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EVIDENCE

**Tuesday, February 22, 2005**

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**Chair**

**Mr. Bernard Patry**

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## Standing Committee on Foreign Affairs and International Trade

Tuesday, February 22, 2005

•(0905)

[*Translation*]

**The Chair (Mr. Bernard Patry (Pierrefonds—Dollard, Lib.)):** Welcome, everybody.

Under Standing Order 108(2), we will consider the appointment of the Canadian Ambassador to the United States of America.

[*English*]

We have the pleasure to have as a witness this morning, as an individual, the Honourable Mr. Frank McKenna, ambassador designate to the United States. Welcome, Mr. Ambassador.

I just want to pinpoint in the beginning that our committee did a study that we tabled in December 2002. It's a report called "Partners in North America: Advancing Canada's Relations with the United States and Mexico".

We're very happy to have you here this morning. I understand you have a communication to give us. The floor is yours, please.

**Hon. Frank McKenna (Ambassador Designate to the United States, As Individual):** Thank you. Good morning and bonjour.

I'm very proud and honoured to come before you as ambassador designate to the United States of America. Thank you for inviting me. I will try to answer your questions to the best of my ability. I also look forward to a close relationship with this committee throughout my tenure as ambassador, as we fulfill our mutual obligation to protect Canada's sovereignty, while enjoying the fruits of a robust commercial and cultural relationship with the United States.

We have co-existed for generations as neighbours and friends. The relationship is an extraordinary example of good will between two like-minded democracies separated by the world's longest unmilitarized border.

The amount of activity that takes place on a daily level between these two countries is quite extraordinary. We're all aware that \$1.2 billion in commerce is transacted every single day, that ours is the largest trading relationship in the world, that a truck crosses the U.S.-Canada border every two seconds, and that the Windsor-Detroit crossing point alone accommodates more commerce than the United States has with almost any other country.

Less dramatic are the everyday relationships that transcend the formal border. As Premier of New Brunswick, I witnessed residents of one of our small communities, St. Stephen, crossing to Calais for a quart of milk, and residents of Calais coming over for their chicken. In Edmundston, the Fraser pulp mill produces pulp on one

side of the river, which is pumped under the river and converted in the United States of America. In Aroostook, New Brunswick, if people tee off at the golf course in Canada and hit the ball straight, it goes into the United States of America.

[*Translation*]

These relationships can be multiplied by the thousands all along the border.

I have also witnessed irritations that caused great inconvenience. I was a participant in softwood lumber and potato debates and participated with New England governors in trying to reduce acid rain levels in the United States. I participated in the Free Trade debate and have witnessed its great accomplishments and its continuing irritations.

As a businessman and a lawyer, I have represented clients on both sides of the border. I've served on boards of directors in both countries. I have found our differences to be overwhelmed by our similarities. I have enjoyed the opportunity to meet numerous American political leaders and found that in many ways their hopes and aspirations were not dissimilar to our own.

[*English*]

Canada-U.S. relations are a dynamic phenomenon. New issues are always emerging, old ones seem to have nine lives, and the global context is changing more rapidly now than ever before.

Building upon our successes with the United States is Canada's greatest opportunity. Managing differences and disagreements should not define the relationship. Most of the time we do a pretty good job fixing problems through engagement and negotiation. Dialogue and avoiding surprises are two big factors in minimizing trouble.

The new partnership for North America is the means by which we intend to move the Canada-U.S. and North America partnerships forward. This initiative identifies key areas for progress and cooperation: a prosperity agenda through enhanced competitiveness in North America, defence and security, and a better quality of life for all of our citizens.

With so much of our economy tied to exports, smoothly functioning land borders are of paramount importance. We have done well with the smart border initiative, but there are new challenges. U.S. visitor identification programs, container security, and land preclearance will be key areas of focus. There's also growing recognition on both sides of the border that investment in infrastructure at key crossings is essential to our mutual prosperity.

Canada's national security policy was a strong and welcome reaction to the current reality, and it was recognized as such by the United States. Our everyday cross-border collaboration against terrorists, human traffickers, and drug cartels is one of the strongest points in the relationship.

Trade disputes such as softwood will remain on the agenda. We will continue to seek solutions, but we cannot allow irritants to define the relationship. We have to be persistent and argue from a science- and evidence-based factual approach. We have made welcome progress on BSE on that basis. At the same time, we have to exercise our rights under international trade laws, as the government is doing over softwood duties retained by the United States.

The environment is important to Canadians. There are opportunities to make progress on environmental issues with the United States, notwithstanding our different positions on Kyoto. The United States has initiatives on clean air and water. We have been, and will continue to be, an enthusiastic partner.

• (0910)

[Translation]

On the global scene, Canada and the US have many opportunities to make common cause. As democratic countries with market economies and a shared history of defending and advancing democratic values and liberty, that collaboration will continue; sometimes bilaterally but also through our membership in NATO, the OAS and the UN.

[English]

I will work closely with our tremendous team in the United States: the embassy, consulates-general, and other Canadian offices that collaborate with Foreign Affairs Canada and other government departments to advance Canadian interests and impact the decision-making process.

Our enhanced representation initiative that you're all witness to in the United States ensures that we cover much more of that country and provides a whole-of-government approach to focusing our representation.

I would be remiss, in this room in particular, if I did not note that federal parliamentarians have a tradition of interaction with their American counterparts. The Washington secretariat in the embassy was developed in response to the Prime Minister's desire to make these interactions as effective as possible in pursuit of overall Canadian goals.

[Translation]

The Washington Secretariat works closely with the Canada-US interparliamentary group and with committees, Information flow has been stepped up. The goal is to help Parliament be more effective in its interaction with Congress, while respecting the independence of Parliament.

Alberta was the first province to appoint a senior official at the Secretariat with the mandate to deal with the province's economic issues, particularly in the field of energy. Generally speaking, the role of the provincial representative must be in line with the

agreement negotiated between Alberta and Ottawa. Other provinces could decide to join the Secretariat.

[English]

Canada and the United States offer a refuge and a beacon of hope to people from around the world. This has not happened by chance but through our shared values, our commitment to the rule of law, and our cultivation of good government. As ambassador, I look forward to working with parliamentarians and other Canadians to build on that history of achievement.

In closing, I want to pay tribute to our current ambassador, Michael Kergin, and his wife, Margarita. He has performed professionally and with enthusiasm under challenging circumstances. He and his wife have been extremely gracious to Julie and me as we prepare to assume our new responsibilities.

Thank you. Merci beaucoup.

• (0915)

**The Chair:** Merci beaucoup, Monsieur McKenna.

We're going to start now with questions and answers. I want to point out to my colleagues that the first round will be ten minutes. I'll be very strict on the ten minutes. The second round will be five minutes. Mr. McKenna is with us until 10:30.

Mr. Sorenson, please.

**Mr. Kevin Sorenson (Crowfoot, CPC):** Thank you, Mr. Chairman.

Thank you, Mr. McKenna, for appearing today before our committee. I hear that you were in Alberta yesterday and you are before committee today. I could think of no two greater places to be.

I would like to start by stating for the record that in the Conservative Party we supported the motion to have you here today because we in the Conservative Party believe, as most of the opposition believes, very strongly that all appointments should be vetted and reviewed before the appropriate committee. I just want to say that, so you would not believe that we are in any way singling you out specifically as the ambassador designate to the United States.

I went to the website this morning and I noted, as others have, that you were involved with the Carlyle Group. This Carlyle Group is ranked as one of the largest United States Department of Defense contractors, with \$1.2 billion in contracts in the year 2000. As I said, a fairly recent scan this morning to the Carlyle website shows that you are still a member of the board of Carlyle Canada.

My first questions to you would be, are you in fact still a board member of that group? Are you still in that position? Have you resigned from that position? Certainly I think most people would believe that if you haven't resigned from that position, there would be some questions about perhaps even the integrity of Canadian foreign policy in our having an ambassador part of that.

Secondly, in February 2002 a CBC news report indicated that you told members of the Canadian Bar Association, "The United States wants to create a continental defence structure. To cut to the chase, I'm not troubled by that concept. I personally don't believe that our sovereignty is at risk in participating in such an exercise".

Have you discussed continental defence, and in particular the ballistic missile defence system, with the Prime Minister of our country or with any members of his cabinet?

We'll let you answer those questions, but we're going to go to Ms. Stronach. She'll pose a question and a number of my colleagues will pose questions. If you are unable to answer all the questions, if you could respond in writing later, we would appreciate that.

**The Chair:** Ms. Stronach.

**Ms. Belinda Stronach (Newmarket—Aurora, CPC):** Thank you, and welcome, Mr. Ambassador.

The government has been talking about decriminalization of marijuana for years. We know from Americans that they're very concerned about this. Your outgoing U.S. counterpart, Paul Cellucci, has informed and even warned this government on various occasions to expect a U.S. reaction to any such move, and that it could result in perhaps further border delays and slowdowns.

Mr. Ambassador, because of your past experience you would know that this country cannot afford more border problems. The border is fragile enough without placing any more stress on it. I'm troubled by this marijuana issue. I think it is a sleeper problem. Marijuana grow-ops are a thriving criminal activity in my community and the surrounding communities, and I do believe it is a sleeper problem. I have horror stories of grow-ops, as I said, right in my community, and I fear that if we do decriminalize it'll increase the market demand and the supply.

My question is, Mr. Ambassador, how would you work to reassure the Americans that we might have this situation under control in Canada when they see the situation and hear the political words?

Thank you.

**The Chair:** Mr. Day.

**Mr. Stockwell Day (Okanagan—Coquihalla, CPC):** Thank you, Mr. McKenna.

As you can see, we're giving these questions as succinctly as possible. If you don't have the time within our ten-minute allotment to answer them, we would appreciate the answers in writing.

Thank you for being here. Personally, having worked with you at the provincial level, I think you're going to do a good job representing Canada. I don't mind saying that. However, we of course do not approve of the process that got you here, and unfortunately your talents will be somewhat diminished for a while because of a process that we'd like to see changed.

You mentioned in your comments about Canada and the United States offering a refuge and a beacon of hope to people around the world. You see Canada as somewhat allied in that venture with the United States. The United Nations is teetering on irrelevancy. The number of national groupings and alliances at the United Nations that are controlled by non-democratic regimes, dictatorships, and even failed states is actually eroding the influence of free nations like Canada and the U.S. What kind of influence are you going to be able to bring in this Canada-U.S. relationship that you've talked about to see democratic alliances develop at the United Nations that will be a counterweight to the non-democratic alliances?

The UN of course is racked by corruption and scandal as it never has been, and for it to be strong, that needs to be dealt with. Again, working with partners at the UN, will you encourage our government to do everything it can to deal with the allegations of Canadian involvement in the Iraq oil for food scandal? All the corruption at the UN needs to be dealt with transparently, and Canada can be a force in doing that.

Those are the questions I would put to you on those two areas.

• (0920)

**The Chair:** Thank you, Mr. Day.

I would just remind you that he is going to be the ambassador to Washington and not to the United Nations.

**Mr. Stockwell Day:** I'm referencing that in his speech, Mr. Chairman, he said, "Canada and the United States offer a refuge and a beacon of hope to people from around the world". He can be a force in doing that.

**The Chair:** Good.

Mr. Menzies.

**Mr. Ted Menzies (MacLeod, CPC):** We are trying to get these questions in, and as we've said, on whatever can't be answered right now, we would appreciate if you could respond in writing.

You comment in your presentation, Mr. McKenna, "Most of the time we do a pretty good job fixing problems through engagement and negotiations". My reference will be to the BSE issue, which is very important in my riding. We had the Minister of Agriculture go down to Washington to confirm that we were actually going to be able to reinstitute the movement of live cattle under 30 months and beef over 30 months on March 7. Unfortunately, something fell off the rails and the minister came back with much less. In fact, we will not have movement of over-30-month beef.

My concern is this. What will you be able to bring to communication skills and negotiating skills that will override a PMO that seems to be distracted and, some would say, even dithering on issues such as this? We don't even have an international policy review in place yet. What can you provide us to give us assurances that you have the ear of those in the United States who will be able to effect these changes?

**The Chair:** Thank you, Mr. Menzies.

Mr. McKenna, you have three minutes left to answer all these questions, or we'll come back later. Go ahead.

**Hon. Frank McKenna:** We'll try to go quickly.

**The Chair:** No, you can go slowly if you want. It's your privilege.

**Hon. Frank McKenna:** With respect to the Carlyle Group, my resignation has been submitted to the Carlyle Group, and the Carlyle Group advisory board in Canada has been disbanded. It's been dormant for at least the last two or three years. It think we've met once in about three years, and it's been officially disbanded at any rate. That would be number one.

Number two, with respect to continental defence, I was speaking to a Canadian Bar Association panel on perimeter defence and have taken the view that we do have common cause in a number of ways, in that we have the longest unmilitarized border in the world. I think we're seeing a number of initiatives taking place now, such as some of the work that's being done to expedite border entry, some of the work that's being done to guarantee the safety and security of container traffic, inspections taking place by either party in the other country, and things of that nature, that show common resolve with respect to continental defence.

With respect to the decriminalization of marijuana, that's a domestic decision so I don't want to reflect on that. I suspect that where it involves my mandate would be in the reaction of the United States of America. There's no doubt that it would represent a different philosophy from the Government of the United States of America. But I think one could argue in reverse, if one wanted to, that the United States has a different approach with respect to gun control from Canada as well. And one of the biggest problems Canada faces is with respect to guns from the United States coming across our border and being used in crimes in Canada. We could make the argument that each of us should be entitled to our own domestic policy, even though it has some implications for the other country, and that we make no big issue about the lack of gun control in the United States, even though it does have some impact on Canada.

I would remind you of the statistic—I believe it to be true—that I mentioned the other day. Of some two million pounds of contraband that were confiscated at borders, there were only 44,000 pounds of that on the U.S.-Canada border. In terms of the seriousness or gravity of the matter, it doesn't seem to be that serious a matter here.

With respect to the question of the Canada-United States role in terms of democratic alliances, there's no doubt that we share a common cause as democratic countries. I'll leave it to our ambassador to the United Nations as to what is done there, but the Prime Minister's initiatives to try to cluster 20 like-minded countries together perhaps is one example of forming new alliances. One would have to be not paying much attention to think that the United Nations, in all of its manifestations, is doing an efficient job of dealing with every world issue. And Canada, because of its credibility, hopefully will be a bridge for people to find solutions.

On the BSE issue—

● (0925)

**The Chair:** That's it, that's it.

Now, we'll pass to Madame Lalonde, *s'il vous plaît*.

[*Translation*]

**Ms. Francine Lalonde (La Pointe-de-l'Île, BQ):** Thank you, Chairperson.

Welcome, Mr. McKenna.

Mr. McKenna, when the Prime Minister appointed you, he broke with a long tradition of appointing to Washington high-level diplomats, the best of the brightest, people at the apex of their career. Why was that? Because the US, perhaps even more today than in the past, is the dominating power which rules and in a way sets foreign

relations and world security. The US has with Canada major trade issues that are unresolved, issues that have led to thousands of job losses. And new issues are emerging, one of them being Kyoto.

As far as BMD is concerned, parliamentarians know that it is extremely difficult if not impossible to act in the US without a network. There are many networks there, with numerous sources.

You have been a brilliant provincial politician but you have never been on the international stage in any significant way. You will have to deal with many difficult issues without any true preparation. At least one may have that impression.

Don't you think, Mr. McKenna, that Prime Minister Martin made a mistake in appointing you to that position?

**The Chair:** May I suggest an answer?

**Ms. Francine Lalonde:** Let him answer, he'll have to deal with much more difficult questions there.

[*English*]

**Hon. Frank McKenna:** I think only time will tell whether the Prime Minister has made a mistake or not. I can tell you this. I did not solicit this position and did not expect to be offered it, and quite frankly, I am extraordinarily surprised that I ever accepted it, because I was very comfortable with the life that I had—the privacy of it and the challenge of it. But I thought this was a high calling and I wanted to do it because my period of public service before was the most fulfilling period of my life, and perhaps in some small way I wanted to regain some of that.

I think your criticisms are fair. We have had career diplomats before. I would argue that they have been political appointments, however, in that they've all had special relationships with the Prime Minister—in the case of Derek Burney, chief of staff; certainly in the case of Raymond Chrétien, nephew to the Prime Minister; Michael Kergin, adviser. So I think they would be perceived in Washington as being political.

I don't think it's fair, however, for you to say that I don't have any international experience. I certainly wouldn't pretend that it's of the volume that you would expect from a career diplomat, but I was a participant in both the free trade debates—the FTA debate and the NAFTA debate—as a principal in this country, which is very important. I was a principal participant in the acid rain debates that have taken place. I was a principal participant in the softwood lumber debates as Premier of the province of New Brunswick, and I was chosen by a Canadian company as a candidate on a NAFTA panel on the softwood lumber debate and spent months working on it, until I was unceremoniously dumped by the Americans from the panel. I'm familiar with the potato issue and some of the hog issues.

In terms of international, you shouldn't forget that I'm a member of the eastern Canadian premiers and New England governors group and have had experience with my counterparts in that. I was the chef de mission for francophone summits. For ten years I attended francophone summits with world francophone leaders, people all the way from Mitterrand to Mobutu to Aristide, in various places around the world, because as you know, New Brunswick, together with Quebec, has status at la Francophonie. I was a member of Team Canada missions and met people from presidents and prime ministers to kings all around the world.

I've been a member of CIRC, the oversight body for intelligence review of CSIS, which has allowed me to have a great deal of information about what is going on in world intelligence communities. I've been a participant in Bilderberg conferences. I'll be doing my third now in several weeks, debating with other world leaders in Europe and the United States and Canada.

In addition to that, I've given speeches around the world on various issues. I've represented clients as a lawyer, on both sides of the border, and I've served on boards of directors on both sides of the border. And for the last four years I've hosted an event in the maritime provinces that has brought Prime Minister Martin on one occasion, former Prime Minister Major on another occasion, former President Bush on another occasion, and former President Clinton on another occasion.

Out of all of those events, I think that I've demonstrated an interest in international matters and a certain number of contacts.

• (0930)

[Translation]

**The Chair:** Mr. Paquette.

**Mr. Pierre Paquette (Joliette, BQ):** Thank you, Chairperson.

Thank you, Mr. McKenna, for being here. We appreciate it a lot.

I was a bit surprised to hear you alluding in your preliminary statement to the Free Trade debates. I think we've all been involved in those.

You've mentioned softwood lumber in passing whereas I am convinced it is an extremely important issue. As you know, there have already been six decisions in our favour, three at the WTO and three under NAFTA. Like many, I think that the Americans are only willing to apply the rules when it is to their benefit. In this case, however, there is a strong challenge under NAFTA. As a matter of fact, this process has been used only by the American authorities since the signing of the agreement. As you know, about the Byrd Amendment, Congress didn't do anything. Apart from some pious statements, the American authorities have not demonstrated that they have a plan to implement the WTO decision, which puts in jeopardy the \$3.5 billion of countervailing duties that have been illegally taken by the US from our softwood producers.

Do you think that resolving the softwood issue will be a major test of NAFTA's capacity to ensure fair trading rules for the three partners? Specifically, if chapter 19 on dispute resolution proves to be completely ineffective, the Agreement will have lost a huge part of its *raison d'être*. So, don't you think that resolving that crisis would be extremely important for the future of the North American Free Trade Agreement?

Secondly, as our new ambassador, what do you intend to do to make sure that this dispute is speedily resolved to the benefit of Canada?

**Hon. Frank McKenna:** I share your concern.

[English]

I very much share your concern on this issue, but I think it's unfair to characterize it as the litmus test of the trade relationship between Canada and the United States. In fact, the litmus test of the trade

relationship may be the dramatic expansion of that relationship over the duration of the agreement. I think even the harshest critic of free trade would admit that the number of disputes is relatively low when compared to the sheer volume of the relationship.

There is no doubt that this issue, now in its fourth manifestation, is a very thorny, tricky issue to resolve. Part of the reason, of course, is that we were not able to obtain final agreement on trade remedies with respect to our negotiations at NAFTA. I believe, however, that Canada is on a good track. We've been successful at using the processes that are established, the legal processes at the WTO and in NAFTA that at least give us some rule of law.

Like you, I am very concerned about the application of the Byrd Amendment. To me, that represents the confiscation of property and violates the rule of law. In all of the other disputes that we've had with the United States, if we have been proven to be correct, those moneys have been returned to us. So this really is an anomalous situation. We don't know definitively yet whether it will ultimately prevail and they will attempt to confiscate these moneys. I think that would be a major breach of international law and would entitle us to retaliation.

As you know, we've not only asked for a panel to be struck to examine the way in which the United States has responded, we've also requested permission to retaliate. That's not what Canada wants to do, but we've requested permission to take those trade measures and actions to which we're entitled under trade law.

It's not a lot, but it should be some comfort that the Byrd Amendment is not universally supported within the United States of America. The administration itself seems to be opposed to the Byrd Amendment, recognizing it for what it is: a very grave challenge to order in the trade area. We simply have to try to convince enough senators that this represents a major breach.

• (0935)

**The Chair:** Thank you.

Mr. McTeague.

**Hon. Dan McTeague (Pickering—Scarborough East, Lib.):** Mr. McKenna, thank you for being with us this morning. I want you to know that the request was indeed unanimous, as Mr. Sorenson has indicated, and I don't think you have disappointed our collective wisdom in asking you to be here today. In my view, your rejoinder to Madame Lalonde certainly demonstrates that your qualifications are both unimpeachable and the envy of many of us here. When you left New Brunswick, keeping your promise after ten years, there was a sense of loss in that province. I can safely say today that New Brunswick's loss is indeed Canada's gain, and we look forward to the good work you have ahead of you.

There will be three or four of us sharing the time, so I will go very quickly to my question. It would appear that you have quite a few areas of interest that you will want to look at in this rather Herculean effort at managing Canada's prosperity in the largest trade relationship in the world. What do you foresee in terms of your greatest challenges ahead? I know you've talked about security, with the Americans seeing security as their largest concern and Canadians seeing the economic aspects of this. I wonder if you could elaborate a little on that.

I will now yield my time to the other three members here.

**The Chair:** You can answer. We'll go individually.

**Hon. Frank McKenna:** I'll try to answer quickly.

The greatest challenge? I think it was a British prime minister who once said, "Events, dear boy. Events", or something to that effect. The constant stream of off-the-wall issues that will come at us is what I think will be the biggest challenge.

The two we could forecast would be transactional—things like BSE. Because I want to answer your question more fulsomely, by the way, the secretary in the United States has undertaken that it's his intention to get to older beef, both live and boxed, so we can only hope we will end up getting the result we want. I think good progress has been made on that dossier.

The other thing is the overall relationship. I believe Americans are largely indifferent to Canadians, unknowledgeable about us, and I think we have to let them know more about the value of the relationship from their side of the border. We bring real value. I don't think that's understood. And I think we need to continue to communicate with Canadians as well about the value of the relationship. So overarching the transactional issues are the environmental issues, if you like, the atmospheric issues of how we can create a better environment between our two countries.

• (0940)

**Hon. Dan McTeague:** Thank you.

**The Chair:** Mr. Bevilacqua.

**Mr. Maurizio Bevilacqua (Vaughan, Lib.):** Thank you very much for appearing in front of the committee today.

I'm really interested in one basic question. What do you want to achieve as ambassador to the United States? Secondly, as an individual who is really concerned about the issue of North American economic space, which I think is something this country needs to reflect upon, what are your views on things like a customs union and a seamless border? In relationship to the issue of national security, do you believe continental security is in fact a precondition for economic growth in North America?

**Hon. Frank McKenna:** Those are a lot of important questions in a hurry.

What would be a manifestation of progress? I suppose at the very macro level, one would be just the greater prosperity and security of our citizens in our respective countries. I, for one, would like us, as Canadians, to take on the productivity challenge and try to bridge to some extent the gap between ourselves and the Americans in terms of productivity. That would result in a massive amount of money available for government to spend. In working collaboratively together, perhaps we can arrive at a more common kind of productivity.

With respect to a seamless border, I would very much like to see the border become as seamless as humanly possible. I think some of the efforts that are being made now, like the infrastructure efforts, will help in doing that. I think technology's going to have to play an important role here. There's technology now that can scan trucks, and there's technology now that can fast-track individuals. I believe we have to rely on technology to help us out here.

We have a very special access now that we take for granted. As I understand it, on the southern border of the United States of America, citizens of Mexico have to have a visa to get into the United States of America. We can go in with a provincial driver's licence. There's no place else in the world that has that kind of access, so we have to work very hard to preserve that.

I believe that means we have to show the Americans that we take the security issue seriously and that we're prepared to do our part to make sure our airports, ports of entry, and all other means of access into Canada are safe enough that they can rely on the products and the people coming from Canada. I think we're well on our way in that direction, but those are big challenges. If we want to continue to enjoy the prosperity that comes from trading with this huge trading partner, then we're going to have to recognize that our issue might be trade but theirs is security. That makes our issue security and trade.

**Hon. Maurizio Bevilacqua:** As an individual who has travelled extensively in both Canada and the United States and other places in the world, do you feel that Canadians truly understand the impact that 9/11 has had on the American psyche as it relates to the issue of national security?

**The Chair:** Mr. McKenna.

**Hon. Frank McKenna:** It's an interesting question.

I believe that Canadians, perhaps more than any other nation of the world, felt an extraordinary sense of sympathy and bonding with Americans over the event of 9/11. So there was no lack of empathy; we saw it in the Maritimes, in Halifax and Moncton and Gander.

But do they truly understand the sense to which the United States was traumatized and the sense to which that has driven their public policy since then? No, I don't think our citizenry overall have understood that.

**The Chair:** Thank you.

Mr. MacAulay.

**Hon. Lawrence MacAulay (Cardigan, Lib.):** Thank you very much, Mr. Chairman.

Welcome, Mr. McKenna. I guess you're fully aware that your private life is gone again, and I'm glad it is. I'm very pleased that you have the position. I think you'll excel. If you can excel even partially as well as you did in your private life in New Brunswick, it will be great for this nation.

I would ask you one question. How do you feel you're going to deal with the "irritants" that take place, as you referred to them in your remarks? The irritants are very harmful to sectors in this country, like in the fishing and farming areas when the Americans decide they're going to close the border. I don't think you're going to be a lobbyist, but do you intend to take a different approach as to how important it is not to have our products stopped and not to have us go into the dispute settlement mechanism to settle these issues, which creates harm before it actually happens? Do you have any view on how you're going to deal with the congressmen, so they understand how important it is for us and them that our products are not stopped, which causes great harm? I think that's in line with our understanding the security issue in the U.S. But they also have to understand that they can't bankrupt all the farmers in this country, which some people believe is happening for political reasons.



I don't think you're going to be a lobbyist, but what approach would you have with the Congress and in Washington? You have the most elaborate spot in Washington right now.

• (0945)

**Hon. Frank McKenna:** Obviously we have access to different things we can do when a dispute arises, such as the legal framework of NAFTA. But by far and away the best solution would be prevention. I can't undertake that I'm going to be able to prevent trade disputes. I'm not. At the end of the day, we all collectively, as citizens of this country and their country, have to work at this relationship overall.

But I think there are some things that would be helpful in managing the issues you're talking about. What would be helpful in doing something that I'm not sure we've ever been successful in doing: educating Americans on the extent to which their interests and our interests coincide. As a politician, I have to think about the interest of my constituents, and I want them to understand that our interests could be in common. If stopping softwood lumber, for example, results in the cost of a house increasing by \$7,000 to \$9,000, then we should have interested allies in the United States to help us. If stopping our farm products from going in has an impact on the cost of their products or their quality, they should be on our side.

They also need to understand that we represent the largest market in the world for the products of something like 39 of their states. They have to understand that we're the largest market in the world for their agricultural products. We consume, I think, four times more of their agricultural products per capita than probably any other country in the world. So they have to understand that we're a huge market for their products as well, that this border swings both ways, and that it's in our common interest to be able to facilitate access between our two countries.

So I think part of my job is in that educational conditioning, just trying to make common cause with people. One of the pieces of advice I received that I think is very helpful is that to the extent possible, one must find allies on the American side of the border with respect to issues; otherwise, they're overwhelmed by their other concerns. So it's my intention to work very hard at doing that.

**The Chair:** Thank you.

Now we'll go to Mr. Layton.

**Mr. Jack Layton (Toronto—Danforth, NDP):** Mr. McKenna, good morning.

**Hon. Frank McKenna:** Yes, and welcome back. I hope you're feeling well.

**Mr. Jack Layton:** Welcome, and Mr. Chairman, thank you for giving me the opportunity.

There's perhaps only one cloud over us at the moment, and that is that we're dealing with this particular hearing in the context of a broken promise, which was that these hearings should happen prior to appointments taking place. I realize that's not your responsibility, but it does need to be noted and was noted by some of the others. Nonetheless, we're happy to have the chance to ask a number of questions, and I have four or five I'd like to try to get to in the ten minutes, if we could.

In 2002, you did tell the Canadian Bar Association that you were, "not troubled by the concept of a U.S.-led, continental defence structure, and that our participation in this would not put Canadian sovereignty at risk". You said the WTO rules "represent probably more of a delegation of sovereignty than most of the measures being contemplated". In your opening remarks you mentioned the new partnership for North America, and if I'm not mistaken—and clarify it if I'm wrong—this is the initiative advanced by Mr. d'Aquino. Could you comment on and consider the pressure that Canada is now under to harmonize our various immigration laws, defence policies, environmental laws, and privacy laws? What protections are in place to ensure that Canadian sovereignty is not further compromised?

**The Chair:** Go ahead, please, Mr. McKenna.

**Hon. Frank McKenna:** The partnership, I believe, is from the President Bush-Prime Minister Martin meeting. That certainly hasn't been lifted from the Council of Chief Executives.

My belief is that the sovereignty of Canada is important. I come before you today as somebody who gives speech after speech as a patriotic Canadian. I think we've got something very special in the world and that we need to preserve it. I also believe we can end up reaching accommodation with partners—not subjugating ourselves, but reaching accommodation—as we often do, without compromising our sovereignty. We do it with the United Nations. We're a member of that. We do it with NATO and NORAD. We've been able to do that.

I don't think I've ever seen the countries, in many ways, more different. We seem to be preoccupied with our sovereignty, but we're going in a very different direction from the United States of America—and I don't want to presume this—with respect to gay marriages, decriminalization of marijuana, and certainly with respect to gun control. Our whole approach, with respect to preserving the social security in Canada is dramatically different from the direction of the United States of America. On any number of these issues, we seem to be much further apart than we've ever been before.

So my view is that Canadians, as a country, have done a good job of protecting our cultural integrity and our sovereignty. But at the same time, we're cooperating at the border. We have U.S. agents, I believe, examining cargo in the port of Halifax. We're looking at putting people on each side of the border, pulling the border back a little bit so that we can keep commerce running at a very smooth rate. I don't think any of those things really reduce our sovereignty, as I understand the concept.

• (0950)

**Mr. Jack Layton:** Do you see any threat to Canadian sovereignty from so-called deep integration, and how can we protect against those threats?

**Hon. Frank McKenna:** Yes, I think you could reach a stage where it would be a threat, honourable member. I can't point out examples to you today, but I think if somebody wanted to have a common currency, we would lose a lot of authority and power with respect to that in very important ways. That would trouble me; I would have to understand how that could make any sense for us. When you get into other areas, I think it's certainly possible to envision areas where Canada should say no, we're not prepared to reach that accommodation.

**Mr. Jack Layton:** You mentioned that you're not troubled by the concept of a U.S.-led continental defence structure. That was in the speech that we're referencing.

**Hon. Frank McKenna:** I'm not sure "U.S.- led" was in the text.

**Mr. Jack Layton:** I'll give you a chance to clarify. It certainly wasn't in this text; we're referring to a speech that was made at the Canadian Bar Association. And this is the opportunity to clarify those things, I guess.

Part of that structure is this concept of missile defence. Is there nothing about the missile defence plan that you would find troubling?

**Hon. Frank McKenna:** I think that's a question that is premature to ask me. I'm not even the ambassador yet, having a week to go before I'm even going into Washington and then maybe several weeks before I present my credentials. I don't think it's fair for me to express an opinion on that when the government hasn't opined on it and when Parliament is going to be seized of the issue itself.

I also believe that I have to understand, in fairness, what the American perspective is on this. I have read a lot about the views of Canada. Quite honestly, I have not been able to discover what it is the Americans actually want from us with respect to missile defence. I'm trying to understand what the ask is and what the gravity of the issue is for them, to help me frame my thoughts on it. I have a lot of disparate thoughts on the issue of missile defence and have assembled, I think, a certain amount of information on it, but I don't think I have the complete package yet.

**Mr. Jack Layton:** What's your current state of thinking? What are the aspects that you would find of concern or troubling?

**Hon. Frank McKenna:** The concerns that have been expressed publicly are that there be no interceptors based on Canadian soil. As I understand it, the Americans are saying, "No, we're not asking for that. We're going to be basing them in Alaska and California".

Second, on the question of whether there would be a financial contribution required from Canada, as I understand it, we're saying no, we would never do that. I understand, although I can't verify this, the Americans are saying they're not asking for financial contribution. I think Canadians are saying that we would prefer the way in which we try to resolve this issue of ballistic missile threats to be through disarmament, as well as through nonproliferation and activities at the international level.

As I understand it, the Americans are saying, "That may be true, but we're going to go ahead and build this defensive system anyway, whether you like it or not, and our concern is not about conventional threats but asymmetrical threats from rogue nations". In that respect, I think it's a matter of public record that both North Korea and Iran have indicated that they are developing weapons that would have long-range, intercontinental ballistic capacity.

So I understand that much.

Then we get into the issue of what it is the Americans want from us. I believe we've given in large measure what the Americans want, which is the ability to use NORAD and their intercept information in order to be able to target weaponry.

Excuse me if I'm not going right to the heart of the answer you want.

● (0955)

**Mr. Jack Layton:** If I may, because I know I don't have a lot of time, Paul Wolfowitz, the U.S. deputy secretary of defence said, and I quote, "Space offers attractive options not only for missile defence but for a broad range of interrelated civil and military missions. It truly is the ultimate high ground."

Do you agree with his assessment of the role of space in the defence of North America?

**Hon. Frank McKenna:** No. I accept the Canadian position that's opposed to the weaponization of space.

It's my understanding that it's not the current intention of the United States' proposal that space be weaponized. However, that is and should be a concern, and I accept the Canadian position with respect to that.

**The Chair:** Mr. Layton, you have one short question.

**Mr. Jack Layton:** One short question, all right.

On the issue of Kyoto, you mentioned that the U.S., of course, is not a part of the program but that we could work closely with the Americans. Can you elaborate on how we're going to pursue Kyoto, how you would see us pursuing our achievement of our international obligations and our obligations to Canadians in the context of an American resistance, certainly of this administration at least, to this initiative and the fact that we're now their largest source of imported energy, as I understand it?

**Hon. Frank McKenna:** To answer all of your question I think you're going to need somebody with a higher pay grade than me, on how we're going to meet our Kyoto commitments. But on the question of where we can cooperate with the United States of America, clearly these are two countries that have the capacity to cooperate in the development of technology that will reduce fossil fuel consumption, and to the extent that the Americans introduce innovation, I think Canadians should be a participant in using that innovation and vice versa.

There will be a post-Kyoto agenda, and Canada needs not only to be very much a part of that agenda, but also to be a bridge, bringing in the United States and other countries around the world that are not involved with Kyoto.

But it's in that whole area of use of technology, I believe, where we and the United States of America can have our closest connection.

**The Chair:** Thank you, Mr. McKenna.

Now we'll go to Monsieur Coderre.

I just want to remind my colleagues that it's five minutes now for questions and answers.

Mr. Coderre.

[Translation]

**Hon. Denis Coderre (Bourassa, Lib.):** Welcome, Mr. McKenna.

I would like to come back to the missile shield. Quebec Liberals are extremely worried about that. Do you think that a Canadian decision not to join would have a negative impact on our economy?

Secondly, I want to talk about immigration. We have signed the safe third-country agreement which forces refugees coming into Canada from the US to return there. Do you believe that your role will be to educate Americans and Canadians about immigration policies, specifically the whole issue of refugee protection?

Finally, Haiti is a major concern here, as you know. What role do you intend to play as our new ambassador in the US on that issue? Do you already have a position on Haiti?

[English]

**The Chair:** Mr. McKenna.

**Hon. Frank McKenna:** You've asked at least three questions.

With respect to ballistic missile defence, this will be an issue decided by the Government of Canada with the contribution of the Parliament of Canada. But your question was, what would the American reaction be? I don't know the answer to that yet; I'm not there. But I suspect I will find out that reaction quite quickly.

With respect to the immigration issue and the safe third country agreement, I'm not informed on that so I'd like to defer on it. I don't know the answer to it.

With respect to Haiti, I think this represents a wonderful example of how Canada can play a very important role, and in the context of my new position as ambassador to the United States, it can be very helpful to the relationship because we have taken a lead role in Haiti. We're there in large numbers. We represent a population who can speak in the language of Haitians, and we represent, I think, a respected third party. I think the United States of America sees us as being a very useful party in Haiti, and in that sense this relationship itself, as you define it, may represent a bit of an exemplary role model of how Canada can work with the United States in other such situations around the world.

I'm very proud of my country's involvement and the fact that the Prime Minister chose to visit Haiti and see for himself what people are going through.

● (1000)

**Hon. Denis Coderre:** On a personal note, how do you perceive your role as ambassador? We sometimes have the type of ambassador who gets involved in domestic issues. You have some people who want to get involved in everything.

Personally, do you believe that as an ambassador you will also be able to give your personal point of view on certain American policies, or do you see your role just as a sounding board of the Government of Canada? Do you believe you have a privilege of position that we can use to allow them to understand how Canada is working?

**Hon. Frank McKenna:** In terms of personal style, I think leaders who choose a small number of very important issues and concentrate on those govern best. I don't fall into that category. I've never been able to restrict myself in that fashion, so I don't qualify as one of those great leaders.

My personal style is that I tend to be very impatient. I want to get things done very quickly. I tend to want to become involved in a wide array of issues and try to bring closure to them as quickly as possible.

I think I'm going to find my style difficult in the United States, but on the other hand I have a political background, and I'm hoping that will allow me to talk to like-minded people who are short on time and achieve a little bit quicker resolution to issues. That's what we're going to find out.

I do know, from having been lawyer, politician, and businessman, that people talk differently. I talk differently when I'm talking to other lawyers. As a politician...it's almost like members of all parties have certain understandings and certain ways of communicating. I'm hoping I'll be able to speak with other people, like-minded people, in a way in which I can communicate.

**Hon. Denis Coderre:** There's a lot of misinformation. I hope you will be able to straighten things out.

[Translation]

**The Chair:** Thank you, Mr. Coderre.

[English]

We're going to pass now to Mr. Sorenson.

**Mr. Kevin Sorenson:** Very quickly, again. Yesterday Paul Heinbecker, the former ambassador to the United Nations for Canada, said—and this is more of a paraphrase, I did write it down as he said it on television—“The United States needs to internationalize Iraq if he is ever going to get out of there. He needs Europe's involvement”. He went on and basically said he needs everyone's involvement.

Do you see Canada having a role, more than what we're doing in Iraq at the present time? And prior to your appointment, did you ever sit down and discuss foreign policy issues with the Prime Minister?

I think Ms. Stronach has a question.

**The Chair:** Ms. Stronach.

**Ms. Belinda Stronach:** Thank you.

There was an interesting article yesterday written by Allan Gotlieb that talked about the role of an ambassador—to be an advocate for Canada, to also give intelligence, what are the national interests of the United States, and to make sure Canada has a role at the table when it comes to global affairs and global government. I would go even further than that to say that there must also be the sophisticated political capacity back here in Ottawa to receive that information.

Are you satisfied that you've reached an agreement with the Prime Minister, that your advice and your wise counsel will have an outlet with him and with the cabinet? And what mechanisms do you plan to use to inform him?

● (1005)

**The Chair:** Mr. Day.

**Mr. Stockwell Day:** Thanks, Ms. Stronach.

Further to that, again responding in print to anything you can, but you're doing pretty well in words so far... As far back as 1938, President Roosevelt's famous speech in Queens talked about the fact that the U.S. would never stand idly by if Canadian soil were threatened. As you know, Mackenzie King famously responded by saying that Canadian territory should never be used by enemy forces...to cross Canadian territory by land, sea, or air to get to the United States. That, of course, went on to the Ogdensburg meeting, the Permanent Joint Board on Defence, and NORAD. So you talk quite rightly about security, the U.S., and trade.

Are you talking about a linkage, about sitting down with our American friends and saying we're tired of losing in trade to them in disputes when we win at the World Trade court, i.e., softwood lumber? We continue to get bashed there. Canadian citizens don't understand why, when they cross the border, they're still dragged into the border outlets to pay for things they bought in the United States—whatever trade irritants we're talking about. Your comments recognize the importance of security to the U.S. and trade to us. Are you talking about linking the two, from a negotiating point of view?

**The Chair:** Mr. McKenna. Some of our cabinet...[Inaudible]...a question, but it's up to you.

**Hon. Frank McKenna:** Very quickly, on the internationalization of Iraq, there's no doubt that seems to be the current direction. Canada is playing a meaningful role. Almost \$300 million has been committed, which is a very, very large single contribution from us, and we are going to be involved in training exercises, so I think we are accepting a responsibility there.

With respect to former ambassador Gotlieb's approach, I believe that I will find receptivity in Ottawa to my input. I did ask the Prime Minister before I accepted the appointment if he was committed to this relationship, because I've been told by people I respect that unless the Prime Minister and President make the relationship work at the top level, anything that I do or others do is wasteful underneath. He assured me that he was very committed to the relationship and pointed to the secretariat within PCO, to the cabinet committee that's been struck, and to the parliamentary initiatives, and so on, as evidence of his commitment.

With respect to the trade and security linkage, in my view they're linked in this sense: trade is our issue, security is their issue. If we want to continue to have this robust trade that is important to the creation of millions of Canadian jobs, we need to respect their security needs; and in that sense we need to work with them, as we are, on smart border initiatives and others, to make sure we're doing everything we can so that we can continue trading together and at the same time they feel safe. There's no doubt that there is an insecurity that arose out of September 11 that hasn't gone away to this day.

**The Chair:** Mr. Menzies, a short question.

**Mr. Ted Menzies:** Perhaps we could go back to the trade challenges. Over the last 20 years, we've felt tremendous impact—BSE, to the tune of about \$7 billion; a 17% tariff on wheat; we're getting near \$4 billion on softwood; challenges to tariffs on pork; dairy challenges; potato exports. I know you have been involved in a number of these. This is such a flashpoint with Canada-U.S. trade relations. Can you tell us what qualities you bring so that you will be able to both avoid and manage these challenges, and how well do you understand the NAFTA dispute settlement mechanism?

**The Chair:** Mr. McKenna, briefly.

**Hon. Frank McKenna:** I don't pretend that I'll be any better at this than the people we've sent to Washington, because we've had very good people sitting in this office in Washington. The people I know, the Derek Burneys of the world, the Raymond Chrétiens and the Michael Kergins, have done very good work in using all of the persuasion that's available to them to try to resolve these issues. But we have also the rule of law, and that's what's built into NAFTA. Our problem is that it represents a very awkward way to try to reach final resolution.

So one of the things we need to work at, probably, is more of the mechanics, trying to make the dispute resolution mechanism work better. Rather than lobbying constantly to resolve a dispute, if we can refine the dispute resolution mechanism, then we have a rule of law that we can turn to. That's where a lot of the attention is being turned now. The efforts of the President and the Prime Minister are certainly going to be focused in that direction in trying to improve the way in which the current legal framework works.

• (1010)

**The Chair:** That's it. Now we'll go to Mr. Valley.

**Mr. Roger Valley (Kenora, Lib.):** Thank you, Chair, and thank you, Mr. McKenna, for the opportunity.

We've talked about overall relationships between the two countries and the mention in several contexts that neither Canadians nor Americans understand our mutual value to each other. I know in my short time in Ottawa already, the more time I spend here, the less time I have to know what's going on in the streets in my own riding. So I would like to know how you think we could raise awareness on the streets of our two countries of the value we have to each other.

**The Chair:** We'll go for three questions.

Mr. McTeague.

**Hon. Dan McTeague:** Mr. McKenna, for the sake of those of us who did want you to be here, from a unanimous perspective, we certainly didn't want to give the impression that somehow there was someone who was going to score political points at the end of the day. So please understand.

You've made an offer here, and we look forward to a close relationship with this committee. I wonder if you would consider, on behalf of this committee, coming here perhaps once a year in order to give us an update as to the situation as you see it down there. It's not more a question but simply an offer to take you up on what appears to be a very generous offer on your behalf.

I would just point out to you two things about which we have concern.

On the question of BMD, the issue of sovereignty, it will be kind of awkward to have a ring of interceptor stations and so on around Canada, even though Canadian airspace might ultimately be the subject of the attack, should an attack take place.

Something to consider as well is the move by the United States to go ahead and beyond Kyoto by improving its ability to burn fossil fuel—in particular, coal—with respect to zero emissions. Such a project exists in the United States, and they believe, given their reliance on coal, the most efficient form of energy in the world, that they will be able to get ahead of this. Do you have any comments as far as transboundary pollution is concerned?

**The Chair:** Mr. McKenna.

**Hon. Frank McKenna:** First of all, on the value issue, we just have to keep working at that and educating each other about the relationship. That doesn't mean we have to be in each other's pocket. We can go our own way in all kinds of situations. But we do have to recognize that we share a common border and that we're very friendly neighbours.

Sometimes it almost seems that issues arise and gratuitous comments take place that inflame the relationship in ways that it shouldn't. Most of us have family, friends, people we know on both sides of border, and at the individual level, relations tend to be very strong and robust. We just have to make that a more collective kind of relationship.

On the issue of coming here annually for updates, that makes sense to me. It's something that I would certainly enjoy doing if it's helpful to the committee. I would hope I could be more helpful to you a year from now on issues and be more precise.

You've mentioned the area of clean coal technology. I've had a bit of experience in my other life in terms of some of this technology. I think, ultimately, shared technology is a very important way that we can bridge our differences between Canada and the United States on Kyoto and post-Kyoto.

**The Chair:** Mr. Bevilacqua.

**Hon. Maurizio Bevilacqua:** Thank you, Mr. Chair.

I feel positive about the issue of North American economic integration, with a caveat being that it shouldn't endanger Canadian sovereignty. I wonder if you would consider yourself an incrementalist when it comes to the issue of North American economic integration, or are you in favour of a big bang?

**Hon. Frank McKenna:** If I understand your question, it depends on what the big bang is, I guess, whether it's a big bang that's going to blow me up, or—

• (1015)

**Hon. Maurizio Bevilacqua:** What I mean by that—

**Hon. Frank McKenna:** I suspect in the current frame of mind—and I know there will be many people who disagree with this—I would probably be more of an incrementalist. We need to figure out what the big bang might be and condition our populations before we become associated with a more ambitious agenda. But right now we have some pretty good institutions, and if we can keep improving those, I think that will result in some significant improvements. But we have to make sure the climate is right before we take on a really ambitious so-called “big bang” project.

That said, I'll leave myself this way out: I would want to know what the project is, because if it's the right project and it's good for both nations, I believe we have an obligation to lead public debate on

it and convince our public that it's the right thing to do. My job would be to convince my government that it's the right thing to do, and then our job as government is to convince the population that it's the right direction in which to go. In the absence of knowing what the ambitious plan is, it's hard to answer more precisely than that.

**The Chair:** Thank you, Mr. McKenna.

We'll go now to Madame Lalonde, *s'il vous plaît*.

[*Translation*]

**Ms. Francine Lalonde:** Thank you, Mr. Chairman and Mr. McKenna.

I want to come back to international matters. At page 15 of your statement, you say that :

We both see a need to strengthen emerging democracies and cope with failed and failing states so that they do not become breeding grounds for despair and terrorists.

In fact, you are alluding to Iran, without naming them, and many concerns have been expressed about that country. On the one hand, M. Bush is cooperating with Germany, Great-Britain and France to negotiate with Iran. But, on the other hand, we know that commandos have gone into Iran to collect information about strategic places that might be struck.

When you say that both countries should take steps, do you mean that Canada could approve preemptive nuclear strikes against Iran?

This whole foreign policy business, apart from trade issues, affects or could seriously affect the relations between our two countries. What do you intend to do about these issues, especially Iran?

[*English*]

**The Chair:** Mr. McKenna, I'm not sure if the question concerning Iran is receivable. It's up to you whether you want to answer, because—

**Hon. Frank McKenna:** Yes, I think it's way outside the scope of my mandate, but I think it's self-evident that Canada is not supportive of a pre-emptive strike on Iran, that in fact we're supportive of the three-nation dialogue that's taking place and very much hoping that will result in progress being made. We have a special role there, because I believe we're currently the chair of the International Atomic Energy Agency, which is looking at the issues in Iran. I think it's safe to say it's our fervent hope that the strong relationships that these countries have with Iran, with the active support of other peace-loving nations of the world, will result in some de-escalation of this potentially dangerous situation.

[*Translation*]

**Ms. Francine Lalonde:** Is that what you meant when you said : “We both see a need to strengthen emerging democracies”? What did you mean? It is in your statement.

[*English*]

**Hon. Frank McKenna:** Around the world, there are many examples of interventions. Haiti is an example of an intervention where Canada became involved and the United States of America became involved. Kosovo is another example where, under the umbrella of NATO, Canada and other nations became involved. Afghanistan is a situation where Canada, along with other countries, became involved.

[Translation]

**Ms. Francine Lalonde:** So you do not exclude the possibility of attacking Iran?

[English]

**The Chair:** I think it's out of order, Madame Lalonde.

[Translation]

**Ms. Francine Lalonde:** He is directly involved since he will be our ambassador.

**The Chair:** Mr. Paquette, you have enough time to ask one question, without any preamble.

• (1020)

**Mr. Pierre Paquette:** It will be very easy. Mr. Duceppe plans a trip to the Eastern States. We have received excellent cooperation from the American embassy in Ottawa.

Can we expect to receive the cooperation of the Canadian embassy in Washington and of our new ambassador?

**The Chair:** I know the answer but I will let the ambassador speak.

**Mr. Pierre Paquette:** Don't give him the answers, Mr. Chairman.

[English]

**Hon. Frank McKenna:** Do you mean in terms of hosting him when he comes to the United States?

[Translation]

**Mr. Pierre Paquette:** Would you be willing to facilitate meetings for him with American business organizations or institutions?

[English]

**Hon. Frank McKenna:** I certainly assume so. I think we would welcome any representative of Canada in the United States. It's good for our mutual interests.

In fact, the number of people who are coming down is staggering. On this coming Monday—perhaps some of you are involved—we have a giant organization of parliamentarians coming to Washington, and I have two Senate committees in on Tuesday. We have a number of premiers coming through, so I would think another representative —

[Translation]

**Mr. Pierre Paquette:** You may put it down in your agenda : last week in April.

[English]

**The Chair:** Merci.

We'll go to Madame McDonough, please.

**Hon. Frank McKenna:** I'll make a note of that.

**Ms. Alexa McDonough (Halifax, NDP):** Thank you, Mr. Chairman.

Welcome, Mr. McKenna. As a fellow Maritimer, I want to say that I very much agree with your statement that there is in fact a very strong relationship between Canadians and Americans on an individual and family level.

I want to go directly to the issue of Canada's relationship with the U.S. in terms of foreign policy differences. There's no question that

Canada has a distinguished and a largely deserved reputation for charting an independent, more progressive course in terms of many of our foreign policy decisions, independent of the dictates of the U. S. and more as an unapologetic multilateral and peace-seeking, peace-building, peacekeeping nation. I'm sure it's well known to you that the more Canadians learn about missile defence, the more strenuously opposed they are to any Canadian participation and, in fact, to the missile-madness project itself.

You've dwelled overwhelmingly in your prepared remarks on the nature of the commercial relationships. They are important, and the trade relationships are important for sure, more than on the foreign policy implications of our relationship with the U.S. I'd like to understand more clearly what your view is of the connection between the prolonged, protracted trade disputes that the Americans seem not prepared to deal with in terms of BSE and lumber, for example. Is the perception of a great many Canadians that we're being penalized for not participating in the war in Iraq, in fact, well founded? In view of that, do you see a decision by Canada not to participate in missile defence having a further impact on our trade and commercial relationships with the Americans?

**The Chair:** Mr. McKenna.

**Hon. Frank McKenna:** That's an excellent question. To start with, I agree with you on our relationships. I find there are no two places closer in the world than Halifax and Boston. Certainly all of the Maritimes are very close to what we call the "Boston states".

With respect to your question, I think the trade disputes are being driven by a completely different set of stimulants than our non-participation in the war in Iraq. By the way, I agree with the government's position not to participate in the war in Iraq. I don't agree with the way in which it was communicated, but I very much agree with the decision.

I think the trade disputes tend to arise from commercial interests. I think that's what's driving it.

R-CALF USA is a very strong lobby in the United States on the BSE issue, as the western producers would know. The congressional leaders from out west are very strong on that. But it's not fair to say that we haven't made progress. We've made a lot of progress. Based on science, we now have access to both live cattle and beef under 30 months, and we have a commitment to move forward with respect to the remaining beef and live cattle. So we've made progress there.

The lumber interests are very strong, but in fairness, this is the fourth lumber dispute. I had big lumber disputes when I was premier, and we didn't have an Iraq war as a backdrop or anything else.

So I don't think that we're being punished because of that. I think maybe the atmosphere is a bit coloured because of it, but I don't think we're being punished.

Are we going to be punished depending on our decision on ballistic missile defence? I don't know the answer to that. The reason is that I don't know the salience of that issue in the United States of America. It's a big issue here. Is it a big issue there? Is it a litmus test of our relationship? I just don't know the answer to that.

•(1025)

**Ms. Alexa McDonough:** I'd like to pursue your reference to agreeing with Canada's decision not to participate in the war in Iraq but not with the way it was communicated. I wonder if you could comment on that in relation to how, when, and why Canada may communicate to the U.S. any decision not to participate in missile defence.

**Hon. Frank McKenna:** I think it's a matter of having a respectful discussion. It's my understanding—I may be wrong—that the United States was genuinely surprised to hear of our position in terms of the timing of it. In other words, there had not been sufficient advance communication, and it was almost embarrassingly abrupt in the way it was communicated. Then of course around it there was a lot of commentary that I think some Americans found offensive.

I also think we did not do a good enough job of communicating how supportive we have been in other areas. We've had several thousand troops in Afghanistan, for example, the most of any other country in the world, allowing the United States to withdraw troops from Afghanistan and put them in Iraq. We've been very involved in the defence of the gulf with our patrol frigates, for example, while not engaging directly in the war in Iraq. So in many ways we could have indicated to the United States of America that even though we are not prepared to be militarily involved in Iraq, in many other ways we have been supportive of their efforts.

That would be my submission to you, that in terms of communication we should have clearly conditioned the Americans as to what our position would be.

**The Chair:** Ms. McDonough, it's over. Thank you.

Before closing, Mr. McKenna, I have a question for you. In our 2002 report "Partners in North America: Advancing Canada's Relations with the United States and Mexico", we made 39 recommendations. But in this morning's statement you mentioned that our existing institutions and agreements amply fulfill their promise. Does it mean that no improvements are needed in NAFTA or in any other aspect of the relationship? Or, if specific improvements are needed, what should be a priority to strengthen Canada's hand in dealing with the U.S.?

**Hon. Frank McKenna:** Certainly, improving the dispute resolution system would be helpful. We come from political backgrounds, and in your case you are politicians, so we understand how local constituencies and local concerns can push us to act on behalf of our constituents. In the case of the United States of America, because of the way power is distributed, there's a huge amount of influence people have on congressmen and senators and on the administration. As legislators, we have some obligation to take those concerns forward.

Having a rule of law, having a body of rules that can resolve these disputes, represents a wonderful way to find closure. In my view, although we have a set of rules that works in most disputes, it does not work in all, and we need to continue to work on the dispute resolution mechanism to make it faster and tighter.

We also need the Americans to recognize that the Byrd Amendment is simply not an acceptable exercise of their prerogatives and that it should be repealed. For us and for other

countries in the world it represents a very serious affront to the rule of law as we know it.

**The Chair:** Mr. McKenna, merci beaucoup. Thank you very much for your appearance in front of the committee this morning. It was very well appreciated. I wish you good luck.

When the committee gets the mandate from our Prime Minister and the government to do the IPR, we hope to go to Washington and deal with the congressmen there.

Thank you very much. Merci.

We'll suspend for five minutes.

•(1029)

\_\_\_\_\_ (Pause) \_\_\_\_\_

•(1039)

**The Chair:** The next order of the day is, pursuant to the order of reference of Tuesday, December 7, 2004, Bill C-25, An Act governing the operation of remote sensing space systems.

We have the pleasure of having as witnesses this morning, from the Polaris Institute, Mr. Steven Staples, director, project on the corporate security state; from the Royal Military College of Canada, Mr. Joseph Buckley, professor of physics;

[*Translation*]

from the University of British Columbia, Mr. Michael Byers, Academic Director, Liu Institute for Global Issues, University of British Columbia; and Mr. Ross Neal, Researcher, Liu Institute for Global Issues.

[*English*]

I'll start with Mr. Staples, please, and your opening remarks.

**Mr. Steven Staples (Director, Project on the Corporate-Security State, Polaris Institute):** Thank you very much.

Members of the committee, I'd like to thank you for inviting me here to present today, and I'd also like to applaud the decision of the committee to seek views of civil society organizations, which I think are very important in these matters.

The Polaris Institute is a public interest research group based here in Ottawa, and I'm the director of one of its projects, one looking at security issues, and I'm very pleased to present today on Bill C-25.

In our view, space-based remote sensing is a double-edged sword. The advent of remote sensing satellites has brought numerous benefits in areas as diverse as mapping, resource management, emergency response, meteorology, and environmental monitoring. It's in Canada's interest and the global interest that such information be as widely available as possible.

But the export and use of remote sensing data also carries national security implications, as we have seen. The military uses of remote sensing data are numerous, and many of these uses, such as crisis monitoring, verification, early warning, and confidence building, have the potential to make strongly positive contributions to national, regional, or global security, no doubt. But militarily useful remote sensing data can also be used by states and non-state actors for the strategic, operational, tactical planning and execution of wars and other military operations. A well-known example of this was the provision to Iraq of battlefield satellite imagery acquired by U.S. photo reconnaissance satellites during the Iran-Iraq War in the 1980s, which gave Iraq a decisive advantage over Iran.

At this point I just want to point out that we have two brochures that have been produced by RADARSAT, MacDonald Dettwiler, and the Canadian Space Agency, promoting the uses of RADARSAT-1 and 2. The first one, I think, would be fairly reflective of what Canadians would expect RADARSAT satellites to be doing. It promotes offshore and continental oil exploration, crop monitoring, ice mapping, and disaster monitoring. I call these the “green” uses of the RADARSAT-1 and RADARSAT-2 satellites, and this is what Canadians think the Canadian Space Agency is doing.

However, there is another application, and there's another brochure to go along with it that MacDonald Dettwiler has produced to tout the uses of RADARSAT-1 and 2; it's from their defence systems. It points out that MacDonald Dettwiler sees space-based technology for surveillance and command control systems, and here they say “We represent a new breed of defence contractor — using commercial space and information management technology to solve the surveillance and command control problems of defence customers”. So I fear that what we are seeing with our overall space agency is that these green uses of our satellite technology are being taken over by these more black uses—military use—of our systems, and I think this is of great concern to Canadians.

• (1040)

**The Chair:** Mr. Staples, do you have several copies of what you just mentioned?

**Mr. Steven Staples:** I don't, but I'd be happy to circulate them or make copies and make them available.

**The Chair:** If you arrange it with the clerk, he'll do it for us.

Thank you.

Go ahead.

**Mr. Steven Staples:** As a result of these developments, I think it's increasingly likely that the provision of remote sensing data to a party in an armed conflict would be similar in effect to the provision of arms or military goods to that party, which as a result would compromise Canadian neutrality in the conflict. Since in many cases these conflicts can also be expected to be detrimental to Canadian regional or global values or interests and may be illegal under international law, it's appropriate for Canada to have the power to control the export of such information.

In that respect, we support the objectives of Bill C-25 to regulate this, but we would take it a step further. Under Canada's military export control guidelines, Canada closely controls the export of military goods and technologies to countries that pose a threat to

Canada, are involved in imminent threat of hostilities, are under UN sanctions, or whose governments have a persistent record of serious human rights violations. Commercial remote sensing data is not normally considered a military good, but we think it ought to be considered a military good and brought under similar controls. The shutter control system envisioned by Bill C-25, if accompanied by appropriate and properly implemented guidelines for its exercise, has the potential to provide the necessary level of control over militarily threatening remote sensing data exports.

I want to quickly review five areas and recommendations that we have. We think, first, that Canada should take positive measures to restrict access to militarily threatening remote sensing data by countries involved in or under imminent threat of hostilities that otherwise pose a threat to Canadian values or interests. Polaris recommends that the government prepare guidelines analogous to Canada's military export control guidelines to govern the implementation of shutter control over militarily threatening remote sensing data exports, and that it makes these guidelines available to Parliament and the Canadian public prior to the passage of Bill C-25.

In addition, for transparency of operation, the Polaris Institute recommends that the government publish an annual report outlining Canada's shutter control guidelines, explaining any changes in those guidelines, describing how they are implemented, and providing details of shutter control decisions for that year. The Polaris Institute further recommends that this provision for public reporting be included in Bill C-25.

Very importantly, we need a universal application of a full implementation of these guidelines. There is a well known loophole in Canada's military export rules that exempts the United States. I think this loophole needs to be addressed here and should also be addressed for this satellite. While most of the time our foreign policies are in sync with the United States, as we know with Iraq, that is not always the case. There has been suggestion that remote sensing data produced by RADARSAT-1 may have been exported to the U.S. in support of their operations in the war in Iraq. Clearly, if you go to the RADARSAT international website, as I did last night, there are a number of photographs of Iraq taken by RADARSAT-1 that are being promoted for use. The Polaris Institute recommends that Canada's shutter control guidelines apply to all countries, including the United States.

In 2001 MacDonald Dettwiler and Associates issued a press release that we found very disconcerting at the Polaris Institute. The headline read, “MDA Delivers 3-D Map of Colombia to U.S. Government Mapping Agency”. It was an undisclosed contract for the amount, but they say that MacDonald Dettwiler, using RADARSAT-1, created a three-dimensional map of the entire country of Colombia and provided it to the U.S. military through their national imagery and mapping agency.



As we know, Colombia is at the top of the list for human rights violations. They are involved in a bloody civil war. There have been accusations that the government has been in collusion with right wing extra-parliamentary groups. The International Labour Organization has said the most dangerous place in the world to be a trade unionist is in the country of Colombia, yet we are providing a three-dimensional map. Clearly it's part of U.S. support for the government there and the plan for Colombia and the counter-insurgency program. I think that deserves special recognition of why these regulations should be put forward to include the United States as well.

I will leave my comments there and be happy to have questions. There are further recommendations available in the brief.

Thank you very much.

• (1045)

**The Chair:** Thank you, Mr. Staples.

We will go to Professor Buckley, please.

**Professor Joseph Buckley (Department of Physics, Royal Military College of Canada):** Thank you, Mr. Chairman.

First of all, let me thank you for the opportunity to appear before this committee to discuss this bill.

I've read the committee evidence. I've read all the evidence that you've been presented with so far. I feel there are still some facets of remote sensing this committee should be aware of in its deliberations.

As an academic and a scientist who has been involved in remote sensing for many years, I wish to speak to you about the implications of this bill on space science, teaching, and research in Canada. I'm not here to discuss the politics, I'm here to discuss the science.

The general thrust of this bill, as I see it, is to ensure that the operation of any satellite systems in Canada meets reasonable standards of safety and security, and that as such these conditions cause no significant problem with the Canadian academic and research community. As a matter of fact, the RADARSAT-2 will present to us a remarkable and exciting research opportunity that we're all looking forward to. However, the structure of this bill is geared very specifically to RADARSAT-2 and satellites like this. Satellites whose general purpose is research or teaching fill a very different niche that is not dealt with at all.

Let me give you a quick introduction to the kind of satellites we're talking about here. For comparison, remember that RADARSAT-2, with its half-billion dollar price tag, is roughly the size and weight of something like a Ford Explorer. Scientific satellites tend to be smaller than that. We give them three different size ranges—small sats that range in weight from 100 to 200 kilograms, micro-sats that weigh approximately 10 kilograms, and pico-sats that weigh approximately 1 kilogram.

A typical small sat is SCISAT, which is a 150-kilogram Canadian government satellite launched in 2003 to monitor atmospheric ozone. The total program cost for this was approximately \$60 million, or roughly one-tenth of RADARSAT.

On a significantly smaller scale is the MOST satellite. You've heard about the MOST satellite in one of your previous meetings. It's a 50-kilogram suitcase-sized telescope in space. Total program cost for this satellite was less than \$10 million. I've been told by the manufacturers of that satellite—Dynacon in Toronto—that subsequent satellites built to roughly the same specification would cost significantly less.

Smaller yet than these are CubeSats. A CubeSat is about a 10-centimetre-on-a-side cube. It weighs approximately one kilogram and has a total program cost, including build, launch, and operation, of under \$100,000. Consortiums of universities, even high schools, around the world are building these and launching them as part of their educational curriculum.

The point of these descriptions is to show you that there is a significant possibility of many small scientific satellites being launched in the same period of time as it takes to design, build, test, and launch one large expensive satellite like RADARSAT-2.

The proposed legislation makes licensing these satellites rather difficult. What is missing is, at the outset, an assessment of the potential security implications of the data to be collected by the satellite. In the case of the majority of scientific satellites, national security or international treaty concerns are not a problem, and the entire licensing procedure could be greatly simplified.

As a measure to fulfill the legislative needs for RADARSAT-2, this bill is a good fit. But as a general measure for the licensing of Canadian satellites, including those whose purpose is not the remote sensing of the earth's surface, this bill is significantly too restrictive. For RADARSAT-2 it fits, but it only directly fits RADARSAT-2.

One of the significant problems comes from the transmission and archival of data. Many satellites in this class are too small to have on-board data storage, and so they transmit their data, usually not encrypted, continuously as they collect it. The data is available to anyone with an appropriate receiver. This sort of transmission is explicitly disallowed under paragraphs 8(4)(d) and 8(4)(e), since the licensee has no control over the dissemination of the raw data. Of course the minister may waive the restrictions on the distribution of data from subclause 8(6).

• (1050)

The archival of data is also critical to the operation of a remote sensing satellite. Under subparagraph 9(2)(a)(iii), any data or product are to be disposed of at the termination of a licence. Now, unless this disposal consists of transfer of data to an archival facility, then the progress of science could be severely restrained.

I cite two examples of the perhaps unexpected use of archived remote sensing imagery. American weather satellites have been in orbit since about 1978. Every image collected by these satellites is maintained in a private archive in the United States, sponsored by the government. In the past few years a review of these thirty years of data have shown significant trends of global warming, something that could not have been predicted at the time of image collection.

Recently, imagery from the American Keyhole spy satellites, collected in the 1960s, has been declassified and released. As editor of the *Canadian Journal of Remote Sensing*, I currently have a paper in review that uses these data, along with more recent imagery, to assess the regeneration of a British Columbia forest. Data over 40 years old still have significant scientific value.

Subparagraph 9(2)(a)(iii) should be reworded to explicitly require an archival plan, as opposed to a disposal plan.

I have a couple of final points. In clause 2, which contains a list of the definitions of terms, there are some terms that are too restrictive. For example, the definition of remote sensing satellite mentions only "sensing of the surface of the Earth". I'm sure most of you at some time or other have watched the weather forecast on television. You see their remote sensing images, but these are not of the earth but of the clouds above the earth. This bill doesn't cover these.

Other atmospheric sensors in the past have been used to do things like locating generator exhaust clouds from caves in eastern Afghanistan. Others have been used to identify and track rocket launches. These should be covered in this bill, but are not. RADARSAT-2, of course, isn't a satellite that has any of these capabilities, and this bill is not a problem for that particular satellite. But probably in clause 2, in the definition of remote sensing satellite, the term "atmosphere" needs to be added along with "Earth surface".

Now, in that same clause, the definition of person should probably include the term "educational institution", which I don't believe actually fits in any of the other categories.

I wish to make a comment here on the use of RADARSAT-2 in ballistic missile defence. Some studies we have performed in our own lab have shown that RADARSAT-2 is not only incapable of tracking missiles but is also incapable of tracking ships in the Arctic. It is certainly capable of identifying them, but it is not capable of tracking these things. So the discussions you had previously saying that RADARSAT-2 is not part of a tactical ballistic missile defence scenario are quite correct.

Subclause 16(1), stating that commands may be not given from outside the country unless an override is available from within Canada, is not really workable in detail. By this standard, RADARSAT-1 could not operate legally at the moment, since it uses ground stations worldwide. Commands can only be given to a satellite when it's within sight of the ground station, that is, when it is overhead. So if a satellite happens to be over a ground station in Singapore, the ground stations in Canada cannot command that satellite not to transmit to Singapore. The next time the satellite comes overhead Canada, you can tell it not to do it the next time, but by then the damage might have been done. I suggest adding a new paragraph 16(1)(c) to say something like, "unless allowed by the licence".

Another comment I have is, why is this bill restricted to remote sensing satellites? Although other satellite may not have the national security implications of an imaging satellite, all satellites have a public safety concern. You've heard mention of the Russian satellite that crashed in the Northwest Territories; it was not necessarily a remote sensing satellite. Any satellite that's up there can come down and cause a public safety concern.

Currently, before any satellite launch, a coherent operational plan or disposal plan needs to be developed. If it's being developed by private concerns, there should be some government monitoring and licensing of those kinds of satellites.

Finally, nowhere in this bill do I see an actual definition of the Canadianness of a remote sensing system. What kinds of satellites actually fall under this bill? We certainly agree, I think, that RADARSAT-2 is a Canadian satellite, and yet large portions of that satellite are being built outside the country.

• (1055)

I think some more thought is required in clauses 5 and 6.

That concludes my comments for now. Thank you for this opportunity. I welcome any questions you have when it's my turn to answer.

**The Chair:** Thank you, Professor Buckley.

We'll now pass to Mr. Byers, please.

[*Translation*]

**Professor Michael Byers (Academic Director, Liu Institute for Global Issues, University of British Columbia):** Thank you.

Good morning, ladies and gentlemen.

[*English*]

I'm very pleased to be here, in part because we followed on from that very interesting session this morning. I was director of Canadian studies at Duke University until last July, so I took particular interest in what Mr. McKenna had to say.

I'm also delighted that the two members of the committee from southern Alberta are here. I'm a proud graduate of the Lethbridge Collegiate Institute, and my comments today will be of particular interest to them.

I have three points to make with respect to Bill C-25 that go directly to the issue of whether it should be adopted by Parliament.

My first point concerns the fact that Mr. David Emerson, the Minister of Industry, is one of the four cabinet sponsors of Bill C-25. Committee members should be aware that in 2000 Mr. Emerson served as a member of the board of directors of MacDonald Dettwiler Associates, the owner and operator of RADARSAT-2 and the parent company of RADARSAT International. You can go to the MDA website and check out their 2000 annual report, if you wish.

Mr. Emerson thus served on the board of directors of MacDonald Dettwiler during the same year that the company secured \$167 million in federal government funding for RADARSAT-2. This was additional funding—

**Hon. Dan McTeague:** On a point of order, Mr. Chair, Mr. Byers is attacking the credibility of a minister. That minister is not here to defend himself, and I think the testimony itself should be stricken. This is ridiculous.

•(1100)

**Prof. Michael Byers:** I am not casting the propriety of Mr. Emerson into any doubt. As a professor of law and a professor of political science, I'm identifying that there is an appearance of bias, not a bias itself.

**The Chair:** I'm just going to ask you one question. Because we're looking at the bill this morning, which clause of the bill are you referring to when you're talking about the minister? That's my question, and I'd like to get an answer.

**Mr. Kevin Sorenson:** As a point of order on that, that is not relevant. I think Mr. Byers' testimony is relevant, but I think we also need to take into account that Mr. Emerson was not a politician in the year 2000. I don't think Mr. Byers is suggesting that someone's past record before politics.... It's an open book, but I don't see the relevancy to our concern now. If he's still on the board, then there is.

**Prof. Michael Byers:** I'm not casting any bad light on Mr. Emerson. In fact, I'm a great admirer of the Minister of Industry. I merely draw this to your attention to indicate that Mr. Emerson would serve the purposes of this committee if he were to withdraw as one of the four cabinet sponsors of this bill. The bill could go forward with the three remaining cabinet sponsors. In my view, the opposition members of this committee might wish to recommend to Mr. Emerson that he avoid the slightest possibility of an appearance of bias here. Of course Mr. Emerson is an outstanding cabinet minister and there's no reason to doubt mispropriety here, but it is a point that goes to the politics and the law.

**The Chair:** You're a lawyer, I'm not a lawyer. God bless me, I'm a doctor. I just want to pinpoint that a bill in the House of Commons is sponsored by a minister. This one was sponsored by the Minister of Foreign Affairs. I've never heard of four sponsors for a bill. It's pro forma. I'm not even sure if Mr. Emerson knows he's one of the four co-sponsors.

Now keep going, please.

**Prof. Michael Byers:** I will keep going, but I just want to draw that to your attention.

My second point actually concerns a bilateral treaty that was entered into in the year 2000, the Agreement between the Government of Canada and the Government of the United States of America concerning the Operation of Commercial Remote Sensing Satellite Systems, with annexes. It's Canada treaty series number CTS2000/14. I have a copy here and I understand that copies of the treaty in both official languages have been distributed to members of this committee.

This treaty is of considerable relevance to Bill C-25 because multiple provisions of the draft legislation make reference to Canada's international obligations. In particular, the Minister of Foreign Affairs may exercise his powers with regard to shutter control under clause 14 and priority access under clause 15, at any time he believes such actions are required by Canada's international obligations.

When Mr. Robert McDougall, the director of the non-proliferation, arms control and disarmament division at DFAIT, appeared before this committee on the February 1, he said: On the question of international

obligations, our working understanding is that they essentially relate to treaty obligations. This would include...the treaty we signed with the United States in the year 2000 to cover remote sensing satellites specifically.

I agree with Mr. McDougall and with Foreign Affairs that the 2000 bilateral treaty with the United States contains the international obligations of greatest significance to Bill C-25. The treaty concerns remote sensing satellites, as does this draft legislation. The treaty concerns RADARSAT-2, as does this legislation. In terms of international obligations, as Mr. McDougall said, this treaty is front and centre.

The treaty has only four short operative articles. The first couple of articles are pretty standard, as is the fourth. I wish to focus on article 3 and, related to that, article 5. Article 3 is a bit convoluted because of bad drafting, but I will read it as it stands:

Canada agrees to implement controls pursuant to this Agreement, set forth in Annex II hereto, which is protected as commercially confidential, with regard to the operator of RADARSAT-2.

What this is saying is that Canada agrees, as part of its legal obligations under this treaty, to whatever is in Annex II. However, we don't know what is in Annex II because it's commercially confidential. All we do know is that it concerns the operations of RADARSAT-2. The point here—and I will belabour it for just a second—is that Annex II, which is part of this bilateral treaty and therefore contains international obligations in respect of which the Minister of Foreign Affairs, under Bill C-25, can and, under the 2000 treaty, must assert shutter control and priority access, has been deemed commercially confidential, has not been published, and is not available to this committee.

The unpublished character of Annex II contravenes the spirit and quite possibly the letter of international law. Article 80 of the 1969 Vienna Convention on the Law of Treaties, which Canada has ratified, states: "Treaties shall, after their entry into force, be transmitted to the Secretariat of the United Nations for registration or filing and recording, as the case may be, and for publication". According to Professor Ian Brownlie's magisterial volume *Principles of Public International Law*, published by Oxford University Press, "This provision is intended to discourage secret diplomacy and to promote the availability of texts and agreements".

Annex II is only one part of the 2000 treaty, albeit an important part. As an international law professor, I am not prepared to conclude unequivocally that its unpublished character is in violation of international law, but I suspect it is and I would not want to rely upon this treaty before an international court. At the very least, the unpublished character of this annex is highly unusual, extremely unusual.

•(1105)

One could speculate as to the contents of Annex II. It certainly relates to the United States and what powers, if any, the United States has over the operations of RADARSAT-2. It probably gives the United States the right to prevent others from obtaining RADARSAT-2 images of U.S. military facilities and real or potential theatres of operation. That's probably a reasonable thing to include in Annex II.

It probably gives the United States the right, on an ongoing basis, to prevent RADARSAT-2 from being used to obtain high-resolution images of Israel. Israel and the United States have a bilateral treaty to the same effect, and the U.S. has legislation restricting the use of high-image satellite capability for Israel. That's probably also a reasonable thing to have in Annex II.

But with this secret annex, the United States may also have secured the power, pursuant to Canada's right of priority access, to conscript RADARSAT-2 in support of its intelligence and military operations. If it does, this could cause some serious problems. For instance, it could enable the United States to demand RADARSAT-2 be used to take images in preparation for a military intervention to which Canada was opposed. It's a hypothetical situation, but it is possible. In fact, it could even be used to take images in preparation for a war that was illegal under international law.

This is important for Canada because, as Steve Staples suggested, this would make Canada a party to that action. We would lose our neutral status by providing a satellite and imaging capability to support such an intervention. We would essentially become complicit in any violation of the United Nations Charter that occurred.

It's even possible that the United States has obtained a right of priority access to RADARSAT-2 that trumps that held by Canada. My point is that there's no way that you, the members of this committee, could know that, because it's unpublished. So regardless of whether you suspect you would agree with the contents of RADARSAT-2—and I suspect that's true of my two colleagues from southern Alberta—the point here is that democracy, transparency, and good government issues are central here.

You are being asked to recommend the adoption of legislation that refers to international obligations that are secret. I appreciate that the government would probably object to any request that you be allowed to see the contents of Annex II, given security clearance issues that might arise. But again, I think that principles of democracy, transparency, and good government require that you be allowed to see those contents. There are ways, I can assure you, that the government could provide you with access to the contents if it so chose.

I thank you very much for your attention. Merci beaucoup. I look forward to answering any questions you might have.

• (1110)

**The Chair:** Thank you, Mr. Byers.

Now we'll pass to Mr. Neil.

**Mr. Ross M. Neil (Graduate Researcher, Liu Institute for Global Issues, University of British Columbia):** Good morning, and thank you for the opportunity to address the committee today on this important piece of legislation.

Today I hope to provide some constructive ideas on how to improve Bill C-25. In the interest of time, I've provided a series of written comments and recommended amendments in a brief to be distributed.

I want to start with an acknowledgement that the Canadian government has wisely supported the development of a strong remote sensing industry in this country.

**Ms. Alexa McDonough:** Excuse me, I have a point order. I apologize for the intervention. Did I understand you to say it has been distributed, or it will be distributed?

**Mr. Ross M. Neil:** It was provided to the clerk this morning. It's pending translation, I believe.

**The Chair:** If it's not bilingual, it's not distributed. The clerk is going to get it. It's going to be translated and then given to the members, according to our rules.

Go ahead, Mr. Neil.

**Mr. Ross M. Neil:** I want to start with an acknowledgement that the Canadian government has wisely supported the development of a strong remote sensing industry in this country, one that is globally competitive and has been tremendously influential in the kinds of technologies and applications that have been developed elsewhere.

We are aware of RADARSAT's utility for monitoring the changes that are occurring in Canada's remote northern regions. Satellite remote sensing data also helped to form the evidentiary basis for the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer. This is one of the most comprehensive international efforts aimed at preserving the long-term habitability of the planet. Canada's satellite remote sensing technology has also been successful in tracking oil spills, monitoring severe floods, and supporting humanitarian relief efforts, as was recently seen in the devastating tsunami of December 2004.

However, we're also aware that satellite imagery has a utility for defence and intelligence organizations concerned with monitoring potential adversaries or for planning and executing operations. The intentional lack of a uniquely military space program in Canada, rather than impeding Canada's position, has allowed our technical and scientific expertise to be concentrated towards the goals of understanding our global environment and governing our important economic resource space.

As the Canadian Space Agency prominently declared in its 1999 annual report, the biggest beneficiary of the RADARSAT program has been the planet itself. My hope is that the form of legislation pursued by Canadian parliamentarians for governing satellite remote sensing and other satellite systems as they enter the private sector will continue to focus efforts on supporting the wider public benefits of this technology and its products.

I believe that how Canada legislates in this important area is vital not only to the success of the industry, but also to the trajectory that technological and application developments will follow. Past decisions that Canada has made regarding the acceptable uses of strategic technologies and information have helped to establish Canada's national character and the values it reflects to the world stage.

For example, Canada was the first country with substantial nuclear capability to reject nuclear weapons and is now strictly and actively involved in the international promotion of the peaceful use of nuclear energy. Canada also chose not to develop an independent launch capability as part of its space program, but instead relies on valuable international collaborative efforts to achieve its goals in space.

This brings me to my first general concern with Bill C-25. There's no normative message conveyed in the bill about what Canada deems as acceptable uses of satellite remote sensing technology and data. Instead of identifying the key application areas that the government wishes to support for the public good, it promotes widespread uncertainty.

If Canadian remote sensing efforts have thus far been focused on scientific applications and environmental monitoring to support our economic resource base, why do we see private remote sensing firms predicting that their major clients will soon be U.S. defence and intelligence agencies? Why is the Minister of Foreign Affairs given widespread powers in Bill C-25 when the Canadian Space Agency is uniquely qualified to perform such a regulatory function? Why do the priority access provisions in Bill C-25 not extend to ministers of the environment, natural resources or international cooperation when they are also key users of Canadian satellite remote sensing products?

Bill C-25 also fails to follow a risk-informed approach to regulation. Widely available high-resolution satellite imagery of the earth will not pose a significant threat to national security, and yet extraordinary powers are provided in Bill C-25 to control wider access.

Significant strategic analyses of the threats posed by commercial satellite imagery to state security have concluded that minimal risk exists for terrorists or other adversaries to have the time, resources, finances, technical ability, willingness, or need to utilize satellite imagery to carry out hostile activities. A recent study by RAND, which is referenced in my brief, clearly demonstrates that freely available geospatial information, even at high resolutions, does not pose any significant threat to state governments.

Satellite imagery is only one source of data among many requiring a substantial level of human and technical sophistication to derive useful information. The only profoundly different aspect of satellite remote sensing technologies, compared to navigational or telecommunication satellites, is the immediate visual and cognitive appeal of the products themselves.

• (1115)

This cognitive appeal should not be discounted, however, because as we have seen with satellite monitoring of ozone holes or natural disasters, unprecedented international cooperation and goodwill can be the result. On the other hand, as can be recalled from former U.S. Secretary of State Colin Powell's use of commercial satellite imagery at the UN Security Council in early 2003, errors of omission and commission can be as serious as to support a false pretext for war.

A seemingly unquenchable appetite for satellite imagery comes from the U.S. for defence, intelligence, and homeland security purposes, promising to significantly influence the marketing

approaches and applications development for Canadian companies involved in satellite remote sensing activities. Preoccupation with national security and sovereignty as they relate to space industry prominence and territorial protection has historically limited the international viability of a commercial remote sensing sector in the U.S. Just as limited and narrowly defined security interests can negatively influence many aspects of our lives, narrowly defining policy responses to the commercialization of outer space can limit the kinds of markets that develop for Canadian remote sensing companies and can limit the kinds of accountabilities needed of both governments and private institutions as they operate in the commons of outer space.

Officials responsible for drafting this bill have indeed been challenged by the fact that outer space is becoming an important geostrategic arena, with technologies such as satellite remote sensing offering valuable data for environmental governance and a means for powerful groups to pursue economic, political, or state interests on a regional and planetary scale. While legislation is required, policies and legislation governing the use of space technology must take a far broader approach to security than is pursued in Bill C-25.

In my written submission I have appended a table outlining some recommended amendments to Bill C-25. Some initial points relate to the timely provision of inspection reports, the need for limited delegation of powers, and the need to preserve long-term data sets in a secure archive, preferably displayed in a readily accessible online format for the public. Other recommended amendments are more fundamentally linked to how Canadian parliamentarians choose to chart an independent course for Canada. By pursuing an access assurance policy instead of an access control policy for satellite imagery and data, I believe the government can not only create certainty and confidence in Canada's remote sensing industry with a vibrant market for applications that serve the public good, but can also importantly affect the trajectory of the geopolitical discourse concerning outer space technologies and their accepted uses.

I want to draw your primary attention to my recommendation to amend clause 3 to pursue the creation of an independent agency for licensing remote sensing and other satellite space systems and for creating a norms-based regime for governing appropriate uses of data products based on the principle of informed risk.

In addition, I want to draw your specific attention to my recommendation to amend clause 20 to provide for the creation of regulations governing the specific acceptable end uses of geospatial data and imagery products. By specifically articulating where Canadian remote sensing space systems operators will excel, the global community will know where to come to access these products and services. An otherwise vague market may cause private firms to go wherever there is a substantial profit motive. This is basically going to direct them to the services of the defence and intelligence arms of the U.S. government, which accounts for 95% of the global investment in military space technology and information.

John MacDonald, chairman emeritus of MacDonald-Dettwiler and Associates, has noted publicly that “a customer is a customer” to his company, and thus the commercial space sector does not currently concern itself with whether the applications of its products are peaceful or non-peaceful. Companies such as MDA will therefore logically and deservedly go where the profits lie, and Bill C-25 does not provide the kinds of incentives or certainties that are required to simultaneously promote a profitable industry and provide public goods for Canadians.

Thank you very much for your time. I welcome your questions.

• (1120)

**The Chair:** Thank you very much, Mr. Neil.

Now we'll go to questions and answers, and I just want to remind my colleagues that this is a five-minute round.

Mr. Sorenson.

**Mr. Kevin Sorenson:** Thank you, Mr. Chairman.

I do want to thank the witnesses for being here today and for fitting it into their schedule. I know that the invitation went out very late, and we apologize for that. But I think we have been well served by most of what you have had to say today.

My first question is directed to the chairman of our committee or to our clerk. Mr. Byers has suggested that we do not have access to Annex II. Is there a way for our committee to get access to it, whether we go in camera or out of camera? I'm not sure why that document is confidential.

**The Chair:** My answer will be that we're going to request it and we'll wait for the answer. There's nothing else I can do, but we'll request it.

**Mr. Kevin Sorenson:** Thank you, Mr. Chairman.

Just on that point then, Mr. Byers, I have two questions. First, article 3 reads, as you have stated in your testimony, “Canada agrees to implement controls pursuant to this Agreement, set forth in Annex II hereto, which is protected as commercially confidential”. Then when you go on in your testimony you talk about the Annex II and you say, “the United States may have secured the power, pursuant to Canada's right of priority access, to conscript Radarsat-2 in support of its intelligence and military operations”. You go on and give an example of what is involved with this—you know, the legal problem that arises out of this.

Why is this deemed commercially sensitive, or why would it be commercially censored? It sounds more like security issues when you're dealing with what you've listed. It sounds more like national security.

So those are my two questions to you. Why would it be censored commercially and not because of the national security thing?

And just as a point, a number of you have drawn from the fact that the United States military uses the information we get from our satellites, and Mr. Buckley has stated that he's read some of the testimony of other witnesses. If you've read that, you know that different Canadian companies have made no secret of the fact that they sell this information to many different United States companies, as they do to corporations or companies all around the world, and

have very clearly also stated that they hope this does not stop. Obviously they're gleaming profits from the sale of this type of information.

As a committee trying to find ways that Canadians can prosper... Other than sensitive information that should be tagged as something that cannot be sold, isn't that what this is all about? We want Canadian companies to prosper.

Maybe you can answer those three questions, if you please.

**The Chair:** Who wants to answer that first question?

Mr. Byers.

**Prof. Michael Byers:** I will start.

I indeed would be very much more comfortable if the committee, in camera perhaps, were to see the annex and conclude that there was nothing of concern therein. If you recommended the adoption of this legislation on the basis of having seen it, I would be much more comfortable than I am now. My point is one of transparency and review, I suppose, of government proposals by opposition parties in this instance.

Why am I concerned about the words “commercially confidential”? There are two reasons.

One is that this is a treaty between Canada and the United States. The Canadian access control policy, which was adopted by cabinet in 1999, is set out in published form in Annex I. So the Canadian access control policy is not deemed commercially confidential.

All the limits imposed by the Canadian government on MacDonald Dettwiler are there for us to see, which raises the question, where is the U.S. side of the deal? What is Annex II if not the reciprocal version from the U.S. perspective as to what control policies it might have under this treaty? That's point one.

I don't know, and I would be very pleased if you were to inform me in a week or two that, having seen Annex II, you were satisfied that there was no problem here, .

The second reason “commercially confidential” is of concern, I think, is that obviously if there are any limitations imposed to benefit the United States, whether it's shutter control or priority access, those benefits to the United States will result in RADARSAT-2, or indeed any other Canadian remote sensing satellite, becoming unavailable to MacDonald Dettwiler and RADARSAT International's regular clients at the time that the United States decides it wants use.

In other words, let's assume that you are Barrick Gold and you have purchased RADARSAT-2 to do remote sensing of the Northwest Territories for exploration purposes—a perfectly legitimate and obvious thing that could be done. You're a private Canadian-based company. You've scheduled your remote sensing for next week, because you want your geologists to be able to go up in three weeks' time to pursue what you discover.

The United States decides that it has a need for RADARSAT-2 capability with regard to Iran, and there's something in Annex II that allows it to jump the queue ahead of Barrick Gold and redirect RADARSAT-2 to take images of Iran, while you—Peter Munk and Barrick Gold—need it for the purposes of your commercial activity in the Northwest Territories.

That has commercial implications not just for Barrick Gold, but also for MacDonald Dettwiler and for RADARSAT International.

• (1125)

**Mr. Kevin Sorenson:** I don't follow you here. If this satellite is passing over the place that Barrick Gold wants, it's not going to be of any benefit to...you know, taking pictures of Iran at the same time, is it?

**Mr. Michael Byers:** As I understand it—and Professor Buckley could correct me if I'm wrong—sometimes the satellite needs to be repositioned to take images of certain activities. So for instance, RADARSAT-1 was moved somewhat out of its regular orbit to map the Antarctic, which made it unavailable for regular activities in its regular orbit at a certain period of time. So in some circumstances, some hypotheticals—perhaps the one I gave you—there wouldn't be an impact. But there could be an impact. That is precisely why it would be of commercial importance and commercially confidential here.

To give you another example, what if Barrick Gold wanted to do some exploration in the Caucasus, which are at the same point in the orbital path as Iraq? Then there would be a direct impact, even if it wasn't a question of there being a sequencing possibility like the one you described.

What I'm saying is that there are very real hypotheticals where the United States, or indeed the Government of Canada, asserting shutter control or priority access, could have an impact on the commercial operation of this satellite and therefore on the downstream companies and MacDonald Dettwiler and RADARSAT International. That's why it would be of commercial relevance.

We know, however, because it's not commercially protected, what the Canadian limitations are. We don't know what the U.S. limitations are.

• (1130)

**The Chair:** Are there any other comments from your colleagues, please?

Mr. Buckley.

**Mr. Joseph Buckley:** If I may I address your concerns about what ultimately comes to mode switching, with RADARSAT-1 there were some concerns about the ability of the satellite to change rapidly from one imaging mode to another, that is, changing configuration for one client to configurations for another client. Those concerns were addressed in the engineering of RADARSAT-2, and the only significant limitation in RADARSAT-2 is that the satellite will pass over approximately 10 kilometres of the ground while it's changing from one mode to another. So unless the area that Barrick Gold was concerned about was within 10 kilometres of an American security-sensitive region, this would not be a problem with RADARSAT-2.

The problem you talk about has been addressed in the engineering, as I understand, of RADARSAT-2.

**The Chair:** Thank you.

Go ahead, Mr. Staples.

**Mr. Steven Staples:** Thank you.

The company wants to continue doing this. And we heard representatives from the Department of Defense saying that since commercial remote sensing satellites have come on, the military itself has been the largest consumer of these products.

In our view, I think you have to look at what this bill does. This bill legitimizes the militarization of our space program. Because once we made the decision to privatize it, it was left to the market; they were going to pursue those interests. And those values that Canadians hold about this being a wonderful machine for keeping track of climate change are now being overtaken by military interests.

Now we have a competition between commercial interests and the public interest, whether it's in national security or Canadian values. I was very surprised when I heard one business representative in the testimony actually assert that when we put in a shutter control mechanism when the government says this is sensitive, he should be paid compensation for that. I just thought, you know, that's chutzpah, that we've made a decision that our security interests are at stake here and we should somehow pay compensation to a commercial provider because we're exerting our own security.

The United States understand this, if nothing else, that security trumps trade. I think in this case we need to treat this as a military export and put guidelines in place that are going to ensure this information does not violate our support for human rights and our independent foreign policy positions, whether they be on Iraq, Iran, or elsewhere, and the weaponization of space.

[Translation]

**The Chair:** Thank you, Mr. Staples.

Madam Lalonde, please.

**Ms. Francine Lalonde:** I want to thank all four of you. Unfortunately, I missed one presentation and part of another but I will catch up with *the blues*.

After some research, we did find a few experts. I met with one and I talked to another. From what we understand, Canada's only experience with this was with RADARSAT-1. The government managed the data and gave unused raw data to the private sector. What is different here is that the company will produce and manage the data and then give to the Department—it will in fact have been ordered by the departments—what it had ordered. All those matters still have to be settled.

I have never seen this system in action so, if I am mistaken about any part of this process, please let me know. As far as I know, company technicians will have a look at the images and make selections according to what had been ordered within the limits of those so-called controls.

Now, we have RADARSAT-2 which cost \$430 million to the government and \$92 million dollars to that private company which may be called upon to fill orders from the Department of Defence.

And we have not yet talked about the provinces which were participants in RADARSAT-2. Where are they? How will all this be organized and managed? Will this bill be adequate to that end? What should it include? Are you reaching the conclusion that it shouldn't have been privatised? If so, what should we do?

• (1135)

[English]

**The Vice-Chair (Mr. Kevin Sorenson):** Thank you, Madame Lalonde.

Mr. Neil, please.

**Mr. Ross M. Neil:** I have just a quick comment about how the process of government oversight would work in terms of knowing what each data request was going for.

I think Mr. Staples hit on the idea of some kind of rules of the road, and that's what I spoke of in terms of a normative approach to governing this sector. There is nothing—

[Translation]

**Mme Francine Lalonde:** But it doesn't exist yet, right?

**Mr. Ross M. Neil:** True, it doesn't.

[English]

I think the tone of the bill tends to securitize the issue of outer-space technologies and the products, as opposed to emphasizing the positive aspects of this valuable technology and creating a sustainable market in Canada for those products...as opposed to leaving a level of great uncertainty where the sole licensee, as you indicated, will probably go where the largest military budgets are. That's what we're seeing, as RADARSAT's international commercialization plan has indicated.

I think we need a set of rules of the road, and that needs to be done through smart legislation, not over-controlling this industry.

On Canadian obligations on end uses, in terms of how we put obligations on other strategic exports, I do not know how that would work. I do not know how Canada would assure itself that the supply chain for significant data would be secured.

**The Vice-Chair (Mr. Kevin Sorenson):** Mr. Byers.

**Prof. Michael Byers:** I have one very quick follow-up point to the comments from Professor Buckley.

Even though RADARSAT-2 has the capability to shift rather quickly, I know the U.S. military well enough to know that they wouldn't simply purchase a 10-mile shot; they would purchase a much longer shot to conceal what they were interested in and why they were taking the imaging. So if they were interested in Iran, they would probably purchase everything between Nepal and Turkey, for instance, just to confuse those who might be watching what was commercially available out of the satellite and trying to pin down what was going on.

Given the very deep pockets of the U.S. military, it's conceivable that in a situation where they started to use RADARSAT-2 too

frequently, a significant amount of the activity of RADARSAT-2 could be denied to the regular commercial clients of MacDonald Dettwiler. This is the kind of concern I'm getting at, but again this is why you need to see Annex II.

On the question from Madame Lalonde, I have a couple of points. I'm not an opponent of public-private initiatives like this; in some circumstances they can work rather well. In this particular circumstance, it's actually caused a fair number of problems. When the United States realized just how good RADARSAT-2 was going to be at taking images, when it realized we were going to have three-metre resolution through clouds at night, the United States started to throw up obstructions to RADARSAT-2 as a commercially owned satellite.

For instance, NASA reneged on an agreement to launch the satellite in return for free data. MacDonald Dettwiler had to go elsewhere, commercially launch the satellite, and the Government of Canada had to pony up an additional \$100-million-plus to make that private launch happen. The U.S. government imposed export controls on weapons technology because of RADARSAT-2. It caused a heck of a lot of problems. It was that obstruction that eventually led to the conclusion of the 2000 bilateral treaty. The United States was worried about the security implications of having such a good satellite held outside of the United States, in the hands of a private company, with commercial buyers having access to its data. The fact that it was a private satellite and not an American satellite has caused all the problems, including this secret annex that we don't know anything about.

So in answer to your question, I'm not opposed to public-private initiatives, but this particular public-private initiative has touched on security concerns that have resulted in things we don't know about in the obligations that are referred to and will become legally relevant if Bill C-25 becomes law.

• (1140)

**The Vice-Chair (Mr. Kevin Sorenson):** Mr. Staples.

**Mr. Steven Staples:** We have a multi-billion-dollar arms industry in Canada now. It's run privately by General Dynamics, Bombardier, and others. They all have to come under Canada's export regulations. If I could just read the regulation here, because you asked how we control this:

Canada closely controls the export of military goods and technology to countries: (a) that pose a threat to Canada and its allies; (b) that are involved in or under imminent threat of hostilities; (c) that are under UN Security Council sanctions; or (d) whose governments have a persistent record of serious violations of the human rights of their citizens, unless it can be demonstrated that there is no reasonable risk that the goods might be used against the civilian population.

There are loopholes in this regulation. As I mentioned, it does not include the United States. Even if we had bulletproof enforcement of this over satellite technology—which I think we should consider as a military good; it's being sold to a military customer—with the U.S. loophole it would not have prevented MacDonald, Dettwiler and Associates from selling a three-dimensional map to Colombia to help wage the counter-insurgency war that the United States has been assisting, in violation of the human rights there.



First, let's put the satellite under Canada's military export control guidelines, not this secret annex that I think is meant to replace this. Let's put it properly under here and close the loophole on the United States.

**The Chair:** Thank you, Mr. Staples.

[*Translation*]

Mr. McTeague.

[*English*]

**Hon. Dan McTeague:** Mr. Chairman, before asking questions of the gentlemen on both the extremes, not only in terms of where they sit but obviously on this issue, I wanted to broach with the committee the question of opening up, as was suggested by Mr. Sorenson, the notion of Annex II, which Mr. Byers has referred to plentifully here.

One thing I should make very clear is that we ought to seek a legal opinion, because even our viewing of this, while it may be seen as appropriate by the committee—and I leave the committee to make that decision—would also require.... I believe one of the incumbrances would be that it cannot be divulged afterwards, unless someone wants to face prosecution here. And I certainly wouldn't want to go in that direction.

Let me go to my first point. I think, Mr. Staples, you presented a rather Darth Vader view of what remote sensing satellite is, and if I could put it very bluntly, it would appear to me that you don't want satellites regulated. So based on that, wouldn't you think it prudent that the Government of Canada establish regulatory guidelines, or in fact do you want a free-for-all in space? I think Mr. Buckley was referring to this with other satellites that may not be caught by the regulation.

You talk here about your black uses versus your green uses, in the little display that you gave us here. How about supporting Bill C-25 so we can get on with its prudent and legitimate uses, particularly as it relates to something that I think one of the examples you gave showed—you've done it twice now—about what's happened in Colombia? My reports indicate that several people were killed this weekend by FARC insurgents in that region. We are well aware of the control of the Medellín cartel. I'm not so sure that what you've just raised here is relevant to remote sensing satellite, but perhaps you could expand on that.

What I'll do is then turn to Mr. Byers.

**Mr. Steven Staples:** First of all, Mr. McTeague, thank you for allowing me the chance to clarify my comments, because I think there has been a little bit of misunderstanding here.

I am supportive of Bill C-25. In fact, I would say it probably doesn't go far enough. I think it's a first step but it needs to go further. In fact, my first recommendation in terms of putting a regulatory framework in place was that we do recommend that the government prepare guidelines analogous to Canada's military export control guidelines to govern the implementation of shutter control over military-threatening remote sensing data exports.

So on this point I think we are in agreement here, but we don't go far enough.

• (1145)

**Hon. Dan McTeague:** Mr. Staples, do you not believe that the Minister of Foreign Affairs' having exclusive right to the operation or use of shutter control accountable to Parliament is sufficient?

**Mr. Steven Staples:** No, I don't think it's sufficient. We have a recommendation here that in this bill it should also be publicly accountable.

**Hon. Dan McTeague:** He would be publicly accountable. The Minister of Foreign Affairs is accountable every day. I'm filling in for him today. Ms. McDonough or any one of these individuals can ask me those kinds of questions, as they can the Minister of Foreign Affairs when he's here.

**Mr. Steven Staples:** I realize that, but the Minister of Foreign Affairs is also responsible for regulation and the licensing of military exports, and we do have an annual accounting of those exports. It's not as complete as we would like it, of course, but it is a recounting in some ways, and I don't see how that could not equally apply here and still respect the proprietary confidentiality that MacDonald Dettwiler would request.

**Hon. Dan McTeague:** Given the time I have, I may come back to you on a second round. You've raised the issue of proprietary commercial rights, and I'm going to go to Mr. Byers.

He has made a reference, Mr. Chair, to the concern about its being secret. I would submit that it's secret for several very good reasons, such as protecting companies—their data and related logistical information—from other competitors who might have access to this. We are set of course in a real world where smuggling of details like this constitutes a very important breach of security, not to mention covenants and treaties that have been signed to that effect.

Are you suggesting, Mr. Byers, that the commercial secrets and satellite usages should now, as you would have it, be up for corporate display?

**The Chair:** Go ahead, Mr. Byers.

**Prof. Michael Byers:** No, I think you've misunderstood me. I have to say that I feel somewhat connected to MacDonald Dettwiler myself in that they are a very significant employer of graduates of the University of British Columbia, being located, as they are, in Richmond, B.C.

**Hon. Dan McTeague:** But we won't call that reason for bias.

**Prof. Michael Byers:** No, no, but it might be an appearance of bias, and that's an issue you need to think about.

On the issue that companies need to be protected in terms of commercially sensitive material being available to competitors, to the general public, I agree. My problem with Annex II is not that I can't see it, but that you can't see it. You're being asked to make a recommendation to the House for the adoption of this legislation, and I think that it's only appropriate that you—all the members of the committee—be able to make that recommendation on the basis of all the evidence. And there certainly are ways. If the government wanted to be particularly blunt in doing so, you could make all the members of the committee privy councillors and get around the problem right there. That may be a little extreme, but you should not take "impossible" for an answer on this. It is possible, and the question is how you find that middle ground.

I have one more point on this issue. It has been pointed out to me—and I sit here in very expert company—that another possible right the United States may have in the unpublished annex is the right to block the access of third parties to satellite time. In other words, if the United States were in a dispute with another country, it might be able to tell the Canadian government and MacDonald Dettwiler that this country or that country's companies cannot access this satellite.

We have very different foreign policy from the United States with respect to some countries, for instance, Cuba. Would the United States prohibit us in the exercise of any right it might have under Annex II to allow Cuba to buy RADARSAT-2 time? I don't know. But again it goes to the question of the lack of knowledge because of the unpublished character of Annex II.

**The Chair:** Thank you.

Now we'll go to Ms. McDonough, please.

**Ms. Alexa McDonough:** Thank you, Mr. Chairman.

I don't know whether to thank our witnesses for overwhelming us with their considerable expertise, because it means we have a lot of homework to do to deal with this bill before us, or whether to thank them for disabusing our parliamentary secretary of the insulting notion that my interest in your coming before the committee was to somehow embroil you in the debate on missile defence. I'm very happy that we now know what we need to deal with, namely, the many issues that you've raised.

Very quickly, I have tried to boil down this really massive presentation into five or six elements that, as I think I'm understanding from the four of you collectively, need to be addressed. One is the whole question of the unpublished contents of Annex II. We clearly need some legal advice on that question.

Second is the importance of setting out a normative framework—in other words, some indication that this is meant to be about the public interest, while also providing for commercial uses. I'm wondering if you can elaborate on that a little bit.

Third is the creation of an independent agency for the licensing. And I'm not sure who said it, but someone suggested that there is no apparent reason why this legislation is dealing only with remote sensing and maybe it should be broadened to include all satellites. Perhaps we could hear a little bit more about that.

Fourth is the issue of who in the cabinet gets to have access and shutter control, and the suggestion that it needs to be expanded to include the ministers of environment, natural resources, and possibly international cooperation. It sounds a bit cumbersome, but I'm wondering if you would talk a little bit more about how that would work. Would it be a case of saying that two out of the four or five ministers should be consulted? Does there need to be a formula for how that would work?

Finally, there is the issue of tightening military export controls or ensuring that they apply in this case, because that seems to be principally what we're dealing with here. It amounts to the export of military intelligence, or at least can, and it's widely predicted that may indeed be the case.

I ask any of you to further address those pretty heavy and overwhelming questions that we're faced with.

• (1150)

**The Chair:** Professor Buckley, then Mr. Byers.

**Mr. Joseph Buckley:** I'll be quick in answering one of your questions that was directed at me concerning all satellites versus this rather small subset of remote sensing satellites. My point was that we have the two basic issues of national security and public safety. A satellite that images the surface of the earth or the atmosphere above the earth could have some national security implications. The definition of remote sensing satellite ought to be broadened to cover the atmospheric case as well as the terrestrial or marine case.

The other issue, however, was that any satellite that is in orbit can come down, and there is an issue of public safety with respect to that. We should perhaps be considering including in the public safety aspects all satellites that are launched with some kind of a Canadian connection.

**Ms. Alexa McDonough:** Do you see there being massive changes in what's here, if we were to do that?

**The Chair:** Ms. McDonough, please.

I have Mr. Byers who has a comment, and then Mr. Neil. I'm trying to make sure I get all the comments.

Mr. Byers, please.

**Prof. Michael Byers:** I'm sorry that one member has just left, because he'd be very interested in what I have to say right now.

Although Bill C-25 doesn't have anything to do with missile defence, it does have something to do with the weaponization of space. It's not a direct relationship; it's an indirect relationship, but it's something that the members of the committee should be aware of.

My colleague Ross Neil has identified that there is this debate going on between a public interest view of satellites and remote sensing versus a securitization approach to the use of satellites and remote imaging. Bill C-25 sits on that fence between public interest and the securitization interest. I say that without any objection to the use of RADARSAT-2 to support legal military interventions. This is the perfect satellite for taking images of Darfur before humanitarian intervention or for taking images of Iraq before the 1991 Gulf War, which was an entirely legal operation in which Canada participated with great honour.

There is this balance between the public commons view and the securitization of space view. It's the securitization of space emphasis that causes the United States to have a concern about the security of its satellites—its exclusive, or potentially exclusive, militarized remote sensing and other information-gathering satellites. The development of an anti-satellite capability, the discussions that one gets in the Pentagon documents concerning space war fighting, is all driven by a desire to protect the U.S. military and communication satellite network. To the degree that Bill C-25 moves forward to a greater extent than it does now to focus on the public value of this as opposed to the security value, this committee and this Parliament can help to avoid a further slide toward that security militarization model of space and keep Canada where it has traditionally stood in terms of space and satellites being a public good that can do good, both commercially and environmentally and also in legitimate and legal military forums.

•(1155)

**The Chair:** Thank you.

Mr. Neil.

**Mr. Ross M. Neil:** Briefly, on the notion of expanded access to ministers of the environment, natural resources, and so on, I'm not advocating increased access; I am essentially questioning why the access is there in the first place when what the government wants to do is support a vibrant commercial industry.

If you look at the three major private satellite remote sensing firms in the United States and MacDonald Dettwiler's own commercial plans, everyone has an option of paying a little more to get priority access. It seems to me that the only reason these ministers are given priority access is, if you look at the specifics, they can keep the reasons they purchased that imagery from being revealed as well, which goes to the point of transparency. Will it be recorded in a public record in some way? Will it be archived for the future? Will it be put in the satellite tasking record? These are questions that aren't answered.

To speak quickly about the independent agency idea, the idea is that the Canadian Space Agency is already deeply involved in Canada's space industry, and it might be appropriate to consider a licensing authority that could have hearings on licence submissions and be responsive to both the industry and to other stakeholders and the public.

There are numerous examples of independent commissions out there. Granted, there are only a few licences anticipated in the near future, but as Dr. Buckley intimated, there are many other types of satellite projects under way, and if the definition of remote sensing satellite is expanded, you might justify an agency that we could perhaps brand as a Canadian-specific way of governing this important area. We could call it the Canadian Earth Observation Satellite Agency, for example, and have it report through a minister to Parliament, with inspectors who will check up on licensees from time to time. This seems to me like the model that has been discussed in the United Nations for an international satellite monitoring agency, proposed many times and supported.

In terms of following a Canadian-specific approach to regulation, I think it's unwise to assume that just because the U.S. is the leader in all space matters we should adopt a very similar legislative approach.

**The Chair:** Thank you.

I'm very sorry, but your time is over.

**Hon. Dan McTeague:** Mr. Chair, on a point of order, I just want to point out that while I was outside taking a quick press call, as Ms. McDonough had done, Mr. Byers pointed out that I left the room for a few seconds. I did, Mr. Byers, and on your point, we're talking about Canadian satellites, not American satellites.

If you wish to point out someone leaving the room, as I did, you may also point out that Ms. McDonough missed the first 20 minutes of this process.

**The Chair:** Mr. McTeague, nobody can say in this committee that someone is leaving the room. They just leave the room when they feel they can leave the room.

Mr. MacAulay, I'm very sorry, but I need you for another 30 seconds.

To all the witnesses—Mr. Staples, Mr. Buckley, Mr. Neil, and Mr. Byers—thank you very much.

Mr. Paquette, I need you for a motion.

Next Thursday we're scheduled to have the UNDP, the United Nations Development Fund. Also, we were supposed to go to clause-by-clause on Bill C-25, but at the request of Madame Lalonde, who has found other witnesses from Sherbrooke University, if you all agree, we'll hear these witnesses on Thursday.

We're going to do clause-by-clause and give a lot of time.... If anyone from any party wants to bring amendments to the bill, we'll do that when we come back on March 8.

Mr. Sorenson.

•(1200)

**Mr. Kevin Sorenson:** So the plan would be, from 9 o'clock until 10 o'clock, to meet with Ms. Lalonde's witnesses, and then to move to clause-by-clause?

**The Chair:** No. On Thursday we'll do Bill C-25 from 9 o'clock to 10 o'clock, and then from 10 o'clock until 11 o'clock we'll hear the UNDP, the United Nations Development Fund. We are scheduled to do that.

On March 8, when we come back, we'll do clause-by-clause, just clause-by-clause on that Tuesday morning.

**Mr. Kevin Sorenson:** Maybe this is for the parliamentary secretary, but do we know yet if there will be any amendments to this bill?

**The Chair:** The only thing I can answer is that we'll get some from the Bloc Québécois, but from the government side, we don't know yet. That will give us time, because if you want amendments—because many of the witnesses suggested amendments—we'll need to get the department looking at it very carefully. That means we'll get more than ten days for this.

**Mr. Kevin Sorenson:** My other question is to Madame Lalonde.

Regarding the individuals from Sherbrooke University whom you have put forward as witnesses, are they experts on remote sensing?

**The Chair:** Yes, they are.

**Mr. Kevin Sorenson:** Okay, thank you.

**The Chair:** So is that fine with you?

**Mr. Kevin Sorenson:** Yes.

[*Translation*]

**Ms. Francine Lalonde:** In a few minutes, we discovered that there is in Sherbrooke one of the largest remote sensing institutes in Canada. We didn't have any satellite to look for it but we found it.

[*English*]

**The Chair:** Is everyone in agreement?

**Some hon. members:** Agreed.

[*Translation*]

**The Chair:** Thank you very much.

The meeting is adjourned.

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