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# Standing Committee on Foreign Affairs and International Trade

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**Tuesday, March 22, 2005**

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**Chair**

**Mr. Bernard Patry**

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## Standing Committee on Foreign Affairs and International Trade

Tuesday, March 22, 2005

• (0910)

[English]

**The Chair (Mr. Bernard Patry (Pierrefonds—Dollard, Lib.)):** The order of the day, pursuant to the order of reference of Tuesday, December 7, 2004, is Bill C-25, an act governing the operation of remote sensing space systems.

Welcome to our witnesses, Mr. McDougall, Mr. Baines, Mr. Mann, Monsieur Brulé, and Mr. Johnson. Thank you again for appearing in front of the committee.

We were doing clause-by-clause last time. That's the order now. On the clause-by-clause, I must say that last time we finished with amendment NDP-5 on clause 8.

Last time, we suspended clause 4 because clause 4 from the Bloc Québécois

[Translation]

was inadmissible. We have received a new amendment from the Bloc Québécois, amendment 6-1, on page-11. We will first distribute this BQ amendment and then we will finish consideration of clause 4.

[English]

**The Clerk of the Committee:** We'll distribute these now, Mr. Chairman.

**The Chair:** Yes, go ahead.

It is a rough reformulation of the Bloc Québécois amendment 6. It's on page 11. Has everyone received the amendment? They are doing the distribution right now. Did you receive it?

I'm going to read it:

4.1(1) A committee composed of the Minister of the Environment, the Minister of Natural Resources, the Minister of Agriculture and Agri-Food, the Minister of Fisheries and Oceans, the Minister of National Defence, the Minister of Foreign Affairs, and the President of the Canadian Space Agency, to which one or more provincial ministers are invited, shall meet once a year to review the provisions and the operation of this Act.

(2) The committee may advise the Minister on the operation of this Act.

(3) The Minister shall take into consideration the advice of the committee.

[Translation]

Ms. Lalonde, please explain your amendment.

**Ms. Francine Lalonde (La Pointe-de-l'Île, BQ):** Mr. Chairman, I made a number of changes to this amendment: "to which one or more provincial ministers are invited." There is a committee which

meets once a year to examine the enforcement provisions of this law. It states: (2) The Committee may advise the minister on the operation of this act.

So I have taken into consideration the objections raised last time, and the minister is similarly taking into consideration the committee's advice. It seems to me that there is nothing unconstitutional in this amendment and it can allow for fruitful exchanges on the use of the images that the government would be receiving during the following year through the agency.

Mr. Chairman, I had the pleasure of visiting the centre in Saint-Hubert. It is unfortunate that all members of the committee were not able to do so, since such a visit would have given us a better understanding of what we are talking about in this bill.

• (0915)

[English]

**The Chair:** Are there any other comments?

Mr. McTeague.

**Hon. Dan McTeague (Parliamentary Secretary to the Minister of Foreign Affairs):** Mr. Chairman, we've come back to the same problem we had with the original version that the honourable member presented. Specifically, without going into great detail, this committee's binding directives would override the discretion that the minister was given under the act. You can see that very clearly in what I believe would be understood by proposed subsection (3): "The Minister shall take into consideration the advice of the committee."

I would recommend that we vote against this amendment.

**The Chair:** Ms. McDonough.

**Ms. Alexa McDonough (Halifax, NDP):** Mr. Chairman, I would be in support of the amendment that is before us. I think it's absolutely taken into consideration concerns that were raised about any possibility of there being an override of the minister's responsibilities, and I think it does exactly the opposite. It provides for a consultative, collaborative process. It doesn't bind in any way. It talks about "shall take into consideration the advice of the committee", and surely that's what we ought to be concerned about with respect to any piece of legislation that has provincial and territorial implications.

We need a more collaborative, more workable, more flexible form of federalism, and I think it's just one application of that. So I would certainly speak strongly in support and would hope that government members would also see the wisdom of that.

**The Chair:** Mr. McTeague.

**Hon. Dan McTeague:** On the latter point raised by Ms. McDonough, I should point out that this would also only serve to confuse federal and provincial jurisdiction on outer space matters.

Thank you.

[Translation]

**The Chair:** Ms. Lalonde, you get the last word.

**Ms. Francine Lalonde:** Mr. Chairman, I do not believe that this wording poses any jurisdictional problem. The committee meets one a year, and you will note that it says that the ministers are “invited.” And the purpose of the committee's meeting is to “review the provisions and operation” of the act.

From what I understand, with RADARSAT-2 and the new way that things will work, the provincial governments will no longer be involved the same way. As I have mentioned, I visited the centre and I know how the system operates with RADARSAT-1. I was told that there were a certain number of guarantees; however, the priorities will no longer be set by the space agency, but rather by the company. If the provinces, in their various areas of jurisdiction, have needs that they would like to see given priority without using the act to priority clause—since it is reserved for security, defence, etc.—this is where they will be able to have their say.

I would remind you that the declared investment of public funds is \$430 million, and it is not much to ask that the provinces be able to get some benefit from that.

The committee may advise the minister, and the minister takes that advice into consideration if he wants to.

**Hon. Dan McTeague:** The minister shall “take into consideration” the advice.

**Ms. Francine Lalonde:** Yes.

[English]

**The Chair:** Okay. I have Ms. Phinney and Mr. Day. Ms. Phinney.

**Ms. Beth Phinney (Hamilton Mountain, Lib.):** First of all, I would like to know about the numbering. Is it 4.1 or is it 4.1(1)?

**The Chair:** It's 4.1. That's the amendment. You have it in front of you.

• (0920)

**Ms. Beth Phinney:** I know I have it in front of me.

In the original bill it says 4(1), and now we're at 4.1(1).

**The Chair:** It's a new clause at the end.

**Ms. Beth Phinney:** We're putting it at the end?

**The Chair:** Yes.

**Ms. Beth Phinney:** Okay. I have a question for Madame Lalonde. She said that the provinces are invited. Is that “must be invited”, “shall be invited”, “will be invited”?

And it says “to which one or more provincial ministers”. So if they're looking at the coast of B.C., are they going to invite P.E.I. provincial ministers? I am just wondering how you want that to be interpreted.

[Translation]

**The Chair:** Fine.

Ms. Lalonde, we will finish with the questions and you can answer at the end.

**Ms. Francine Lalonde:** Right away, Mr. Chairman, since this is about the wording.

**The Chair:** Go ahead.

**Ms. Francine Lalonde:** I said, and this is really what it means: “to which one or more provincial ministers are invited.” The provincial ministers will work this out among themselves. It is impossible to invite everyone.

[English]

**The Chair:** Mr. Day.

[Translation]

**Mr. Stockwell Day (Okanagan—Coquihalla, CPC):** I have a question on the third sentence. Does it mean that the minister must follow the advice or just listen to it? “The minister shall take into consideration the advice of the committee.”

We need to look at all these amendments as if we were the government, which is not a problem for my Bloc Québécois colleagues. What does this mean? Does the minister have to follow the advice or just listen to it?

**Ms. Francine Lalonde:** In the English version, which was not drafted by me, it says “take into consideration.” The minister would act like a good father who listens to his children and partly takes into consideration what they say, but he is the one who actually makes the decision. It is the most nuanced expression to say that he has listened and will see whether...

**Mr. Stockwell Day:** I appreciate your explanation, but I am a bit surprised to hear my colleague from the Bloc Québécois compare the federal government to a father and the provinces to his children.

**Ms. Francine Lalonde:** It was to explain the meaning of the amendment.

**Mr. Stockwell Day:** I do not consider the provinces to be the minor leagues.

**Ms. Francine Lalonde:** I do not think so either, as you will know, but I wanted to explain the meaning of the word “take into consideration.”

[English]

**The Chair:** Mr. McTeague, do you have a question for our guests?

**Hon. Dan McTeague:** I was wondering if I could invite Robert McDougall into some comments with respect to this amendment. I presume you have the amendment before you. I'd just like to get a sense of where we're going with this.

**The Chair:** Mr. McDougall.

**Mr. Robert McDougall (Director, Non-Proliferation, Arms Control and Disarmament Division, Department of Foreign Affairs):** Thank you, Mr. Chairman.

I have a few comments. They are neutral in nature, but I have a few clarifications.

The first thing we noticed in looking at this proposal is that while the bill focuses on the question of security and the implications of these commercial remote sensing systems on national security, on defence, on foreign relations and conduct, it does not, as drafted, concern the broader question of how this commercial satellite is operated, how the data are used, and what the data are used for. It is simply restricted to the question of the possible negative security impacts of certain types of operations.

Looking at this proposal, particularly in terms of the people who are to be on the committee, it seemed to us this suggested a change in approach towards increasing government influence on the broad operations of the system—particularly given, for example, the absence of the Minister of Public Security and Emergency Preparedness. That's just an observation on what seemed to be broadening the scope and purpose of the bill.

Second, I have a couple of small comments in terms of practicability. One is just to flag.... Just as a comment, we note the president of the Canadian Space Agency is the only non-elected member on it, and the minister to whom he—or in some cases, she—reports, the Minister of Industry, is not on the panel. That is, again, just a comment.

Third of four is the question of who would chair it and how the representatives would be chosen. From a bureaucrat's point of view, strictly on the administrative level, it leaves a number of questions open.

Finally, on the question of the extent to which the minister is bound, I can certainly agree that the new formulations of subsections (2) and (3) are substantially less directive and binding than the previous versions. However, the extent to which they would still bind the minister—“take into consideration”, “*tient compte*”—I would have to leave, in fact, to the legislative experts.

• (0925)

**The Chair:** Thank you.

Are there any other comments?

Mr. Mann.

**Mr. Bruce Mann (Senior Counsel, Justice Legal Services Division, Department of Foreign Affairs):** I'd like to comment in my capacity as a lawyer trying to understand the proposed amendment.

I have three comments. First of all, the amendment does not make clear who does the inviting to the committee. Second, the requirement for one or more provincial ministers to be invited means at least one has to be invited; I think it would be problematic inviting fewer than 10 or 13. Third, in subsection (3) there is the requirement that the minister take into consideration the advice of the committee. This is not restricted to his actions in convening this meeting; arguably, it applies to all ministerial decisions under the act...that the minister must take into account the advice of this committee. What this does is open the minister's decisions, under the act, to judicial review on the point of whether he took into account certain recommendations made by the committee.

**The Chair:** Thank you.

I just want to point out to Madame Lalonde as well that, according to what Mr. Mann just mentioned, the way it's written in English and in French, when you say

[*Translation*]

“one or more provincial ministers,” you do not say “from each province.” There could be a number of provincial ministers. There might be a minister of the Environment, a minister of Natural Resources, etc. from all the provinces. The way it is written, in French and in English, could result in there being 50 ministers on the committee. So it is not a translation problem.

[*English*]

Are there any other comments concerning this?

[*Translation*]

**Ms. Francine Lalonde:** Mr. Chairman, I have said repeatedly that, even though I checked and rechecked the wording of my amendment, this final version is not what I dictated. I wanted to make sure that one minister per province would be invited.

We do not need to decide how each province will handle its requests or observations. We know that the departments can prepare them. So there would be one minister per province. I want that to be clear. That is the proposal in English and French.

**The Chair:** What about the territories, Ms. Lalonde?

**Ms. Francine Lalonde:** If you want me to add them, I can.

**The Chair:** What happens with the territories?

**Ms. Francine Lalonde:** We can add “and territories,” if you like, because they are concerned as well.

**The Chair:** It is not about what I want: it is your amendment.

[*English*]

**Ms. Beth Phinney:** I thought from reading this that it was one or more provincial ministers; at the meeting there would be one provincial minister; there could be just one provincial minister. But what you've just said is that there would be one from each province.

[*Translation*]

**Ms. Francine Lalonde:** It would be one per province.

[*English*]

**Ms. Beth Phinney:** That's not what it says here. So you want 12 outsiders, 10 plus the territories, to come into this meeting. Thirteen, I'm sorry. You want 13 outsiders to come into the meeting.

[*Translation*]

**Ms. Francine Lalonde:** Well, this is Canada.

[*English*]

**Ms. Beth Phinney:** But it's a federal matter.

[*Translation*]

**Ms. Francine Lalonde:** Frankly, I hope that no one is surprised by that.

**The Chair:** You are definitely saying that it will be one minister for each province and territory, Ms. Lalonde.

**Ms. Francine Lalonde:** The point is to “review the provisions and operation” of the act. One of the important things in this bill is the use of the provisions for all the governments in Canada. After all, the provinces invested in RADARSAT-1 and they have had access in return to images that have been very useful in a number of areas.

As I have said, RADARSAT-2 is advertising its services on its Internet site. These services are provided in areas of provincial jurisdiction. The provinces are not named anywhere with respect to priority control as set out in the legislation. The thrust of the amendment is to have the provinces meet once a year to indicate that they are having a problem in agriculture, with ice, etc. to which they would like the federal government to give priority.

I am sure that problems of this type will come up. We know how RADARSAT-1 works right now, but we are not familiar yet with RADARSAT-2, which is not publicly owned. This is intended to help, not hinder. The committee needs to decide.

• (0930)

**The Chair:** Ms. Lalonde, we will take that decision now, with your permission. I have before me the text that was found to be admissible in its original version. You had stated: “A minister from each province.” So this is what you want now. You would like to add the words “and territory.” Do you want to move a sub-amendment to your amendment? I have an amendment before me and I need a sub-amendment. Are you introducing a sub-amendment to say “A minister from each province and territory”? That is what you want.

**Ms. Francine Lalonde:** Yes.

[*English*]

**The Chair:** Ms. McDonough.

**Ms. Alexa McDonough:** If I might, Mr. Chairman, I'm not trying to delay anything, but I am just taking under serious advisement Mr. McDougall's point, which seems to be a valid one that we should consider. I'm just wondering if Madam Lalonde might be prepared to accept as a friendly amendment that we specify the minister responsible for the Canadian Space Agency, rather than the president of the Canadian Space Agency, who is the only non-elected person identified, because surely the point is to ensure public accountability.

Second, I don't want to second-guess this, but it seems to me that we might address in the same way the suggestion that it may in fact be an inadvertent omission not to include the national security and emergency preparedness minister. I have a lot of sympathy for where this is coming from and what it is trying to achieve; I think it's trying to re-balance somewhat a seeming over-preoccupation with the national security implications of RADARSAT-2, possibly to the detriment of what we know to be very important and serious usages with respect to the environment, natural resources, and so on.

I'm just wondering if those two might be accepted as friendly amendments in responding to that expert testimony.

**The Chair:** Madam McDonough, I just want to pinpoint there's no such friendly amendment. You either make an amendment or you don't. Madame Lalonde has an amendment, and she cannot propose a subamendment on her own amendment. I accept Madame Deschamps' amendment on behalf of Madame Lalonde, because that's the way we're.... It's accepted, and we're going to vote on this now.

Do you have any specific amendment on your own, Ms. McDonough?

My clerk tells me we need to do one subamendment at a time. I will call the question on the subamendment. We won't vote on the amendment itself, just on the subamendment, that it should read “one minister of each province and territory”.

(Subamendment negated)

**The Chair:** Do you have any other subamendments, Madam McDonough?

**Ms. Alexa McDonough:** Yes. I would like to propose a subamendment to capture the two points I think helpfully pointed out by Mr. McDougall. One is that “President of the Canadian Space Agency” be replaced by “minister responsible for the Canadian Space Agency”. The second is the inclusion of the minister responsible for national security and emergency preparedness.

**The Chair:** We're going to vote on the subamendment by Madam McDonough.

(Subamendment negated)

**The Chair:** We're now going to vote on the amendment on clause 4.

(Amendment negated)

**The Chair:** Is clause 4, without any amendment, carried?

• (0935)

[*Translation*]

**Ms. Francine Lalonde:** Excuse me, Mr. Chairman. What was the question?

**The Chair:** I asked if clause 4 carried.

[*English*]

**Ms. Francine Lalonde:** On division.

[*Translation*]

**The Chair:** Fine. No problem.

(Clause 4 carried on division)

**The Chair:** We are now at amendment NDP-5.

(Clause 8—*Applications, licences and related matters*)

[*English*]

**The Chair:** Madam McDonough, the floor is yours.

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

As every committee member will see on page 15, this is an amendment replacing line 16 on page six with the following:

Minister considers appropriate and having regard to national security, the defence of Canada, the safety of Canadian Forces, Canada's conduct of international relations and Canada's international obligations.

It then continues: “The conditions....”

Mr. Chairman, this again is an attempt to respond to what I think have been legitimate concerns expressed to ensure that the public interest is indeed reflected and protected in the bill that is before us. There remain concerns about issues of ownership—what could happen in the instance of a takeover by a private buyer, for example—but in every place possible we need to strengthen the representation of the public interest that can be protected, by the sort of amendment that is before us.

I would like to move that amendment.

**The Chair:** Are there comments?

Mr. McTeague.

**Hon. Dan McTeague:** The member proposing it has made a suggestion here for the release of raw data in subclause 8(6), which adds considerations for the minister to weigh. I want to point out to the committee that this requirement for the minister to consider the identified factors is unnecessary, principally because the requirement is redundant to that already stated in subclause 8(1) of the act, and my advice would be to vote against this motion.

**The Chair:** Are there any other comments?

I'll call the question on the amendment, NDP-5.

(Amendment negatived).

**The Chair:** Now we go to....

[Translation]

We are at BQ-10 on page 16. This is a change to the French text.

Ms. Lalonde, go ahead, please.

**Ms. Francine Lalonde:** I had the wording reviewed by the legislator drafter because every amendment has to be approved that way before coming to the committee. We feel that it would be better to say it this way:

exiger, dans certains cas ou circonstances:

- a) soit que la communication soit subordonnée à son approbation préalable;
- b) soit qu'elle soit faite qu'au titre d'un accord—

This is the French wording that we want to amend.

**The Chair:** You want to remove the word “ne.”

**Ms. Francine Lalonde:** No.

**The Chair:** So, Ms. Lalonde, we are looking at clause 8, line 23 in French.

**Ms. Francine Lalonde:** It is “ne soit faite qu'au titre d'un accord.” That is what the legislative drafter recommended as a change to what we had provided;

● (0940)

[English]

It is “be subject”; “be done only under a legally enforceable agreement”.

[Translation]

**The Chair:** Mr. McTeague.

[English]

**Hon. Dan McTeague:** Mr. Chairman, this is a change to paragraphs 8(6)(a) and 8(6)(b) to be an exclusive either/or. The proposed amendment using the words “soit que...; soit qu” changes

the meaning of the French text for paragraphs 8(6)(a) or 8(6)(b) to be an either/or provision. The bill must be read as either paragraph 8(6)(a) or paragraph 8(6)(b), or both, as is done in the existing English text, and the current French drafting reflects this requirement.

[Translation]

This bill has already been reviewed by jurilinguists in the justice department, and they are satisfied with the wording, which meets the official language requirements. I therefore advise voting against the amendment.

[English]

**The Chair:** Are there any other comments?

Madame Lalonde.

[Translation]

**Ms. Francine Lalonde:** You say that this has already been reviewed, Mr. McTeague?

**Hon. Dan McTeague:** Yes, by the Department of Justice.

**Ms. Francine Lalonde:** Then I agree.

**The Chair:** So the Bloc Québécois amendment is withdrawn.

[English]

**The Chair:** Shall clause 8 carry without amendments?

(Clause 8 agreed to)

(On clause 9—*System disposal plan and arrangements*)

**The Chair:** On clause 9, we're now going to amendment NDP-6, on page 17.

Ms. McDonough.

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

This is just a very small, straightforward proposed amendment to clause 9, replacing line 13, on page 7, so it would read as follows: “provides for the protection of the environment, public health, privacy and the safety of persons and property”.

It simply amounts to the insertion of “privacy” as one of the stipulated concerns that needs to be protected. This arises from some of the issues that have been raised before the committee.

**The Chair:** Thank you.

**Ms. Alexa McDonough:** So moved.

**The Chair:** Fine.

Monsieur McTeague.

**Hon. Dan McTeague:** I just want to point out for members that a few weeks ago, when we were dealing with the third Bloc amendment, it was defeated on similar grounds. The proposed amendment by Ms. McDonough would not do anything to enhance these privacy rights. They remain intact whether or not the bill requires the minister to consider them in a decision. Of course, we have a number of backups: the Charter of Rights, the Privacy Act, and the Personal Information Protection and Electronic Documents Act, and they continue to apply even when a licence is issued.

If we put forth the idea that somehow we should be injecting privacy considerations into certain provisions of the bill, we run the risk of diminishing the importance of privacy and other provisions. That doesn't mean we should mention privacy rights in every provision of the act. As mentioned, the privacy laws always apply to activities of the government and the private sector, and do not need to be addressed in this bill.

I should point out to colleagues that the government met with the Office of the Privacy Commissioner prior to tabling this act, and they had no recommendations for provisions dealing with privacy. Technology by itself is neutral in terms of privacy; however, how the technology is used may raise privacy concerns. It's in this use where privacy safeguards must be applied, and these safeguards already exist in our privacy laws. My advice is to vote against it, as we did on the third amendment by the Bloc.

(Amendment negatived)

**The Chair:** Now we'll go to BQ-11 on page 18.

Madame Lalonde.

[*Translation*]

**Ms. Francine Lalonde:** I hope that you will give every consideration to this amendment.

In clause 9, we are proposing to add a paragraph in (c) after line 37 on page 7. Subsection 9(1) reads as follows:

9. (1) The Minister may not issue a licence without having approved: Following paragraphs (a) and (b), we want to add paragraph (c) dealing with the archiving of raw data. This is something that Ms. Stojak brought to our attention when she appeared before the committee. She told us that, in order to study the environment and climate change, it was extremely important that all the data be kept over the years. We have tried to draft this in a way that would make it acceptable. The new paragraph would state:

(c) provide raw data to Library and Archives Canada unless the licensee or former licensee has received written notice from the librarian and archivist of Canada stating that they refuse to accept them.

So the company would be committed to provide Library and Archives Canada with raw data in order to ensure the preservation of knowledge in certain areas where it is important to do so.

• (0945)

[*English*]

**The Chair:** Merci.

Are there any other comments?

**Hon. Dan McTeague:** The bill as currently written handles the proposed amendment by specifying terms in the disposal plan of clause 9 for the licensee or former licensees to observe. It is here where Canada's access control policy to offer the Government of Canada, at cost of reproduction and transmission, any data acquired by the system prior to the destruction of that data would be specified.

The data is not likely wanted by Library and Archives Canada. Were it to be archived by the government, it would likely be stored at

the Canada Centre for Remote Sensing, CCRS. This archive requirement can also be addressed in regulations such as subparagraph 20(1)(c)(ii), reference to the system disposal plan; paragraph 20(1)(f), respecting operations of the system; or alternatively by adopting amendment NDP-16, which is coming up.

My advice in this limited instance is to vote against this one.

**The Chair:** That's fine.

Are there any other comments?

Madame Lalonde.

[*Translation*]

**Ms. Francine Lalonde:** I am sorry, Mr. Chairman, but I do not believe that the excerpt from the bill that you have just read covers the reality that I am talking about. It means that the Government of Canada has to buy raw data in order to preserve the information, which is what I am talking about. But from what I understand, Canada is already investing \$430 million and the company is putting in \$92 million; in return, the company would be required to provide certain data. The negotiating will not be done by me. However, as parliamentarians, we have a duty to ensure that public data can be used at least to some extent for the public good, and that means that these images must be preserved.

When I visited the centre, I learned that this satellite was the most modern of its kind. I also learned that it orbited the earth 13 times a day and each time, out of the 101 minutes for each orbit, 28 minutes could be used for commands. The company can give commands when it is in contact with the centre to ensure that images can be archived in crucial areas such as the environment, agriculture, forestry, etc. This is something that we might have wanted to discuss in the committee. It is impossible to allow this to function only for commercial purposes. The government is investing \$430 million out of a total of \$532 million. It is not just to build a commercial satellite. There needs to be at least some consideration for the common good, which RADARSAT-1 provided.

**The Chair:** Thank you.

Mr. McTeague.

[*English*]

**Hon. Dan McTeague:** Mr. Chair, I understand the passion the member brings forward on this issue, but it's basically and fundamentally a question of industry standards. We do in fact buy these products.

I don't think we should reinvent the wheel here, but I would suggest to the member that there is an opportunity for us to deal with a more direct and I believe a more facilitative approach that has been taken by Ms. McDonough in amendment NDP-16, I believe. I think that's one she may find comfort in, but for this one I would suggest that the wording is unacceptable and I will be voting against it.

Thank you.

**The Chair:** Fine.



[*Translation*]

**Ms. Francine Lalonde:** May I respond, Mr. Chairman?

I am sorry, but the government changes regulations whenever it wants to. I know that there is a minimum, but I am not satisfied with that minimum. I want it to be in the legislation.

• (0950)

[*English*]

**The Chair:** All in favour of the amendment by Madame Lalonde, amendment BQ-11?

(Amendment negated) [See *Minutes and Proceedings*]

**The Chair:** We'll go to amendment NDP-7, concerning privacy.

Madame McDonough.

**Ms. Alexa McDonough:** Mr. Chair, I don't wish to delay the proceedings of the committee. I've made the argument previously. I just want to respond to the parliamentary secretary's assertion that it is extremely important that technology is neutral. That's why the protections I'm talking about here apply to the minister, not to the technology.

Secondly, I'm not a lawyer, and I don't know whether legal counsel may want to comment at all, but I'm not sure that the fact that the privacy commissioner is satisfied that the protections are what they need to be is a persuasive argument against having a further reference to privacy that is—I don't know if it's the right legal terminology or not—for greater certainty. I think the public is very much looking to ensure that this infuses our approach to such matters, which are potentially intrusive.

So I would make the same argument, but I don't want to hold up the committee.

**The Chair:** The same argument?

**Hon. Dan McTeague:** The same argument as in BQ-3 and NDP-6.

**The Chair:** All in favour of amendment NDP-7?

(Amendment negated) [See *Minutes of Proceedings*]

(Clauses 9 and 10 agreed to on division)

(On clause 11—*Suspension of licence*)

**The Chair:** We've reached clause 11 and amendment NDP-8. It's on page 20 of your package.

Madame McDonough.

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

I move that clause 11 of Bill C-25 be amended by removing line 10 on page 9, following on from “obligations”, and inserting “or export control guidelines of the Department of Foreign Affairs and International Trade”.

**The Chair:** That's fine.

Mr. McTeague.

**Hon. Dan McTeague:** Mr. Chair, I would seek the indulgence of the committee. We defeated a very similar motion in what was

[*Translation*]

Amendment BQ-5.

[*English*]

I can go on, if you wish, to several points here to refresh members, if they'd allow me 30 seconds.

The amendment adds nothing, because it says only that the minister must follow his or her own guidelines. The proposal would make an act of Parliament in effect subordinate to government policy, which could be altered at a departmental level, or at an even lower level in the case of guidelines. This act is being established to do for satellite data and imagery more or less what the Export and Import Permits Act does for military and dual-use technology, goods, and services.

I should point out that the root impetus of Canada's export control guidelines is the same as that proposed under this act—in other words, national security, defence of Canada, protection of Canadian Forces, Canada's conduct of international relations, and fulfilling Canada's international obligations. The adoption of this amendment further risks narrowing the ability of the minister to suspend a licence for other valuable reasons.

So my recommendation would be, as on amendment BQ-5, to not support this particular motion.

[*Translation*]

**The Chair:** Ms. Lalonde.

**Ms. Francine Lalonde:** I do not understand the parliamentary secretary's argument. He says that if the directives changed, that would affect the substance of the legislation. Canada's international obligations also change. The legislation clearly indicates that Canada's obligations also have to be taken into account, in the context of the relationship between this private company, which has been mainly paid for by the Government of Canada, and the government itself. Witnesses have told us that, given the fact that RADARSAT-2 advertises itself as producing images that would be potentially useful to the military, in particular the American military, it was important that the legislation clearly require Canada to comply with the relevant directives and laws.

I feel that it is important to emphasize this. I repeat that this recommendation was made to us by competent witnesses.

• (0955)

[*English*]

**The Chair:** I'll call the question on amendment NDP-8.

Ms. McDonough.

**Ms. Alexa McDonough:** I just want to respond. I really tried hard to understand what the parliamentary secretary was trying to say by suggesting that what we have here covers the concerns that are contained in the amendment, namely that export control guidelines also need to be taken into account and could lead to the suspension of licence in whole or in part. I just don't understand how you can be so dismissive of the fact that in addition to international obligations, we may have obligations that we have chosen and imposed upon ourselves with respect to export controls that aren't captured by international obligations.

I'm not trying to be difficult; I would just like to understand the argument.

**Hon. Dan McTeague:** Ms. McDonough, I would be willing to open it up to our officials here, but more importantly, I would certainly not want your amendment here to be construed in such a way that the act would somehow be subordinate to government policy, or worse, that the act of Parliament, passed by all of us—certainly considering all the speeches we've given in the House of Commons of late about government policy and being respectful of the will of Parliament...that we would somehow subject this to being altered by a departmental official, no disrespect intended, in the case of guidelines.

I don't think that's something that was intended by your motion, but it clearly is one of the more sinister outcomes—which I'm sure you had not intended when you put this forward.

This act is being established to do for satellite data and imagery more or less what the Export and Import Permits Act does for military and dual-use technology, goods, and services. So while I understand the intention of what you're proposing, I think it's very clear to anybody who understands it how this could be open to the potential for guidelines being opened up and altered by someone at a departmental level. I don't think that's what you want. It's certainly not what the government wants, and I don't think it's what the official opposition wants.

Perhaps I could invite—

**The Chair:** I invite, if you don't mind.

**Hon. Dan McTeague:** Absolutely. Sorry, Chair.

**The Chair:** Could I have Mr. Sorenson, then I'll ask it of Mr. Mann.

Mr. Sorenson.

**Hon. Dan McTeague:** Thanks. I forgot that.

**Mr. Kevin Sorenson (Crowfoot, CPC):** All I was going to say was I was going to invite the department to explain that.

**Some hon. members:** Oh, oh!

**Mr. Kevin Sorenson:** I would say that this amendment comes back later too. It comes in clause 14 and I think it comes in later on. It's again just simply talking about the guidelines of the minister. As I've had this explained to me, it really says that the minister must follow his own guidelines, but it does add this export control part. I would just plain like to hear from Mr. McDougall why the export control guidelines are not part of the guidelines the minister already listens to, his own guidelines, and why they perhaps shouldn't be, because we're going to hear about this later. What I'm saying is, the guidelines the minister follows are not the export guidelines. Why not?

**The Chair:** I have a question, Mr. McDougall, if I could just follow on Mr. Sorenson's. It is on the fact that export guidelines could change, but the law doesn't change. I just want to get your comments, please.

Mr. McDougall.

**Mr. Robert McDougall:** Yes, Mr. Chairman, I have two brief points in response.

First of all, the way this clause is currently drafted it basically reflects the same kind of approach that's taken in the Export and Import Permits Act; that is to say, the minister can take certain actions based on certain criteria. Those criteria are injury to national security, defence of Canada, safety of Canadian forces, international relations consistent with obligations. Those are, in essence, the same factors that are taken into account in the Export and Import Permits Act. Therefore, in a sense, this may appear to be redundant.

Secondly, however, I have to agree with those who have pointed out that making the minister's decision subordinate to the export control guidelines seems unusual, if only because, for example, Mr. Chairman, somebody at my level could change those guidelines. I would not want to make my minister or the Parliament subject to my decision.

**The Chair:** That's fine.

**Ms. Alexa McDonough:** Mr. Chairman, in view of that explanation, which I have to say makes sense to me when you put it that way, I'm quite prepared to withdraw that amendment.

• (1000)

**The Chair:** Yes, Mr. Sorenson.

**Mr. Kevin Sorenson:** Mr. Chairman, because this same amendment comes up later, I'm wondering if she's willing to withdraw...

**The Chair:** We'll look at every level, please.

(Clauses 11 and 12 agreed to on division)

(On clause 13—*Measures ordered on suspension or termination of licence*)

**The Chair:** We have amendment NDP-9, Madam McDonough, on the Privacy Act.

**Ms. Alexa McDonough:** Mr. Chairman, I want to simply reiterate that it seems to me that the fact of the Privacy Commissioner not insisting that this be there does not mean it is not something that can be there for added certainty, and I would so move.

(Amendment negated)

(Clause 13 agreed to)

(On clause 14—*Minister's order*)

**The Chair:** Now we are reaching amendment NDP-10.

Ms. McDonough.

**Ms. Alexa McDonough:** Mr. Chairman, we're in the same sort of conundrum, so I'm not proposing we go through a ritual of voting it down, but I guess I am still raising the question. I completely understand the point that Mr. McDougall has made about it being at the level of guideline. Is there any advice that Mr. McDougall or legal counsel could provide to capture the export control...? It's really about the export control legislation that would apply, and what we're trying to say is that it should be specified, in addition to international obligations. I'm wondering if you can address whether there's a way to do that, or persuade the committee that that's an unnecessary thing.

On the second part of the explanation with the parliamentary secretary, I'm not persuaded that this only needs to be invoked in the instance of military matters. I'm persuaded that there isn't an issue here that we need to try to address, and I wonder if I could ask for a comment from our expert witnesses.

**The Chair:** You have already made some comments previously. I just want to know, do you have any other comments to make? If you agree to make more comments that's fine.

Mr. McDougall.

**Mr. Robert McDougall:** In answer to madame's specific second question, I have no comments, because it comes as a surprise. I could consult my colleagues, but I have nothing to suggest off the top of my head.

**The Chair:** Are there any other comments? Mr. Mann, Mr. Baines, you have no comments?

Ms. McDonough, we're going ahead. Is that fine?

**Ms. Alexa McDonough:** Yes.

I guess the question remains whether this issue of the invoking of export control obligations can be built into regulations in such a way that it is not creating the problem of putting the bureaucrats in a position where they could potentially be overruling the minister.

**The Chair:** But that's not a question, Ms. McDonough.

**Ms. Alexa McDonough:** It is a question.

**The Chair:** No, I'm sorry, that's not question. I already asked the staff and the witnesses this morning if they had any other comments concerning this. They don't have any other comments.

Is there anyone who would like to make comments regarding this?

If there are no other comments, I'll call the question on the NDP amendment, NDP-10, to clause 14.

[*Translation*]

**Ms. Francine Lalonde:** Mr. Chairman, I understand exactly what Ms. McDonough means. This is a technical bill. If we had experts here to help us, we would certainly be able to find wording that would both allay our concerns and improve the bill. But we do not have the experts and we are limited, and so we should carry on. You will get the bill that you get, and you will have to take responsibility for it.

• (1005)

**The Chair:** Thank you, Ms. Lalonde.

[*English*]

I call the vote on amendment NDP-10 to clause 14.

(Amendment negated)

(Clause 14 agreed to on division)

(On clause 15—*Minister's order for priority access*)

**The Chair:** We now have amendment NDP-11 in your package on page 23.

Madame McDonough.

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

This amendment to clause 15 proposes replacing line 16 to 19 on page 11 with the following: "15. (1) The Minister or the Minister for International Cooperation may make an order requiring a licensee to provide to Her Majesty in right of Canada any service through the licensed system that the Minister or the Minister for International Cooperation believes on reasonable" grounds is desirable for the conduct of international relations or the performance of Canada's international obligations.

It seems to me, Mr. Speaker, that it's an oversight not to stipulate the Minister for International Cooperation in this particular clause. I'm proposing that we do so.

[*Translation*]

**The Chair:** Ms. Lalonde.

**Ms. Francine Lalonde:** I understand the intention behind this amendment and I support it. According to the testimony of certain witnesses, and their answers to questions I asked some of them afterwards, the international scientific community counted to quite an extent on the RADARSAT-1 images, since the images used radar technology and were therefore clear. There are no clouds or climate problems, and the images are extremely useful to study the environment, prevent natural disasters, etc. It seems worthwhile, if not essential, to mention the Minister of International Cooperation in the bill.

Through my research, I came to understand that RADARSAT-1 had developed a world-wide reputation. If Canada converts this satellite into a commercial satellite while continuing to invest massively in it, the government needs to maintain enough latitude to continue to exert its influence internationally through the use of this data. That is my understanding, and that is why I am supporting the amendment.

[*English*]

**The Chair:** Are there any other comments?

Mr. McTeague.

**Hon. Dan McTeague:** Mr. Chairman, I think we have to look at this from a global perspective. The Minister of Foreign Affairs is responsible for Canada's conduct of international relations, and this responsibility would of course, as we all know, cover the emergency interests of the proposed minister.

The Minister of International Cooperation has no security mandate like that of the other ministers who have received this extraordinary power. Natural disaster response will, in any event, be the highest priority service, below priority access under an operating licence granted by the minister. And I should point out that the Minister of International Cooperation has never, to my knowledge, sought this power.

I would advise voting against this amendment.

**The Chair:** Fine.

Are there any other comments?

I call the question on amendment NDP-11.

(Amendment negated)

•(1010)

**The Chair:** We're going to amendment NDP-12.

Madam McDonough.

**Ms. Alexa McDonough:** On page 11, this amendment proposes replacing line 20 in subclause 15(1) with the following: "...grounds is essential for the conduct of international relations or the performance of Canada's international obligations". In other words, it is proposing replacing the word "desirable" with the word "essential".

The purpose of this is to ensure the government licensees, other stakeholders, and the public that this extraordinary power is not used unless linked directly to an essential activity of each ministry affected that could not otherwise be fulfilled through regular commercial channels, which include payment options for priority service.

The use of the powers in clause 15 permits non-disclosure of the reasons behind the use of this power such that it should only be used in essential—in other words, extraordinary—circumstances, not just when it may be deemed desirable. Clarification should also be provided as to whether the use of subclause of 15(6) results in non-disclosure of the requested data in an archive and/or non-disclosure of the associated satellite tasking record.

So the amendment really deals with the issue of priority access.

[Translation]

**The Chair:** Ms. Lalonde.

**Ms. Francine Lalonde:** Until this point, Mr. Chairman, we were in agreement, but in this case, I prefer the current wording of the bill. If you use the word "essential", we have to prove that this is the case. When the minister has to establish priority access, this will definitely be important, but will it be "essential"? I think that is asking too much. Once again, this is a friendly suggestion.

[English]

**The Chair:** Mr. McTeague.

[Translation]

**Hon. Dan McTeague:** I agree with Ms. Lalonde.

[English]

The test of putting the word "essential" in the world of diplomacy would be far too high. It would make it difficult for the Minister of Foreign Affairs to ever make that kind of determination based on that high test. It would raise the bar just for the Minister of Foreign Affairs and not for other ministers if this extraordinary power were granted in Bill C-25.

I will be voting against it.

(Amendment negated).

**The Chair:** Now we'll go to NDP-13 on page 25.

Madame McDonough.

**Ms. Alexa McDonough:** This proposes an amendment to clause 15 by adding after line 29 on page 11 the following:

(2.1) The Minister of the Environment may make an order requiring a licensee to provide to Her Majesty in right of Canada any service through the licensed system

that the Minister believes on reasonable grounds is desirable for the protection of the environment.

I'm actually wondering if there is an error there. I was also proposing to add "essential". The suggestion, I believe, from the parliamentary secretary was that this puts too heavy an onus on the minister, but I think the purpose is to put a heavy onus on the minister so a stringent test has to be met in this place. The purpose of it is to strengthen the test that would be needed to allow him to use these powers. So I actually think there's a mistake in my own...

I'm misreading it. I apologize. I want to back up. This is not dealing with the issue of essential and desirable. Instead it proposes that the Minister of the Environment be inserted here. As we heard again and again—and I think the record will show—the role of environmental usages and the role of the Minister of the Environment are critically important, yet they are either barely mentioned or not mentioned at all in a number of places where they seem to be highly relevant. So the purpose is not to deal with the issue of desirable versus essential, but to insert here the reference to the inclusion of the Minister of the Environment.

•(1015)

**The Chair:** Thank you, Ms. McDonough.

Madame Lalonde.

[Translation]

**Ms. Francine Lalonde:** I would like to provide a brief explanation, Mr. Chairman, because during my visit to the aerospace centre, I found it extremely interesting to see how commands were given to the RADARSAT-1 satellite everyday. This will be very different in the case of RADARSAT-2.

At the moment, there is a command for the companies and one for the United States and there are three command channels for the Government of Canada: One for ice, another for maintenance of the machine and the third for other general commands. There is a person at the centre who determines the priorities. In the future, the company will be doing that. So the situation will be very different. That is probably why priority access will be used more. We should therefore provide that the federal government and even the provinces may avail themselves of this possibility differently from usual commercial clients. If there are any bottle necks, government priorities must come into play.

I asked how this will work for RADARSAT-2. I was told that this has not yet been decided, but that the system would probably be far more computerized. It is therefore reasonable that we are concerned about the way in which priorities may be established by the government. If we had had more information, we could have finetuned the bill, but the need does exist.

**The Chair:** Thank you Ms. Lalonde.

Mr. McTeague.

[English]

**Hon. Dan McTeague:** Mr. Chairman, the Minister of the Environment can be well served by the natural emergency priority established under regular commercial buy. The bill, in my view, took a minimalist position with respect to the granting of extraordinary powers for the ministers with a security mandate. The Minister of the Environment does not have a security mandate, as we discussed previously with respect to the Minister of International Cooperation and Development. The Minister of Environment, like the Minister of International Cooperation and Development, did not seek those powers during the preparation of this bill.

I would recommend voting against this.

**The Chair:** Thank you.

I call the question on NDP-13, the amendment of Ms. McDonough.

(Amendment negated)

**The Chair:** Just as explanation, first I need to call the question as to shall clause 15 carry, without amendment, on division. After that there's another on clause 15.1, and that's Madame Lalonde's amendment.

(Clause 15 agreed to on division)

**The Chair:** Now we'll go to clause 15.1. It's a separate sheet that you received.

Madame Lalonde.

[Translation]

**Ms. Francine Lalonde:** I am moving this new clause as a result of my visit.

I asked some questions and I have reviewed the bill carefully. Nothing in it prevents the equipment from being sold to foreign interests. Given that the technology was developed to a large extent at the aerospace centre, that the equipment itself was built and tested there and that the commands have been prepared by the centre, we must provide that if the owner... of course DMA tells us now that this will never happen, but in the past there was a situation in which the majority of the shares of DMA were taken over by American interests. Nothing can prevent us from thinking that in the years ahead, the system could be taken over by interests other than American interests, or that at some point, for one reason or another, we might want to sell it. We cannot know what will happen in 10 years. There could be an economic crisis and security problems.

By rewording the second subclause of the amendment—and that what I asked the drafter to do—I want to ensure that selling this system to foreign interests is prohibited and that should a company wish to sell it, the ownership would come back to Her Majesty in the right of Canada. Because the technology was developed here, because this system was built to a large extent using Canadian data and so on, it must not be sold to foreign interests. The bill provides for some obligations with respect to licenses. However, someone who is determined to get this high-technology system could simply disregard the Canadian license. I was told that the system was built in such a way that Saint-Hubert would be the command centre.

I consider this a matter of crucial importance, Mr. Chairman, and I have prepared a motion in case I do not get the answers I am seeking. In that case, I would ask to see the contract. It must be clearly stated that the system cannot be sold to foreign interests and that if we wanted to sell it, it should come back to the centre. I am not saying that because it is located in Saint-Hubert.

• (1020)

**The Chair:** That is not in your riding.

**Ms. Francine Lalonde:** No, but it is in Quebec.

[English]

**The Chair:** would just like to seek advice from the witnesses. Mr. McDougall, Mr. Baines or Mr. Mann, do you have any comments?

**Mr. Robert McDougall:** Perhaps I could start, and then Mr. Baines may wish to add something and Mr. Mann could speak from a legal perspective.

From our point of view, this amendment would equate to an outright ban on the transfer of ownership to a foreign person resident in Canada, to a foreign person resident somewhere else, or to a Canadian who resides elsewhere than in Canada. When we looked at this whole question, which we did in some depth, we concluded there was no logical reason to assume the above kinds of individuals would be a priori unsuitable to own a satellite system. They might or they might not, just as Canadians resident in Canada might or might not.

The bill already requires the minister to take into account ownership and changes therein of a satellite system under subclause 8(1), licensing affairs, and under clause 9, system disposal plan. Also, regulation paragraph 20(1)(d), which we've not come to yet, requires notice of changes in the information provided in the application, which would include change in the ownership status. The prior approval of the minister is further required for the transfer of a system under clause 16 and under subclause 8(9). Therefore, we feel the capacity for the minister to regulate transfers in terms of Canadian interests is there, and we concluded it would be more flexible not to put an outright ban on certain kinds of transfers to certain classes or kinds of people but rather to allow the discretion of the minister based on the same criteria as general.

Also, we noted, Mr. Chairman, a couple of small points here. In particular, the minister can issue a licence to a non-resident Canadian under subclause 8(1) but cannot transfer a licence under the proposed amendment, so this is something that would in fact reduce the minister's discretionary powers.

Perhaps I should turn to Mr. Baines, if I may, Mr. Chairman, and subsequently to Mr. Mann for a legal perspective.

• (1025)

**The Chair:** Mr. Baines.

**Mr. Phillip J. Baines (Senior Advisor, Sciences and Technology, Non-Proliferation, Arms Control and Disarmament Division, Department of Foreign Affairs):** Ownership was one of those issues that contributed to our taking a long period of time in developing this legislation. We worked back and forth on it all the time. We, in drafting this bill, concentrated on the actual operation of the remote sensing. As you saw, the person who gets to issue the commands to the satellite exercises control over that satellite and over where that data goes, so that's the key criterion.

When we seek the information for an applicant to acquire a licence, we also want to know at the time of application who the applicant is owned by, because there might be some ability to control a licensee just based upon ownership. Our plan is to screen these owners to the same extent as we would, for security concerns, the persons who would execute the commands and to fix the identity of these individuals within the licence. Then, if any control over the licensee is to come to the attention of the licensee, the licensee will need to submit an amendment to the licence to change the persons who may exercise control over the licence. In this way we will know that and will fix into place that no person can transfer the satellite without the approval of the minister. In this way the minister, in consultation with others, is to say whether or not this satellite should be transferred to that person.

That was our approach in this bill. It's the approach other jurisdictions take. The United States does a similar thing. We think this is the most prudent way to handle transfer of ownership.

**The Chair:** Mr. Mann, do you have any comments?

**Mr. Bruce Mann:** I have no comments.

**The Chair:** Mr. Sorenson.

**Mr. Kevin Sorenson:** I think my question was answered.

When the licence is issued, are there any conditions...? Obviously, there are conditions on ownership and revoking a licence. What would that do if the ownership was in the middle of being transferred?

**The Chair:** Mr. Baines.

**Mr. Kevin Sorenson:** If the department didn't like the idea of the transfer of ownership, how much power do they have to prevent it already?

**The Chair:** Mr. McDougall.

**Mr. Robert McDougall:** I think there are two questions here. Transfer of ownership in that sense would, as I understand it—I defer to my colleagues in case I'm wrong—be covered by existing legislation like the Investment Canada Act. That is to say, the ownership question is one for which the government has only certain powers. The power the government would have, however, Mr. Sorenson, would be on the transfer of the licence, since a change in ownership would equate to a transfer of a licence and the minister would have the power to decide whether to accept that transfer or not.

**Mr. Kevin Sorenson:** Is there a difference in the aspect of licensing if there is a transfer of ownership from one Canadian citizen, as this talks about, to another resident Canadian? What measures are different if it is going to a non-resident of Canada?

**Mr. Robert McDougall:** I believe we've tried to set up a neutral situation here, sir, in which all transfers of ownership would be subject to review on an equal basis again against those criteria of Canadian national defence, the national security, foreign policy, and other interests, among others.

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

**The Chair:** Thank you.

Madame Lalonde.

[*Translation*]

**Ms. Francine Lalonde:** I do not think you have covered all the situations. At the moment, you can prohibit DMA from selling the satellite if one criterion or another has not been met. However, let us assume that DMA is experiencing some serious difficulties and must sell the satellite. In such a case, even if you set all sorts of conditions, DMA could be bought out. I would remind you, not for the fun of it, but because I did not find this amusing, that DMA was under American control for a certain period of time. It could have been controlled by someone else.

I am told that Spar have been bought out by Americans, and that is not amusing either. AME received a bid that was considered unacceptable. We must not forget that there is a lot of money around at the moment and given the current context, there are reasons why we are talking about terrorism.

Because of the characteristics of radar, this powerful satellite has military capabilities that RADARSAT-1 and others do not have. In case we cannot prevent the satellite from falling into the hands of people who could be a threat in terms of defence and security, should we not provide that the minister can prohibit it leaving the country? In order to do this, Her Majesty in the right of Canada must be the owner. That is what I want to be sure about. That would mean that we could negotiate and we would not find ourselves in a situation where we would lose control over this gem produced by the aerospace centre. It took years and years of research and technical experimentation. It must be launched into space, stand this test and respond to commands. I think the potential situation I mentioned would make no sense. It is not clear to me that we are doing everything we can to prevent that. I want situations of this type to be covered, and that is why I would even like to see the contract if necessary.

• (1030)

[*English*]

**The Chair:** Mr. McDougall.

**Mr. Robert McDougall:** Thank you.

The points raised by Madame la députée are of course entirely valid. Our approach, as I mentioned and as Mr. Baines also mentioned, is essentially to focus on the control of the satellite as opposed to ownership. In fact, the current legislation does not, in its current state, touch on the ownership. But if a company, the company involved in the satellite, the licensee of the satellite, were sold to another company, in effect, the licence would become invalid. Under the act you are not permitted to operate a satellite from Canada unless you have a valid licence. Therefore, the company would not have the right to operate the satellite. That is the way we set it up.

As I said, we did consider various options. We did conclude that it was best to allow flexibility in terms of ownership, but to be absolutely rigid in terms of control. That was our conclusion of the best way forward.

**The Chair:** Could we have Madam McDonough and then Madam Lalonde, please?

**Ms. Alexa McDonough:** I want to speak very strongly in support of the amendment that is before us.

There has been a massive investment by Canadians in the technology that we're now dealing with in RADARSAT-2. Clearly, major interests of Canadians are affected by the manner in which it is operated. That's what we're doing here: dealing with the legislation to ensure that Canadian interests are in fact served. I appreciate that the witnesses have pointed out, as has the parliamentary secretary, that the minister has the discretion to keep the ownership in the hands of Canadians, but I would say that's precisely what's wrong with the bill as it now exists, that it is discretionary. And it seems to me that we're not really hearing arguments for why the ownership of RADARSAT-2 should be discretionary as opposed to remaining in Canadian hands.

The existing legislation, as Mr. McDougall has pointed out, does not specify ownership. And I think it's fair to say that our expert witnesses have concentrated on the issue of licensing because this is what was asked for by the government.

I think what we're saying is we think it's a very, very short-sighted thing to be passing this legislation without explicitly banning ownership by foreign interests. I would urge support for this.

I haven't heard a defence at all as to why we would want to allow it to pass into foreign hands when there is so much at stake here in terms of both protecting a Canadian investment and having such a major impact on everything from national security to the environment.

• (1035)

**The Chair:** Fine.

[*Translation*]

Do you wish to say something, Ms. Lalonde?

**Ms. Francine Lalonde:** I would like to ask Mr. McDougall a question again. You answered my question in part, but not fully. You said that you opted to control this by means of the licence. That means that you are assuming that if you refuse to grant a licence, no one can use the satellite.

That may not be the case. It could happen that someone may want to buy it and administer it from elsewhere. I am told that there is an encryption system. With technological developments, someone who wanted to could administer it from another location, or even from Canada by requesting a licence elsewhere. I think this is a weakness in the legislation.

You have not covered everything. For the citizens of Quebec and Canada who have invested in this project, for the researchers who have put their whole soul in this project for years, for technical development, and, I would repeat, because of all the money we have invested in it, we must ensure that the system remains in Canadian

hands. I am a sovereignist, and I am nevertheless calling for that. I am defending taxpayers' money.

**The Chair:** Thank you, Ms. Lalonde.

[*English*]

Are there any comments? Mr. McDougall, go ahead, please.

**Mr. Robert McDougall:** Thank you, Mr. Chairman.

I have two points. One I'll make, and the other one I'll turn over to Mr. Baines.

First of all, the first subparagraph here says "No person shall transfer a remote sensing space system or any part thereof to a non-resident Canadian".

There has been some discussion about the investment made in RADARSAT-2, and certainly a great deal of Canadian government money has been put into that project, no question. However, I point out that this clause, as drafted, would cover not just RADARSAT-2 but every satellite that was licensed under this law, including, for example, a satellite put up entirely through private funding, or a satellite put up by a foreign company that had decided to launch and operate a satellite from Canada. So from our point of view, in addition to having other problems, it does seem a bit sweeping in terms of all the different types of satellites it would in fact cover.

On the specific point, however, that Madam Lalonde made, I turn to Mr. Baines, if I may, Mr. Chairman.

**The Chair:** Mr. Baines.

**Mr. Phillip J. Baines:** I would just like to go over the ground again where we've covered change in ownership. We've covered it in subclause 9(1), a disposal plan. Disposal is a very big word. It doesn't mean just destruction of something. It can mean the sale, the transfer of ownership, and the like. So under clause 9 requiring a disposal plan, we can put all additional measures we need concerning the ownership.

On the licensing under subclause 8(1), we can fix in the licence the persons who we acknowledge will exercise control over the satellite. If the control changes, the licensee will need to seek an amendment.

Under clause 16, no person may operate the spacecraft without an override capability from Canada, or without the minister's permission. Again we have it covered.

So we've adequately covered the ownership in three separate places to protect this satellite from moving somewhere without our permission.

**The Chair:** Thank you.

Mr. Sorenson, do you have a question?

**Mr. Kevin Sorenson:** I was just going to ask Ms. McDonough a question. Right now we're looking at this new satellite going up. It's a tremendous asset and has a great future ahead of it. But what happens if five, six, or seven years down the road the technology has advanced so much that the technology of some of these satellites—maybe ten years down the road—is old news, old technology, and the value of the satellite drops to a point where very few people are interested in purchasing it? Given that we've already touched on the sale of the satellite, the disposal of it, or whatever, do you believe that Canadian business would be forced to keep it, even if there were no other Canadians willing to purchase it, but just to dump it?

It seems to me we've already put enough safeguards in place that we aren't going to just hand it off to another country to use against us. But if the technology becomes old, will we be forced to keep it and never sell it?

● (1040)

**The Chair:** I don't think we should have questioning between us. The question will be directed to the witness on any comments concerning Mr. Sorenson's point.

There are no comments.

We're going to call the question on the new article 15.1 from the Bloc Québécois.

[Translation]

**Ms. Francine Lalonde:** I would like to exercise my right to reply.

**The Chair:** Please do so quickly. You did not listen to me. I am giving you the floor. Please proceed.

**Ms. Francine Lalonde:** Thank you, Mr. Chair.

It is not time wasted because the ownership of the system is one of the most important issues. In fact, this issue is not dealt with in the bill, and I've tried to make sure that it is. This is the only way I could do so.

My last question is for either Mr. McDougall or Mr. Brûlé. Is the issue of future ownership of the system, its sale by MDA, included in the signed contract between MDA and the centre? I suppose it is the centre that signed the contract.

[English]

**The Chair:** Mr. McDougall.

**Mr. Robert McDougall:** The short answer is no. The contract between the CSA and MDA is not a licence. They will have to get a new licence if and when Parliament chooses to pass this bill and the regulations are set up. There will have to be an entirely new process of licensing carried out.

**The Chair:** Thank you.

Is that fine, Madame Lalonde?

(Amendment negated) [See *Minutes of Proceedings*]

**The Chair:** Madame Lalonde.

[Translation]

**Ms. Francine Lalonde:** I would like to table the notice of motion I sent you and which reads as follows: That, in the context of its study of Bill C-25, an Act governing the operation of remote sensing space systems, the Canadian Space Agency and RADARSAT International submit to the Committee,

pursuant to Standing Order 108(1)(a), any contract linking the two organizations and that the Committee examine the said contracts prior to proceeding further with the bill.

[English]

**The Chair:** You have a motion. Do you want to deal with the motion now? That is your intention? Okay.

It's a quarter to eleven. We need to finish by eleven, according to the rules of our committee. We're going to now stop the clause-by-clause we're doing this morning on Bill C-25. We will resume on Bill C-25, but my intention right now, for the last 15 minutes.... We have other business to deal with; we're going to deal with it.

Thursday morning, the meeting was to be from 9 to 10 a.m. with Monsieur Wolfensohn, and after that with Mr. Axworthy. I'm going to call the meeting for 8 a.m. on Thursday morning to deal with the motion on Bill C-25 and to keep going with the bill.

That's fine. That's what we're going to do now. This means the motion will be dealt with Thursday morning at eight o'clock. We're going to keep on with Bill C-25 on Thursday morning from 8 to 9 a.m. until Mr. Wolfensohn is here, and after that we'll see if we finish or not on Thursday morning.

Thank you very much to the witnesses. Now we're going to deal with some other business.

In the other business that you have, there are two motions. The first one is that pursuant to Standing Order 108(2) the committee invite Mr. Mikhail Gorbachev to appear on April 11, 2005, in the context of its study on disarmament issues. Are all agreed with this?

**Some hon. members:** Agreed.

● (1045)

**Hon. Dan McTeague:** What did we agree to?

**The Chair:** We agreed that Mr. Gorbachev appear before the committee on Monday, April 11.

**Hon. Dan McTeague:** Do we have time to deal with this? I'm not sure we do.

**The Chair:** What do you mean by that?

**Hon. Dan McTeague:** The timing is that we keep pushing this back. If, for instance, on Thursday morning there are other concerns

**The Chair:** That's on a Monday. Usually we're not sitting on a Monday.

**Hon. Dan McTeague:** Oh, you're holding it on a Monday—

**The Chair:** Yes, it's on a Monday.

**Hon. Dan McTeague:** —as opposed to another day.

Go ahead, Mr. Menzies.

**The Chair:** Mr. Menzies.

**Mr. Ted Menzies (Macleod, CPC):** I guess I'm also concerned. We have a lot on our plate already, and I'm concerned, if we keep throwing all of these extras in. I'm also concerned about what this is going to add by way of information. No offence here, but I think we'll see a bit of a media grandstand around it, and I don't know that the information we're going to gain will be beneficial to anything.



Can someone explain the purpose of this invitation?

**The Chair:** The purpose of this invitation? Everyone knows Monsieur Gorbachev, and considering the study on disarmament issues, I think it's very important. We're going to do an international policy review, and I think this could be one of the greatest witnesses we could have in this committee to discuss this matter.

Madame Lalonde.

[*Translation*]

**Ms. Francine Lalonde:** As my colleagues are aware, we are awaiting review of Canadian foreign policy. I believe he would be an important witness because he's familiar with the other system. He is knowledgeable of the USSR's military potential, is familiar with eastern block countries and has knowledge which may be useful to us. I believe he should be invited. He is a man of prestigious stature.

[*English*]

**The Chair:** Madam McDonough.

**Ms. Alexa McDonough:** I just want to say it's fair enough to raise questions. The onus is on me, as the committee member who put forward this motion.

I just think we can't treat the non-proliferation treaty review that is about to get under way under the umbrella of the United Nations as something that's a kind of extra or add-on that we ought not to be concerning ourselves with. It's absolutely central to the whole challenge of peace and disarmament in today's and tomorrow's world. He is acknowledged internationally for his continuing leadership, courage, persistence, resilience around the issues of disarmament, in the face of what often has been less than totally enthusiastic support from successor leaders in the U.S.S.R. and in Russia. I think we would be very privileged to have him appear.

You're quite right. I don't know if we should describe it as a media frenzy, but I think it's a welcome thing that there could in fact be quite a bit of interest in what Mr. Gorbachev has to say to the committee. We often set up special meetings to hear from people on a variety of subjects that are of far less international import than the fundamental and overarching issue of disarmament.

**The Chair:** Thank you, Ms. McDonough.

I want to point out that there is the Gorbachev Foundation in Calgary. I think it would be great to have him here.

**Mr. Ted Menzies:** That's just outside my riding.

**Some hon. members:** Oh, oh!

**Hon. Dan McTeague:** Mr. Chair, I think there's probably a consensus. Since this is a Monday and it doesn't interfere with the agenda, I'm not resisting this. I certainly want to hear from him.

**The Chair:** All agreed?

**Some hon. members:** Agreed.

**The Chair:** Now, the second one is on a Wednesday. If people want to come, they'll come, or they'll be replaced. It's that pursuant to the motion of October 20, 2004, concerning a review of international policy, in particular United Nations reform and humanitarian crises, the committee invite Jeffrey Sachs, who is the director, United Nations millennium project, to appear on April 6, 2005, and that the

members of the committee's two subcommittees be also invited to attend.

I think the millennium goals are an important issue also, and it will be fabulous to have Mr. Sachs; he's the director.

**Some hon. members:** Agreed.

**The Chair:** That's on Wednesday the sixth.

Now, you have all received this, an extract from the Journals of the House of Commons from Wednesday, January 19, 2005. There are three nominations, the first by Mr. Valeri, leader of the government in the House of Commons: certificate of nomination of Paul Gobeil as chairperson of the board of directors of Export Development Canada, pursuant to Standing Order 110(2), Sessional Paper 8540-381-8-08, pursuant to Standing Order 32(6), referred to the Standing Committee on Foreign Affairs and International Trade.

You see all the documents and the CV concerning this. I requested that you let me know if you had any intention of having them appear in front of the committee, and I haven't received anything from any of the members of this committee. I just want to ask, can we deal with this now, or do you want them to appear in front of the committee?

Mr. Sorenson.

• (1050)

**Mr. Kevin Sorenson:** I think it's good they're coming, but we haven't had a chance to go over their profiles; we got them late yesterday. What we would like to do, whoever brought this motion—the NDP—is postpone this thing till Thursday. Give us a chance to go through the profiles until Thursday, and we'll deal with this then.

**The Chair:** I don't see any problem.

I have three, now.

I just want to let you know that the committee can decide if it's going to be done on Thursday.

I'm going to ask Mr. Eyking, who's the parliamentary secretary to the Minister of International Trade, to say something.

**Hon. Mark Eyking (Parliamentary Secretary to the Minister of International Trade (Emerging Markets)):** Thank you, Mr. Chair.

Yes, there are three appointments here. Two are for EDC and one is for CCC. There's very little politics in these appointments, but it's very important that we get these appointments done because these people will be running these corporations. They're very sound corporations; they've gotten kudos from the Auditor General, and the boards have done their due diligence and homework in putting these names forward.

Mr. Chair, if I may say so, I would like to get this done today. It's according to the committee's wishes as to how they deal with it, but we have to deal with this as soon as possible because these corporations need leadership.

Thank you.

**The Chair:** Thank you.

Are there any other comments?

Mr. Menzies, please.

**Mr. Ted Menzies:** I have to question this. If these are such critical appointments, why is it we only have a matter of hours? I'll defend my staff here; I had a staff member who went home sick yesterday, so I didn't see these. I'm concerned about rubber-stamping these without at least having a look at them. I go back to the question that if they are that critical, why didn't we see them last week?

**The Chair:** I want to point out, Mr. Menzies, that this was sent to every member of this committee on January 21, 2005.

**Mr. Ted Menzies:** The bios?

**The Chair:** I'm not talking about the bios—the nomination. It was a request for any member who wanted to see the bios to make it known if that was the intention of the member, and I didn't receive any communication from either side of this committee. It was done on January 21. I'm willing to go to Thursday, but I want to let you know that it's not a question of receiving it and voting within 24 hours. You've received the CV because to be sure you got it I requested that the clerk do it, yet you say you hadn't received it before. I could have requested that you get the CV from them, honestly. I just want to let you know that this was sent about two months ago, and that was the intention.

Now, I'll let you know also that if we don't deal with this, it's going to come into effect the first week of April, but I'd like to have members say what they have to say regarding this.

I have Madame Lalonde.

[*Translation*]

**Ms. Francine Lalonde:** Mr. Chair, Pierre Paquette is not present today. We are counting on the presence of his competent colleague to discuss a matter of international trade. Pierre Paquette told me—and I thought Mr. Eyking would talk about it—that Mr. John McBride's certificate of nomination was a problem to the extent that...

**The Chair:** Ms. Lalonde, we are now studying Mr. Gobeil's nomination. If you want to talk about all three nominations, we can do so.

•(1055)

**Ms. Francine Lalonde:** I'm willing to deal with Mr. McBride's nomination, and I agree to holding off on the first and third nomination until Thursday. We can dispose of the second one immediately because there is a small problem I was told. There is a delay of three days between the former incumbent and the new one.

[*English*]

**The Chair:** Okay, fine.

Go ahead, please, Madam McDonough.

**Ms. Alexa McDonough:** I don't think there's any intention on anyone's part to be obstructionistic at all. I know I came straight from the airport this morning not knowing this was on the agenda today. I'd be bluffing if I said I remembered reviewing the CVs with careful attention, and I think it's just a responsible thing, on our part, to not blindly rubber-stamp this. I would support the request of Mr. Sorenson that, if we can, we deal with this on Thursday.

**The Chair:** Okay. I have a question. Madame Lalonde said that she was willing to go for the second one of Mr. McBride. Mr. Gobeil and the third one, Mr. Wright, will be dealt with on Thursday morning. We're going to start with this.

My question is for the members. Do you agree? Because, as Mrs. Lalonde pointed out, there is a problem. There will be a flooding time when there'll be no one responsible, and I think this is why.... Do you agree to deal with the nomination for the president of the Canadian Commercial Corporation now, as proposed by Madam Lalonde—she agrees to this nomination—or do you disagree? Are all agreed to deal with this one now and the other two on Thursday morning?

**Ms. Beth Phinney:** You're going to come at seven in the morning?

**The Chair:** If you wish. I have no problem with seven o'clock.

**Ms. Alexa McDonough:** I'm not asking that they come before the committee, but I'm not going to vote for an appointment when I really don't know what I'm voting for. That's the reality.

**The Chair:** You could abstain if you want to abstain.

**Ms. Alexa McDonough:** Well, I'll vote against our dealing with it today because I think the request is that we deal with it on Thursday.

**The Chair:** Okay, I put the question. Pursuant to Standing Order 32(2)....

We're going to go for the second one. Pursuant to Standing Order 32(2), Mr. LeBlanc, parliamentary secretary to the leader of the government in the House of Commons, laid upon the table a certificate of nomination of John McBride, president of the Canadian Commercial Corporation, pursuant to Standing Order 110(2), sessional paper number 8540-381-8-09, pursuant to Standing Order 32(6) referred to the Standing Committee on Foreign Affairs and International Trade.

That's this one. All approving the nomination of Mr. John McBride? Against? Abstention or against?

**Ms. Alexa McDonough:** Well, I....

**The Chair:** That's okay.

**Mr. Maurizio Bevilacqua (Vaughan, Lib.):** Mr. Chairman, the same logic could be used for the other two.

**The Chair:** We'll deal with them on Thursday morning.

**Ms. Francine Lalonde:** Pierre Paquette told me that everything was fine and that they agreed on this one at the subcommittee meeting.

**The Chair:** We have two minutes left.

I have the motion of Mr. Menzies that pursuant to Standing Order 108(2) the committee undertake a comprehensive review of chapters 11 and 19 of the North American Free Trade Agreement, NAFTA. I would suggest to the committee that this be referred to the subcommittee on international trade, because it's not up to us to study this. We have a motion to study it; we're not going to study it if you're already studying it. You asked us to study it. That was the motion you carried to us.

**Mr. Ted Menzies:** So you're passing it back to the subcommittee?

**The Chair:** You're doing it. We're not going to get two committees doing that study.

**Mr. Ted Menzies:** Fair enough.

**The Chair:** Fair enough.

Go ahead, please, Madam McDonough.

**Ms. Alexa McDonough:** You're saying that procedurally what we're doing is referring it back to the committee on the understanding that we are supporting their decision to conduct a comprehensive review of chapter 11? I think there is an issue here that's being brought to us, and I'd like to see us, at least today, indicate that this committee supports the importance of doing exactly that. We haven't had—

**The Chair:** The motion of Mr. Menzies is clear for the main committee. The main committee said to go back to the subcommittee and to keep on with what we're doing on the study of the two chapters on NAFTA. After that we'll come back to the main committee with the recommendation and we'll see at that time, as the full committee, whether to accept it or say what we will do at that time. That is what I think we should do right now.

Madame Lalonde.

• (1100)

[*Translation*]

**Ms. Francine Lalonde:** Mr. Chair, that is not what I had understood. In the sub-committee, I gathered that this study was to be undertaken by the standing committee. That is how I interpreted Mr. Menzies motion which reads as follows: That, pursuant to Standing Order 108(2) the Committee undertake a comprehensive review of chapters 11 and 19 of the North American Free Trade Agreement (NAFTA).

Therefore, it should be dealt with at the standing committee and not the sub-committee. In my opinion, it is part and parcel of the foreign policy review since we have already studied the implementation of chapters 11 and 19 when we produced a report on NAFTA. These sections are problematic and it is up to the standing committee to examine it.

**Mr. Gerry Schmitz (Committee Researcher):** I agree with Ms. Lalonde. We have already undertaken an in-depth study of NAFTA which, without a doubt, will be included in the foreign policy review.

[*English*]

**Mr. Kevin Sorenson:** Can I ask a question, Mr. Chair?

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

**Mr. Kevin Sorenson:** Do you have any idea when the subcommittee is going to report back?

Given the frustration and the struggle we have with softwood lumber, and more specifically with the beef industry right now, this is showing the importance of chapter 11 and chapter 19. I think they're trying to say that not only are they having the subcommittee look at it, but given the state we're in right now in the beef industry, they want the main committee to very quickly look not at every intricate part of chapters 11 and 19, but at some of the roadblocks we're having.

I still think the motion is a good motion.

**The Chair:** Okay. We have a meeting to finish. I need to clear the room for the next committee.

There is no decision that we're going to make this morning. We'll make it on Thursday morning. That's fine.

The meeting is adjourned.





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