for the State Department, I have a question about your interaction with the Magnitsky Act in the United States. Here we have Bill C-267, a piece of legislation that was introduced by one of our colleagues. It's a slight rewrite of a bill that was proposed by Irwin Cotler, a well-

respected former Liberal member of Parliament, and he's a well-respected human rights activist internationally.

What were your dealings with the Magnitsky Act? Does it work in the United States? What's the policy environment there? Is it widely seen to be an extra tool in the tool kit that policy-makers can use to try to put pressure on specific members of a regime in order to get some type of concessions during diplomacy? Has it served its purpose there?

Mr. Richard Nephew: I think you described the purpose accurately. It's designed to put particular pressure on particular individuals so that they'll stop doing things they've been doing, which in this case is the oppression of human rights specifically inside Russia. There is talk about expanding the Magnitsky Act to be a global issue and to then target human rights around the world.

From the limited perspective of imposing costs on particular individuals, it can have an impact, but I don't think it's going to change state policy. This is the key issue for me. The degree to which human rights violations in Russia come from the top, and they come from the Kremlin, we haven't seen a single indication that Magnitsky has changed that decision-making or changed the direction of Russian policy on human rights and justice in the country.

I think, frankly, that would be the same situation if we applied the Magnitsky Act globally. We'd see certain individuals not be able to come to the United States because they wouldn't be able to engage in banking. However, by and large, unless we've decided that we're going to make it a fundamental issue of geostrategic importance for the United States vis-à-vis Russia, as in directly threaten Russian corporate entities' ability to operate in the United States, invest and trade there, I don't think it's going to have the kind of punch necessary to change the top-level human rights policies.

From my perspective, that means it's still in the class of "feel good". It feels good to do it and it has some degree of moral impact, but in terms of application and real punishment, frankly, I haven't seen it yet.

• (1630)

Mr. Tom Kmiec: Okay.

The Chair: I have to cut you off.

Colleagues, on behalf of the committee, I want to thank both Mr. Nephew and Mr. Juneau. It would be nice if we had another hour, because I was enjoying the conversation between the members and the witnesses, but I have to call it a day.

Thank you both for your presentations and your open dialogue with the committee.

Colleagues, we're going to take a little break and set up for the next hour.

• (1630)

_____ (Pause) _____

• (1630)

The Chair: Colleagues, I want to bring this meeting back to order.

For our second hour, by video conference from New York, New York, we have Andrea Berger, who is the deputy director of proliferation and nuclear policy and senior research fellow at the Royal United Services Institute.

Andrea, I want to welcome you to the committee. Our general practice is to give you some time for opening comments, and then we'll go straight to questions from there. We're limited as to time, so I want to turn it right over to you for your opening comments.

Ms. Andrea Berger (Deputy Director, Proliferation and Nuclear Policy, Senior Research Fellow, Royal United Services Institute, As an Individual):

Thank you so much for having me speak with you today. It's a real pleasure.

I'll give you the usual caveats to start. The first is that, while I'm a Canadian born and raised, it's been quite a while since I've worked on the Canadian policy from the heart of it. From the perspective of the two pieces of legislation that you're looking at today, I really am just an interested outsider.

That said, I do work extensively on North Korea and on a range of other proliferation threats, and I look at the measures that we've imposed to restrict the ability of those actors to operate. I'm happy to discuss those in detail.

As a way of opening, I thought I would start with a plea: We have every reason to be extremely concerned and very attentive to the North Korean threat, which is the subject that I was asked to speak about, specifically. Really, that threat knows no geographical boundaries. It has affected Canada, both directly and indirectly, and will continue to. Often when I do presentations on this subject I put up a slide that shows, basically, everywhere that North Korea has had money-laundering cases, smuggling cases, or other forms of illicit activity in the world in the last five years. What that slide shows is that that activity covers an enormous swath and has, indeed, included Canada.

That threat, to characterize it, is growing in terms of its component parts. We've talked for a long time about the North Korean nuclear missile programs and, indeed, its other weapons of mass destruction programs at home. Coupled with that, of course, North Korea's behaviour is generally destabilizing. Barely a day goes by when it's not threatening to turn Seoul or Washington or Los Angeles into a sea of fire, but there are other concerning parts to this problem, as well. North Korea continues to sell ballistic missile goods, conventional weaponry, and related services to a very large number of customers around the world, given the strength of the sanctions regimes that we have against the country. One of the more recent manifestations of the North Korean threat is a major cyber issue. North Korea has shown itself willing to conduct sophisticated cyber-attacks against major multinational corporations, and is now regularly hacking banks around the world in a way that's destabilizing the international financial system. As I said, we have every reason to be concerned about this problem.

At the same time, in terms of your deliberations, it's important to acknowledge that while Canada is affected indirectly and directly by this issue, it's not the heart of the issue. Canada is always, in effect, going to be playing a supportive role in its solution, so it's important

to talk about how we can bring life to a Canadian policy that recognizes that limitation.

Canadian policy towards the DPRK, from my view over years, has been extremely strong and firm, particularly in the last few years. As we know from a few years ago, Canadian policy has included a trade ban between Canadians and North Korea that's fairly all-encompassing, allowing only a number of limited exemptions for humanitarian trade, etc. Canadian policy, from my view, is also fundamentally low maintenance. Its sort of core tenets of limited engagement, essentially no trade, and a strong stance on human rights means that on a day-to-day basis, there's little active monitoring required for the implementation of Canadian policy.

I'm happy to talk a bit more about what that looks like. That policy has not shifted substantially between governments, at least not yet, from what I can see. The core framework that Canada has put in place over the past few years seems to still stand largely, and in my view, that is actually quite sensible. I don't see a reason necessarily for that core framework of approaches, the trade approach, the engagement approach, and the human rights approach, to actually change.

● (1635)

At this moment, given the developments in the North Korean threat, there doesn't seem to me to be a reason to be actively encouraging more trade with North Korea. Similarly, I can't see a convincing argument that Canada should put itself at the centre of a security focus discussion with North Korea and try to have an engagement and outreach program that does that. For me, the question is more about trying to think about what lies behind the core framework of Canadian policy. There are two specific angles that I think will be really interesting to work on and look at going forward.

The first is on intelligence and monitoring. This relates to North Korea's illicit behaviour pretty much across the board, because over the years North Korea has developed extremely sophisticated evasive techniques and patterns. Without going too much into the details, although I'm very happy to, in effect, North Korea is not doing business as North Korea when it's operating overseas, and that presents an enormous challenge for our sanctions implementation and for the general prevention of the listed activity as it relates to Pyongyang. Similarly, there are a number of countries around the world, indeed the majority of the world, that are struggling to implement the very extensive and quite complicated restrictions that we've put in place at the UN level on North Korea.

I'm sitting in New York right now, because on Wednesday we're slated to vote on a new UN Security Council resolution that will make this even more complicated. Really, we have an implementation problem. For me, it's worth thinking about whether countries like Canada can do more to help address that particular issue. It's the life behind the policy, if you will. Do we have the expertise that we can contribute to Southeast Asian nations, or African nations, which really are the holes in the sieve at this moment for the geographical areas that North Korea continues to be able to operate in and conduct its illicit activity with the assistance of?

I'll leave it there, but I very much look forward to your questions, and I'm happy to delve into detail on any aspect of that, or indeed other aspects.

• (1640)

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

I'm going to go straight to Mr. Kmiec, please.

Mr. Tom Kmiec: Thank you for joining us. It's nice to see Canadians being successful overseas and showing off our talent that we have here.

Ms. Andrea Berger: Thank you.

Mr. Tom Kmiec: Can you explain more about the North Korea regime's money-laundering exploitations, and that they do happen in Canada? Can you provide us with some more details?

Ms. Andrea Berger: What I was referring to on that isn't so much on a money-laundering threat, and I don't have specific evidence related to Canada that North Korea has used Canadian financial institutions, etc. in that way.

What we have seen in the past few years is North Korea's ability to procure goods and components from Canada that should have been restricted pursuant to Canada's export control legislation. As a good example, the UN mentioned in a report not that long ago that it had discovered that Canadian flight control computers were being used to pilot North Korean drones. That's an example of a way that North Korea has been able to access Canadian technology.

As a disclaimer on that, to be fair, it is partly a result of the sophistication of North Korean evasive behaviour. North Korea is fantastically good at establishing front companies in China and other places around the world, where on paper, if you look one level deep, you will never see that the North Koreans are involved. As a consequence of that, and if a Chinese small or medium-sized enterprise reaches out for some of these goods, it's difficult to know that the end users behind it may be someone else.

Mr. Tom Kmiec: Can you talk about China's role? Are they, not as a state policy, but companies that are doing this, is this part of the sanction busting that they're doing in North Korea? Are they making it more difficult to apply western sanctions on them? China also has a vested interest in ensuring the stability of the Korean Peninsula, so how do they manage that relationship between on one hand supporting their ally, and on the other hand not supporting them so much that it destabilizes the region even more?

Ms. Andrea Berger: I could take up the whole remainder of your hour just talking about this.

As to actual trade flows, I think this is the starting point for this discussion, because in essence everything that North Korea exports pretty much flows via China. That includes to a large extent funds as well, where financial flows are overlaying and related to tangible goods flows.

North Korea has also established a significant business network in China. It co-operates with Chinese nationals, and there's a large Korean diaspora in China itself. That network is really the starting point, the gate, if you will, to North Korea's access to the world in terms of business. From that point forward, North Korea can convey everything as being of Chinese origin or Chinese end-use.

It's an important aspect to discuss from that perspective, the China business relationship. That's at the ground level as well as on a person-to-person level. It's facilitating North Korea's ability to access global trade and finance.

Now in terms of—

• (1645)

Mr. Tom Kmiec: Could I interrupt you? We have an allotted time, but I don't have that much.

Those individuals in the diaspora, Koreans or members of the Chinese business community, as large as it is, are typically not the target of sanctions themselves. Is that correct?

Ms. Andrea Berger: It happens only rarely. It depends which level of sanctions you're talking about. At the UN level, traditionally what we've seen is that the majority of the sanctions list is composed of designations on North Koreans themselves. That may include North Koreans who operate abroad, but it tends to focus on North Korean parent companies, North Korean diplomats, and so on. Rarely at this stage do you see the UN designating a non-North Korean national facilitator. It has happened, but it's less frequent than the designation specifically on North Koreans. When you turn to the U.S. national level, or EU level, for sanctions, it's a different picture.

Mr. Tom Kmiec: In the United States, there's a piece of legislation making its way through the system called the Global Magnitsky Human Rights Accountability Act. We also have an act being proposed in our Parliament, Bill C-267, the Magnitsky act. Is this going to be a means for a government like the United States to target these organizations, whether they're a Chinese or North Korean chambers of commerce or whatever, in order to apply additional pressure to coerce them into obeying sanctions or to constrain their ability to do business?

Is that something that's ever been discussed in the field of work you're in, in London? Has it been discussed as an extra tool that would be available? Would it be useful as a tool to try to contain North Korea's ability to get around the sanctions by using these illicit organizations and front groups?

Ms. Andrea Berger: I haven't looked at the legislation being proposed in the U.S. It's not clear to me what the novelty of the measures would be. The U.S. already has the ability to sanction foreign companies that are not North Korean. Indeed, it has done so on many occasions. The EU has that ability as well. If you look, for example, at the U.S. designation of companies and individuals in Singapore that are facilitating North Korean trade, that's a perfect example of where they have already taken that measure.

That legal authority already exists for them. Indeed, they make fairly good use of it. It is essential. There's a limitation of designations in general in terms of effectiveness. It's both necessary and insufficient to be doing individual designations. It's quite easy for North Korea to quickly transform its appearance. So it's critical when designating an entity as part of a network to designate the bit of the network that has assets that can't be easily moved or shifted. That's critical.

In most cases, North Korea will be able to come up with a different front company name or change the way it operates much quicker than we'll be able to get a legislative package in place to be able to make a case for designation.

The Chair: Thank you.

We'll go to Mr. Fragiskatos now, please.

Mr. Peter Fragiskatos (London North Centre, Lib.): Thank you very much, Ms. Berger, for testifying today.

We've been examining sanctions for a number of weeks now and I'm particularly interested in the idea that sanctions serve as some kind of panacea: impose sanctions and our problems will go away. That's a simplistic generalization, but this is the view that many within the international community seem to have.

I happened to notice today in 38 North, your piece on Canada and how we can help deal with the security threat that North Korea poses.

As far as the effectiveness of sanctions goes and the idea that they can somehow be a panacea, I noted that, and you've mentioned it already, in 2013, drones using Canadian flight control computers made their way into North Korea. There's also the case in 2014 of Dow Canada, whose shipment of chemicals ended up in North Korea. Although you've touched on this already with my colleague's question, could you speak to this? How exactly is it that these products find their way into North Korea, despite the fact that there is already a very strong sanctions regime in place?

• (1650)

Ms. Andrea Berger: Regarding your initial point about sanctions being a panacea, I would agree with your assessment, to the extent to which sanctions are becoming a tool that's deployed more frequently for a range of international security and threats, whether it's a human rights issue, or it's Russia meddling in Crimea, or it's nuclear proliferation, or it's terrorism. Sanctions are simply part of our lexicon to respond to those threats.

At the same time, I don't think our view of the utility of sanctions has changed, in the sense that we still understand that sanctions are nothing if not a tool for behavioural change. If they're not there to change the behaviour of a target, or an entity, or an individual, then really, they're just there to make ourselves feel good and that's not useful from a policy perspective.

Regarding how North Korea gets around these types of restrictions, I'll come back to the point about their ability to create a facade when they act overseas, which is really at the heart of all North Korean illicit activity in their approach. They are very good at being able to create a veil to suggest that they are foreign in nature, so non-North Korean in nature. If it's a North Korean network in Singapore, they will involve Singaporeans, who will create companies with completely generic names, who will open bank accounts with fairly reputable banks. Unless you spend a lot of time doing your due diligence on those companies and entities and the nature of their business, you may never realize that actually there's a North Korean puppet master sitting behind the scenes probably in a very nice apartment somewhere in Singapore.

This comes back to my point about the importance of intelligence and monitoring. We have to get collectively much better at monitoring North Korea's ability to create those facades. That may be something we do in partnership with financial institutions or between countries, but it does require a lot more co-operation and activity on our part.

Mr. Peter Fragiskatos: I agree with you on the part about sanctions. The reason I asked the question that I did is I see them as a tool, but an imperfect tool, obviously, because of the examples that I cited at the outset. This is not to say that sanctions have no place. They certainly have a role, but this idea that they are somehow the mechanism that is going to secure international peace and security, I think, is very much misguided. I think you've done a good job of illustrating that.

In your piece that you've put forward, and correct me if I'm wrong, but my interpretation of what you're saying is that engagement has its place. The North Korean regime is a very particular regime, a dangerous regime, although Canada can still engage to deal with the security threat that North Korea poses and we can engage by reaching out to the international community. You touched on this by talking about the need for collaboration, for co-operation. In your piece, you talk about collaborating with other states, sharing our expertise. You've also mentioned in your testimony here the usefulness, the merit of reaching out to even financial institutions.

I'm interested in that idea of collaboration, because I think if we simply look at these issues in isolation, if we have a regime with a bad human rights record that is posing a threat to international security, there might be a tendency to say that we are going to simply cut ourselves off and not engage in any dialogue. However, there is a robust dialogue that can take place between Canada and other states who are like-minded and concerned about international peace and security when we're dealing with North Korea. I think it's diplomacy through the back door, so to speak, a different way of engaging and maybe not directly with North Korea, but through this other avenue that I mentioned and that you wrote about in your article.

I wonder if you could elaborate on that.

• (1655)

Ms. Andrea Berger: I think you've touched on an excellent question, which is engagement with whom? I'll be the first to say that I also support the inclusion at the international level of engagement with North Korea as part of the solution. To me, sanctions are about getting North Korea back to the negotiating table, which is something we generally agree on internationally. Few would dispute that is something we would like to see happen. If that's the objective, we have to have a negotiating table to come back to.

We learned this with the Iran case quite well, I think. I know that you spoke to Richard shortly before me about his experiences with that.

I agree that broadly speaking—and this is not a policy prescription for Canada specifically—we do need to have engagement be part of a policy discussion on North Korea.

I think Canada's engagement can best be felt in reaching out to others, and they need not necessarily be like-minded states. In fact, some of the most intensive work we have to do is with states who don't feel threatened by North Korea. To some extent I've had conversations with foreign government officials to explain that there's a North Korea and a South Korea. It's that basic of a conversation in some places.

We do have a lot more work to do. Many countries don't prioritize this issue. They allow North Korean diplomats to operate on their territory fairly unscrutinised. They allow them to open companies and bank accounts, and are not necessarily taking a close look at what those are being used for.

Then you have countries around the world that actually need a bit of pressure to cut off destabilizing ties with North Korea. There's a large portion of Africa that still buys weapons and related goods and services from North Korea, completely in violation of UN Security Council resolutions.

If we get them to disengage at a political level, we're also going to have to make sure that their regulations and internal laws ensure that those policies are sustained. Those are the types of conversations in which Canada can be helpful, in my view.

The Chair: Thank you, Mr. Fragiskatos.

Madame Laverdière, s'il vous plaît.

[Translation]

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

Ms. Berger, thank you for your presentation. It was very interesting.

In your last reply, you touched on something I would like to discuss with you. In your presentation, you used the phrase "holes in the sieve" with regard to Africa and these issues.

Which are the main countries that are problematic in this regard and what can we do in very practical terms? We can begin a dialogue to raise their awareness, but what technical assistance could we provide to certain countries?

[English]

Ms. Andrea Berger: That is a fantastic question. Yes, holes in the sieve is, I think, what I referred to.

There are different gaps in different parts of the world and various levels of severity depending on where we're looking. Broadly, I would say the three largest regions we need to focus on, not only because they are critical pathways for North Korea, but also because of the implementation gaps, are Southeast Asia, the Middle East, and Africa. I realize that covers a large section of the world, but it gives you a sense of the scale of the problem. Issues in those jurisdictions are quite wide ranging.

I'll give you a very small sample. Finance is one of the areas that we need to be able to restrict with regard to North Korea. North Korea has become very good at circulating money offshore. Measures that restrict North Korea's ability to have North Korean bank accounts operate overseas are only going to be partially effective, because they're already putting their money overseas into accounts that don't have a North Korean label on them and

circulating it in that way. To be effective in implementing some of the restrictions that acknowledge that limitation at the national level, you need to have regular communication with banks. You need to make sure that banks know that they can and can't do certain things related to North Korea. When you travel to parts of Southeast Asia and have conversations with monetary authorities and financial regulators and indeed with the banks in those jurisdictions, it's quite clear that those conversations are just not happening. In some places you still even have North Korean companies creating joint venture banks with other foreign companies, so we have some work to do.

In some places gaps in legislation mean that when a country does want to take enforcement action, it doesn't have the legal ability to. Scrutinizing the movement of North Korean diplomats or cash couriers is one example of how legislation and gaps therein frequently create obstacles rather than facilitate action. Model legislation, outreach on export controls, outreach on countering financial crime, and specifically counter-proliferation finance if we're talking about the most important part of the threat picture in the financial space, are all extremely important initiatives that we need to advance. You can pretty much choose your place in Africa, Southeast Asia, or the Middle East where you want to do that outreach.

• (1700)

[Translation]

Ms. Hélène Laverdière: Thank you very much.

You know that, in communications with banks, for instance, we try to explain what they can or cannot do. In this very committee, we are realizing that we in Canada are perhaps not necessarily always an example for the implementation of measures and outreach.

That said, as you pointed out, the North Koreans are very clever at circumventing the system. I appreciate your comments on the need for monitoring and for information about what they are doing. I also appreciate your comments on the need for countries to share this information rather than each country doing the same work on its own.

I am wondering what the UN itself does in this regard.

[English]

Ms. Andrea Berger: The United Nations, in terms of its support system for the sanctions regime that we've created against North Korea, I will put it mildly by saying it's under-resourced. By the end of this week, it's going to look even more under-resourced because we're expanding the sanctions again to include new obligations that the UN will have a role in assessing international compliance with.

At the UN level, the North Korea sanctions regime still benefits from a panel of experts which is composed of eight members, nationally selected, who spend all of their waking hours tracking global compliance with the North Korea sanctions regime. They initially started as a panel that was focused just on assessing compliance with an arms embargo that was fairly limited. They've expanded now to focus on everything from coal trade to vanadium trade, to North Korean cash smuggling to, again, weapons-related or proliferation-related activity. Their job has grown enormously, and the resources to support them haven't.

Similar things could be said for the sanctions committee at the United Nations, which is also related to the relevant resolutions. I think our problem is that we've, if you will, created a sieve—to continue the metaphor—and now we're just making the sieve much larger without necessarily increasing the resources necessary to monitor the situation alongside that expanded regime.

• (1705)

The Chair: Thank you very much, Madame Laverdière.

We'll go to Mr. Wrzesnewskyj, please.

Mr. Borys Wrzesnewskyj (Etobicoke Centre, Lib.): Just prior to my asking a question, Ms. Berger, at one point you mentioned Russia meddling in Crimea. I'd like to point out that terminology matters. It was actually a military invasion and annexation of a sovereign country's territory, so it moves way beyond just meddling.

Back to North Korea, everyone's described to us how North Korea is fully dependent on China for the movement of goods, finances, a very significant movement of people as well. Is North Korea a de facto client state of China?

Ms. Andrea Berger: Well, first, I completely take your point on Russia. Sitting in the U.K., we see the threat development from Russia quite clearly, literally off the coast, sometimes, when it comes to Russian groups steaming through the English Channel. I didn't want to, for a minute, suggest that I don't have an appreciation of that threat, or indeed, that those on the other side of the pond don't either.

I'll take issue with the term “client state” as well, if I may. The relationship between China and North Korea is much more complex than that. While there is certainly a degree of dependency, it is an enormously difficult relationship from both sides. China's no doubt irritated at the trajectory of the North Korean nuclear missile issue. Indeed, they're aggravated by the current North Korean leadership. Whenever I speak to a Chinese official, they will often say that North Korea is being disrespectful to China, which I think is an interesting use of language as well.

China's view on North Korea is that they have a hierarchy, if you will, of concerns when it comes to the country, what we like to call the three noes: their priorities are no war, no instability, and no nuclear weapons, in that order. That shapes a lot of Chinese thinking towards the North Korean issue.

If no nuclear weapons is a subordinate priority to no instability, and the Chinese view of how to reduce the prospect of instability is through economic integration, then you can see where we run into an issue with the discussion we're having with China over sanctions implementation. To give you a broader sense, this is not a policy that China merely applies to North Korea; it's the foundation of their entire neighbourhood policy. The one belt, one road strategy that China has towards its neighbourhood rests on the idea that China will have a better relationship with its neighbours, a more manageable and stable relationship, if they're economically interdependent.

That same thinking applies to the Korean Peninsula, so what we're asking China to do by implementing very strong sanctions against North Korea is to actually discard that policy approach. In my view, we need to be realistic about what we're asking China, and whether or not they're likely to give it.

Mr. Borys Wrzesnewskyj: China, as a key member of the Security Council, technically is a partner in the sanctions regime against North Korea, so we're relying on China to be a natural partner in this sanctions regime, yet we've heard that, in fact, China is the country that facilitates in various ways hiding the sanctions busting that appears to be almost whole scale.

What approach should we be taking with China? By the sounds of it, technically, if China decided to shut the border with North Korea, we would actually have an incredibly robust sanctions regime. But in fact, it's not just looking the other way. After all, China is a totalitarian regime. They know what's going on within their country, so they know that all of these thousands of players—it is not individual cases—are involved in ways that break the actual sanctions regime, which at the UN, China is committed to being a partner to.

How do we approach that very difficult dilemma with China?

• (1710)

Ms. Andrea Berger: To some extent, I think North Korea is helping do the job for us. One of the issues underlying this discussion is the fact that, for a long time, China has assessed the North Korean threat in a different way than the U.S. and its allies have. When you talk to China about the nature of the North Korean threat, Chinese officials will sometimes turn to me and say, “Oh well, we think the North Korean nuclear missile programs are a real problem, too, because North Korean nuclear testing in mountains towards the Chinese border could create earthquakes, and there could be a potential theft of nuclear material from a North Korean nuclear facility.” If that's the basis of your threat assessment, and you play as important a role as China does in this picture, then we have a problem in terms of actually working on policies that are meant to be based on a common threat picture.

That said, it is becoming increasingly clear that North Korea's behaviour will, indeed, undermine Chinese security. That may be indirect, but the effect will be felt nevertheless. The way that impression is being created at the moment is actually through the U.S. and South Korean discussion over the deployment of ballistic missile defences to South Korea.

China detests ballistic missile defence and U.S. ballistic missile defence architecture. By making clear that the deployment is a direct response to a North Korean threat that is getting out of control and one that is not being actively curbed by China, we are reminding China that its security will be affected by the North Korean nuclear missile programs, even if those missiles aren't pointed at Beijing.

The Chair: Thank you very much.

We'll go to Mr. Saini, please.

Mr. Raj Saini: Thank you, Ms. Berger, for being here.

I want to talk about a very technical point, just so you can highlight this for us. I'm talking specifically about President Obama's executive order that changed the standard for listing individuals for sanctions to North Korea.

At that time you wrote, “Most importantly, this Executive Order only requires the Treasury to substantiate an individual or entity’s North Korean affiliation, rather than involvement in a specific proscribed activity.”

Can you explain the difference that you feel this has made in how sanctions are applied and whether or not this has helped the American government in targeting sanctions?

Ms. Andrea Berger: Sure. It effectively changes the legal burden when making the case for a designation because, in theory, any designated entity or individual has the opportunity to challenge that designation in court. The description of the designation that you put forth into the public domain has to stand up potentially to legal scrutiny. As a result of that, the legal authorities’ description, in the form of the executive order, is important.

What the U.S. did—I believe that executive order was January 2015—was in effect say that they no longer need to prove that an entity or an individual had materially assisted proliferation, for example, or conventional weapons trade, or some other proscribed activity. All they need to do is prove that the entity or individual was connected to the North Korean government or had assisted someone who was connected to the North Korean government. It’s a very broad brush, legal authority, in that executive order, and it’s much easier to prove that a North Korean is connected to the North Korean government, or that someone who has created a company together with a North Korean is connected to a North Korean government, than it is to prove that they’ve necessarily facilitated a proliferation-related shipment, for example.

● (1715)

Mr. Raj Saini: I have a follow-up to that question, and this is regarding when businesses are drawn into the sanctions regime. At one point you also wrote:

For sanctions to be both ‘targeted’ and strategic, lines between licit and illicit business must be drawn and observed, but they must also be communicated appropriately....

What kind of lines do you think should be drawn? Do you feel that the improved communication around sanctions would not only help explain the credibility of the sanctions, but would also help businesses understand how to be compliant with those sanctions?

Ms. Andrea Berger: That’s an issue that’s really at a higher level and actually relates both to conversations that we have with governments that are still doing business with North Korea, as well as individual companies. I would say this applies primarily to UN resolutions before 2016. In 2016 we got a lot more specific, and we’re going to get a lot more specific this week as well. Previously there were some grey zones that we struggled with, language that hadn’t been brought to a level of specificity where we could say convincingly, “No, this is arms related”, and “This isn’t arms related” meant that we were having conversations with countries around the world where they were saying, actually, “We’re compliant”, and we were saying “No, you’re not compliant”, and it was just a matter of interpretation.

Mr. Raj Saini: I believe that....

Sorry, go ahead.

Ms. Andrea Berger: I was just going to say that I think at the international level we’ve been better at drawing those lines more

clearly but, indeed, we’re carving out new pathways for sanctions. That will mean we may have some of those grey areas again going forward, simply because we’re covering new ground now with sectoral-based sanctions or commodity-based sanctions on minerals and metals, for example.

Mr. Raj Saini: Thank you very much.

The Chair: Thank you.

Mr. Allison, please.

Mr. Dean Allison: Thank you, Ms. Berger, for your testimony today.

I want to return to what was discussed previously and your comments on those that help them circumvent, you know, in terms of Africa, the Middle East and Asia.

What do we do? That’s a large part of the world. How do we deal with the fact that countries, and actually continents, are helping them circumvent some of these sanctions? What can be done?

Ms. Andrea Berger: It depends entirely on what the problem is at a country-by-country level. As I mentioned, you have some countries that know about the sanctions regime and have no interest in complying with it. There are countries in the Middle East and Africa, for example, that are doing completely illicit business with North Korea. They know it, have been told about it, and have very little desire to actually change course.

Now what we do in respect of those countries is a very different story than what we do toward countries that are ignorant of the sanctions regime, for example, that simply don’t pay very much attention to the nuances and whether or not certain types of coal trade is allowed or isn’t, or certain types of military co-operation is allowed or isn’t. Ignorance is a different problem in terms of the solution. Then you simply have countries that are attentive to the fact, but their domestic legal frameworks mean that the fact of the matter on the ground and in practice is that the measures are not effective. That’s where our technical assistance role comes in.

You move in the space anywhere from strong political pressure and, to an extent, public shaming for those who don’t care about North Korea sanctions and flout restrictions quite openly, to an education role for those who are ignorant of the sanctions regime and need a bit of a push to understand that they’re part of this North Korean global threat picture and they need to take it as seriously as anyone else, to a technical assistance function for states which really do need some help crafting export control arrangements or legislative frameworks to be able to take action in the event that they do get passed information that North Korean activity is touching their jurisdiction in some way.

● (1720)

Mr. Dean Allison: You also mentioned North Korea’s a lot more complicated; in other words they work hard to avoid, as you mentioned and as we’ve read.

What happens then? It sounds to me that there's a huge lack of resources in being able to catch them up in what's going on with additional workarounds with banks, etc. These resources, obviously, would have to come country by country, or more resources for the UN. What are we looking at here in terms of trying to figure out how we can make sure these sanctions are going to remain in place?

Ms. Andrea Berger: I think that the UN certainly needs additional resources. That's obviously something that would have to be agreed multilaterally and at the UN itself. I think if you would ask many of those who work on it, from their perspective they acknowledge very much that they are heavily under-resourced.

From a national perspective, countries like Canada, and indeed a number of European countries, take this role as well, as do countries like Australia. They are active in facilitating this kind of monitoring that I was talking about. They are sharing information, as well, where possible.

Again, it's acknowledging potential limitations in information sharing between countries, but to the extent possible, they do that in the North Korea case. That helps go some way to addressing the under-resourcing issue that exists on a very large scale for the sanctions regime. Again, I think this is a place where Canada can potentially contribute expertise and its own resources at home in a way that is useful.

Mr. Dean Allison: Thank you very much.

The Chair: Thank you, Mr. Allison.

Mr. Miller, please.

Mr. Marc Miller: The North Korean sanctions regime, in terms of sanction regimes writ large, is probably the most closed system we have compared to any other ongoing regime. Yet, you've identified a number of holes, and principally I guess they deal with workarounds in the system.

Could you speak briefly to what you see the North Koreans doing, and where they're trending in terms of trying to work around these things?

Ms. Andrea Berger: There are a couple of key areas, ones that I've alluded to already.

The whole North Korean evasive ability rests on being able to conceal that they're North Korean overseas, to varying degrees. In some places they have to do that less than others. The North Korean label, in other words, in some places doesn't attract as much scrutiny as it does, for example, in places like Europe. That's the starting point for North Korean evasion: don't make yourself look North Korean.

Having that strong network in China is a great starting point, primarily because with global trade flows at this moment, indeed so many foreign manufacturing sectors want to do business with China. They want to expand either their footprint in China or their business with China on a bilateral basis. That involves engaging with small and medium enterprises, in China potentially, which you may not know that much about. North Korea exploits that quite significantly.

It's the same patterns that you see overseas outside of China as well. North Korea uses foreign facilitators quite heavily. If you look at company registration documentation for a North Korean firm in

Southeast Asia, you may not see a North Korean name on paper; you'll see Singaporean, Malaysian, or Vietnamese names, just as an example.

Similarly, in terms of banking, this same problem applies. Those foreign facilitators or companies that are opening accounts in the countries they're located in with fairly reputable banks, indeed banks of pretty much every shape and size, are able to do that often without financial institutions being aware of the fact that, in the process, they've exposed themselves to quite substantial risk.

North Korea has a very good head start in getting around the complicated sanctions regime that we've put in place. They've been working on their evasive ability for well over a decade now. We have a big game of catch-up to play in terms of our ability to detect how they're moving next.

● (1725)

Mr. Marc Miller: This may not be in your realm of expertise, but I would like to hear some of your reflections on the impact of the North Korean people. Obviously, news is sporadic and probably unreliable, but you do hear of periodic famines and crop shortages.

There's that, and if you do have time, could you touch on consular relations? Obviously Canada has none. Most countries do not have any. I believe the Swedes have an embassy, and that's pretty much about it, with a few more exceptions.

What is your view on limited openness and engagement with the North Korean people?

Ms. Andrea Berger: Let me start on that side of the picture. Between 2012 and 2014, together with the U.K. Foreign and Commonwealth Office, I've led the U.K. bilateral engagement on security issues with North Korea. The U.K. and, in addition, Germany and Sweden, as you mentioned, maintain diplomatic relations with North Korea, with active embassies there, and in the U.K.'s case, a cross-accredited defence attaché, so there are indeed EU nations, other than just the three I mentioned, that have a presence in Pyongyang and whose ability to do business is undoubtedly being affected by the sanctions regime. There's no question about that.

It is difficult to get necessary goods and funds flowing in. That applies, I would say, more so to international organizations doing work in North Korea. Organizations that are co-housing with foreign embassies in Pyongyang for their housing are having difficulty paying their rent, for example, as a consequence of sanctions, because so many banks don't want to touch anything that looks like it's going towards something connected to North Korea.

There is undoubtedly an impact that's being had on consular relations and on diplomatic relations. Is it possible to make that work in an age of sanctions? Yes. Will it be difficult? Yes, but in my view, I think it would be a real shame if countries such as Germany, Sweden, and the U.K. were to feel that they no longer had the ability to operate as they wanted to in North Korea. Again, in my view, there needs to be an open door and a table for North Korea to come back to if sanctions are to have any relevance. Part of that, I think, involves continuing diplomatic channels where that's possible.

On the broader effect on the North Korean people, it is extremely challenging to assess that. It's not something that I've looked at in great detail. First, it's hard to get a sense of the spread of the humanitarian situation around the country and, in addition, North Korea has an incentive for trying to make it seem as if they are absolutely resilient to sanctions, so the information flow is truly very poor in pretty much any way that you can construe that term. The honest answer to you on that front is that I simply don't know.

The Chair: Thank you, Mr. Miller.

Ms. Berger, on behalf of the committee, I want to thank you for sharing your expertise on North Korea and the whole discussion of sanctions. As a closed process for North Korea, one of the things

we're trying to get a better handle on is the whole issue of monitoring and the abilities to monitor sanctions to create the kind of effective regime we expect when we put either individuals or corporations, or even the state itself.... I want to thank you very much for that. We appreciate the hour that you've spent with us today.

I'm going to wrap it up there, colleagues. We're going to go in camera for two minutes and do a little bit of business, but I'll let Ms. Berger go. I think she's spent enough time with us. We very much appreciate it.

Ms. Andrea Berger: Thank you.

[Proceedings continue in camera]

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