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**Chair**

**Mr. Kevin Sorenson**

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# Standing Committee on Foreign Affairs and International Development

Tuesday, November 21, 2006

• (1535)

[English]

**The Chair (Mr. Kevin Sorenson (Crowfoot, CPC)):** This is the Standing Committee on Foreign Affairs and International Development, meeting number 29. We are here this afternoon to continue our study of Bill C-293, an Act respecting the provision of development assistance abroad.

We have already heard from the sponsor, Mr. McKay, of this private member's bill. I believe that is probably the most recent work we have done on this bill. Many of the members of this committee have suggested witnesses to come forward to testify on the bill. We're going to be hearing from CIDA officials, Department of Foreign Affairs, Finance, and numerous research and policy centres from around the country who wish to contribute to our study on the bill.

Today we have as witnesses from CIDA, the Canadian International Development Agency, Christiane Verdon, senior general counsel, legal services division; and Stephen Wallace, vice-president of the policy branch.

We welcome you here today. We look forward to what you have for us. We'll then go into the first round of questions.

In the second hour today we will be discussing our draft report concerning the committee's study and recommendations on Haiti. In this first hour we welcome you here. We look forward to what you have to say on this all-important bill.

The time is yours. Thank you.

[Translation]

**Mr. Stephen Wallace (Vice-President, Policy Branch, Canadian International Development Agency):** Thank you very much, Mr. Chair.

[English]

Thank you, Mr. Sorenson.

It really is an honour to be here.

[Translation]

It's a privilege for us to appear before the committee.

[English]

We're very pleased to continue to support the work of the committee. We've been following closely the progress of Bill C-293 and have been studying its possible implications. We've also undertaken background analysis of legislative mandates across

OECD member countries, and we'd be happy to discuss the results of this international analysis if you would like and are interested in it.

As the Organization for Economic Cooperation and Development has put it most recently:

A well-developed legislative basis has the advantages of transparency and of clarifying responsibilities among the various government entities that may be involved, as well as establishing development objectives.... On the other hand, countries with a less formalised legal basis may have more flexibility to act and this could be an advantage when trying to build coalitions between development agencies and other government entities whose policies and actions have an impact on development prospects in developing countries.

That's from the OECD earlier this year. Legislation is indeed featured quite prominently in several other countries of the Organization of Economic Cooperation and Development, although it is quite specific to the legal and political circumstances in each particular case. There's not a lot of comparability when you walk across the international system; these are fitted very much to local circumstances.

A key objective of development assistance legislation is establishing a clear and efficient legal basis for the aid program in a way that can stand the test of time and remain relevant in a changing world.

This challenge is, of course, even greater from a legal perspective when you consider the range of government departments here in Canada, including the Departments of Finance, Foreign Affairs, and line ministries that help to deliver on Canada's aid program and that will be affected by this bill.

From an operational perspective, Bill C-293 needs to achieve a result—and I think committee members have been working towards that objective—that is clear and simple, easy to understand, understandable in its application, and with relevant and efficient reporting requirements.

On the easy-to-understand question, my colleague would like to raise a number of points that we hope will be of use to the committee in its detailed review of the bill.

It's important to state at the outset that the underlying objectives of Bill C-293—i.e., achieving greater clarity of purpose, strengthening accountability, and setting new standards of transparency—are consistent with the guidance we have received from the government. These are core elements of better aid. They are objectives that lie at the heart of the aid effectiveness agenda that the Minister of International Cooperation had the opportunity to discuss with you less than three weeks ago.

[*Translation*]

For the past six months, CIDA has been implementing a four-part program to make aid more efficient, through a more strategic focusing of Canadian cooperation, a systematic improvement of program delivery, a more effective and efficient use of our resources and a clear accountability for results. These issues can also be found in several provisions of this bill.

[*English*]

In terms of the objective that it must be understandable in its application, I want to identify a number of potential problem areas for consideration, taking into account as well any amendments the sponsor of Bill C-293 has put to the committee.

The first has to do with the petitions system. Measures to increase the responsiveness of the aid program to those for whom aid is intended are indeed important, but we have questions about its value-added, the management requirements, and overhead implications for the aid program.

A second question relates to how we would apply the mandatory requirement, as we see it, to consult international agencies and Canadian civil society organizations on any decision involving the use of aid. This could cover literally thousands of decisions every year, around the world, for which specific consultative arrangements would need to be established and where Canadian civil society organizations may not even be present.

We're very much engaged on an ongoing basis with consultative processes. These are essential to our effectiveness, be they on partner relations, country strategies, or sectoral and operational issues, for example. But we are concerned about the administrative implications of doing so, as formulated in this proposed bill, on an indiscriminate basis.

We see a related problem in how we would interpret in law the otherwise critically important principle of taking into account the perspectives of the poor. CIDA and its more than 700 Canadian partners currently do so through a variety of formal processes—for example, project steering committees, country strategy exercises, consultations on different themes and sectors—and a lot of informal meetings, through site visits, through discussions, through background research. This is what we do right now in taking account of perspectives of the poor. In law it is unclear what would be the test of performance in this particular area. We raise that as an issue.

Moving on, we've had good experience with advisory committees. We believe they can add real value and transparency to Canada's international cooperation program. We wonder, however, whether limiting advice to ministers to a single advisory committee is preferable to special purpose committees that can provide specialized advice on particular issues. In three weeks, for example, an expert panel is being established under the minister's authority to examine issues related to Canadian partnership programming in civil society. The composition of this committee has been designed specifically in relation to its particular mandate.

More can be done to strengthen reporting for accountability and results. Bill C-293 contains several provisions in this regard. The requirement to report on any activity or initiative taken under the bill is very broad, and in our view unprecedented. Other reporting

provisions are the responsibility of various ministers, and we expect that the committee will want to ensure that there is no blurring of the accountability relationship that specific ministers might have to Parliament.

These are some of the operational questions, Mr. Chair and committee members, raised as we go through some of the specifics of Bill C-293. We'd be very pleased to discuss them and other areas of interest. We hope our perspectives will serve the needs of the committee.

Thank you very much.

• (1540)

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

Madam Verdon.

[*Translation*]

**Ms. Christiane Verdon (Senior General Counsel, Legal Services Division, Canadian International Development Agency):** Thank you, Mr. Chair.

I will address my comments to the bill as tabled in the House as well as to the amendments moved by the sponsor.

The bill raises a number of questions. I would like to comment on some of these. First, it does not seem to take into consideration the present legislative framework. Second, its wording is such that it leaves much room for interpretation, which can increase the risk of judicial reviews. Third, it superimposes development assistance criteria that will make it difficult to implement. Finally, the overlapping of some provisions with other legislation will blur accountability in the development assistance field.

Let me give you a few examples. First, I will address the present legislative framework. In the federal government, development assistance is covered by several acts that define the mandate of the ministers responsible for the administration of development assistance programs. The legislative framework is both specific and complex. For instance, it includes the Department of Foreign Affairs and International Trade Act, the International Development (Financial Institutions) Assistance Act and the Bretton Woods and Related Agreements Act.

I would be happy to say more about this, if you wish me to, but the representatives of the Department of Foreign Affairs and International Trade and the Department of Finance can also explain the issues they perceive about the impact of the bill on their respective legislations.

• (1545)

[*English*]

A second category of questions relates to interpretation and drafting issues. The bill presents some interpretation questions because of inconsistent language throughout the bill and the use of words or expressions that do not always have a precise meaning. Here are a few examples of inconsistent language.

Two different expressions, “Canadian development assistance abroad” and “Canadian development activities abroad”, are used within the same clause—clause 2. It is unclear if the expressions are meant to be different. Is the term “Canadian development activities” meant to cover the type of assistance referred to in clause 5—i.e., humanitarian assistance—as well as the defined term “development assistance”? If this is the case, humanitarian assistance would have to be provided in accordance with the principles of sustainable development. Also, the requirement to exercise Canadian development activities abroad in accordance with the principles of sustainable development is not subject to the same standard of ministerial discretion as the requirement to contribute to poverty reduction.

Also, in clause 2, the words “international human rights standards” are inconsistent with the wording found in paragraph 4(1)(c), which uses “Canada’s international human rights obligations”. It is unclear why two different expressions are used.

Finally, the term “competent minister” refers to ministers designated to provide development assistance, not humanitarian assistance. However, the term “competent minister” is used in clause 5, which appears to relate to humanitarian assistance.

Examples of the lack of precise meaning in the purpose clause, clause 2, include concepts like “Canadian values” and “international human rights standards”, which do not have an easily defined ordinary meaning. A definition of the latter term, “international human rights standards”, has been offered in proposed amendments, but it still steers away from Canada’s actual international obligations.

The amended definition proposed for “development assistance” is unclear. For example, the funding transfers seem to be to developing countries and multilateral institutions only. On its face, this can mean that funding transferred to NGOs for the benefit of the developing countries is excluded from the definition. It should be noted, of course, that the use of vague terms could open the door to a greater risk of judicial review.

There are two more points I would like to add in relation to drafting.

Purpose sections are usually meant to declare the principles of an act. They should not create obligations, which should be found in the more substantive provisions further in the bill, but subclause 2(2) does create an obligation that in fact goes beyond the purpose of the bill as stated in subclause 2(1). The purpose in subclause 2(1) relates to development assistance; however, the obligation in subsection 2(2) relates to all development activities abroad.

With respect to clause 7, on petitions, the petition system creates a risk of judicial review, especially taking into account the ambiguous language of subclause 7(5), which suggests that corrective measures must be taken.

A third category of questions I have relates to the superimposition of the various applicable criteria to ministerial decisions with respect to development. Beyond the issues of reconciling the various mandates expressed in the other statutes, Bill C-293 itself presents a challenge in the application of the various criteria or filters it sets for the provision of development assistance.

●(1550)

Let’s look first at the definition of development assistance. The definition incorporates the definition provided by an international body, the OECD, and it is *ex post facto* that the OECD determines that funding already provided by a donor country constitutes ODA for the purposes of the OECD.

[Translation]

The amendment to this proposed definition includes a substantive dimension beyond the formal criterion: the transfer must promote the economic and social development of developing countries. This criterion, which defines the scope of the bill, will make it more complex to interpret and implement as drafted.

Let us now examine the criteria defined in subsection 2(2). This subsection about Canadian development activities abroad requires these activities to be provided in accordance with the principles of sustainable development.

Subsection 4(1) adds three conditions to the exercise of ministerial discretion about whether or not development assistance will be provided. Assistance must contribute to poverty reduction, take into account the perspectives of the poor and to be consistent with Canada’s international human rights obligations.

The wording of paragraph 4(1)(c) is particularly problematic. It goes without saying that any minister is required to honour Canada’s international obligations. However, given the interpretation principle of effectiveness, which provides that everything the legislator says has a purpose, there is a risk that the wording to the effect that the minister must honour Canada’s international human rights obligations be interpreted as introducing a new requirement in Canadian law.

In addition, according to the amendment moved by the bill sponsor, in arriving at the opinion that development assistance contributes to poverty reduction, the competent minister must consult with international agencies and Canadian civil society. Beyond implementation issues, this requirement could open the door to a greater risk of repeated judicial reviews.

A final category of questions relates to

[English]

redundancy and blurred accountability.

The reporting sections of the bill create two levels of difficulty: they create requirements for reporting that are repetitive when taking into account the obligations under other acts and within this bill, and they appear to blur the accountabilities of the ministers involved.

For example, under clauses 9 and 10, both the Minister of International Cooperation and the Minister of Finance have to submit a report relating to the bill.

The Minister of International Cooperation has to submit a report containing a description of any activity or initiative taken under this act, while the Minister of Finance must submit a report containing a summary of operations under this act. The distinction between the two reports is not clear and begs the question of who is truly accountable for reporting under this bill.

Under the current legislation, it is the Minister of Finance who submits a report under the Bretton Woods and Related Agreements Act. The requirement in paragraph 9(1)(c) to submit a summary of that report is an example of duplication of the tasks of the Minister of International Cooperation and the Minister of Finance.

• (1555)

[Translation]

This was a brief outline of some of the issues raised by Bill C-293. This is what I would call a horizontal bill impacting the mandates and responsibilities of several ministers which are already included in other acts of Parliament, such as the Department of Foreign Affairs and the Department of Finance acts.

I will leave it to officials of these departments to give you more information on this.

[English]

**The Chair:** Merci, Madame Verdon and Mr. Wallace.

Mr. McKay, you have seven minutes on the first round.

**Hon. John McKay (Scarborough—Guildwood, Lib.):** I'm sure Mr. Obhrai was following those comments closely.

Thank you, witnesses, for coming this afternoon. I'm always concerned when the relevant department says it is consistent with CIDA goals and its objectives and consistent with the minister, and then spends the balance of the time pulling apart the bill.

In any event, you have good work to do here. Let me see if I can pick out a few of the questions. I would have liked to have read your brief prior to its submission, because it's so detailed and it was difficult to follow specific sections that you were having concerns about.

The petition system, under the proposed amendments, is eliminated, so I'm a little perplexed by your comments on the workability of the petition system. Am I missing something there?

**The Chair:** I think Mr. Wallace...they are making comments in regard to the initial draft of the bill. They probably don't have any—

**Hon. John McKay:** No, they said they did.

**Mr. Stephen Wallace:** We were taking into account both. We're not quite sure where the amendments are going to go, so we needed to make comments on both aspects.

**Hon. John McKay:** Subject to the will of the committee, it's proposed that we withdraw the petition system, so that would eliminate that concern.

You said that the interpretation is unpredictable and that there's some redundancy. I'll go to your last comment first, Ms. Verdon. I understood your comment in the sense that you thought the Minister of Finance had to report, and also presumably the CIDA minister had to report, but I'm not clear why that's a redundancy.

**Ms. Christiane Verdon:** Well, to me it seemed redundant. When I look at the wording of the clause, it seems to mention more or less the same thing.

I'm trying to find it now.

**Hon. John McKay:** Isn't that merely an obligation on the part of both ministers to report to Parliament? Presumably they would report

something similar to what they would be making up in any event. There's no additional obligation on the part of the minister or ministers.

**Ms. Christiane Verdon:** I was looking at clause 10. It referred to "a summary of any representation made by Canadian representatives with respect to the priorities and policies of the Bretton Woods Institutions". Clause 9 says the same thing, except that instead of "Bretton Woods Institutions", it says "the World Bank and the International Monetary Fund".

Maybe I'm not well informed, but I thought the Bretton Woods institutions and the World Bank and the IMF were the same. Based on that, I thought...it seemed redundant that they would both report on that—

**Hon. John McKay:** Bretton Woods is our treaty obligations. That's what precipitates the IMF and the World Bank.

**Ms. Christiane Verdon:** The IMF, the World Bank, and a few other organizations are all part of the Bretton Woods institutions—

**Hon. John McKay:** That's my point.

**Ms. Christiane Verdon:** —so it seemed to me to be the same. Then the Minister of International Cooperation does not have responsibilities for Bretton Woods institutions; the Minister of Finance has. That's why it was mentioned.

**Hon. John McKay:** Presumably, in a future parliament, receiving a report from Bretton Woods, whether it's from the Department of Finance or from the CIDA minister of the time, is going to accomplish that particular goal and be able to point to that section.

You took objection to the new development assistance definition. I'm assuming you're aware that we took that definition directly from the minister's comments.

In your comments you made reference to clause 3, development assistance, and the OECD. We had submitted a changed definition, which means funding that is transferred to developing countries and multilateral institutions by government agencies, and that is administered with the principal objective of promoting economic development and welfare of developing countries that is concessional in character, and that conveys a grant element of at least 25%. So I wasn't sure whether your objections were to the development assistance definition as originally put in the bill or to the development assistance definition as proposed in our amendment.

• (1600)

**Mr. Stephen Wallace:** Mr. McKay, I'd like to answer that one, because it has to do with the amended proposal. The problem as we see it is that it is textual language drawn from the OECD, and it was never meant as legal language. It was always meant as a guideline, a policy statement that gives the scope of development assistance. It's when you translate what is essentially a policy provision into law that you have to examine whether it will create difficulties with respect to its interpretation.

In this case, you have references that deal with transfers to foreign governments and transfers to international organizations. That appears to be the legal scope of that particular reference, whereas we know that we provide over half a billion dollars a year through Canadian organizations that doesn't go directly to foreign governments, doesn't go directly to international organizations. The spirit of that intent and its definition in the OECD is well understood in the way it's interpreted, but when you translate it into law, you may run into difficulties because of the narrowness of the interpretation that could be given.

**Hon. John McKay:** Isn't that what we follow presently—the OECD definition of ODA aid?

**Mr. Stephen Wallace:** From a policy perspective, yes, but not within a legal parameter.

**Hon. John McKay:** Effectively, if this definition is acceptable, it in fact narrows your scope.

**Mr. Stephen Wallace:** It could be interpreted as being very narrow—as excluding over 700 Canadian organizations to whom we provide funding.

**Hon. John McKay:** You'd like a less precise definition rather than a more precise definition.

**Mr. Stephen Wallace:** It would be a more encompassing definition.

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

Madame St-Hilaire is next for seven minutes.

[*Translation*]

**Ms. Caroline St-Hilaire (Longueuil—Pierre-Boucher, BQ):** Thank you, Mr. Chair.

Ms. Verdon and Mr. Wallace, I will follow up on the questions of my colleague, Mr. McKay. In my humble opinion, he's been very kind to you since, as I understand it — and please correct me if I'm wrong —, you do not want this bill to go forward. However, in your presentations, you were both — I'm trying to be kind — very vague and somewhat fuzzy. Perhaps it's because we did not get your presentation in writing but you repeated several times that the bill is unclear and open to interpretation. When you want a bill, you offer practical suggestions to improve it. When you don't want it, you just say it's vague.

I just want to remind you, as well as my colleagues, that some time ago, the present prime minister wanted international aid to be entrenched in legislation.

Many people have issues not only with the amounts given as international aid but also with the transparency and effectiveness of aid. As representatives of CIDA, you say you don't want this bill because it's vague, but you're not offering any suggestions to amend it, make it better and let Canada have some aid legislation.

This is what I want you to comment about.

[*English*]

**The Chair:** Thank you, Madame St-Hilaire.

Please go ahead, Mr. Wallace.

[*Translation*]

**Mr. Stephen Wallace:** Thank you for your comments.

We would like to take a constructive approach to this bill. The identification of some issues will make it easier to see where it's possible to improve it. We are continuing our analysis of Bill C-293 from a technical perspective. It's up to committee members to suggest amendments to the bill but we would be very happy to share our technical analysis with you if this can be helpful to the committee.

•(1605)

**Ms. Caroline St-Hilaire:** But does CIDA wish to have this kind of legislation?

**Mr. Stephen Wallace:** The Agency has explored several avenues relating to a legislative mandate. In the last few months, the review of aid effectiveness was one of our priorities. We already mentioned that this file has four elements. Some of these elements can clarify others which can be pursued later on at the legislative or policy level. During the past few months, our action was focused on strengthening aid effectiveness, but it is obvious that we will also explore legislative options.

We have conducted both national and international analyses that will feed into this process.

**Ms. Caroline St-Hilaire:** You are surely aware that if it is not part of a legislative framework, it is difficult for Parliament to know exactly what is happening with international aid.

**Mr. Stephen Wallace:** Parliament has many accountability tools. The Minister of International Cooperation, who appeared before the committee three weeks ago, discussed with you CIDA's report on plans and priorities that was tabled in Parliament as well as a detailed report on activities and outcomes. This is only one of many tools available to Parliament to ensure and strengthen the transparency of the aid program.

The minister also announced that she would table in Parliament early in 2007 the first annual report on development outcomes. This was not a legislative action but it was focused on transparency and accountability to Parliament and this committee, according to CIDA's report on plans and priorities.

[*English*]

**The Chair:** You have another minute and a half, Madame St-Hilaire.

Madame Barbot, would you like to go ahead?

[*Translation*]

**Mrs. Vivian Barbot (Papineau, BQ):** Mr. Wallace, as I understand it, the fact that the minister will act anyway does not diminish the relevance of the bill.

I want to ask Ms. Verdon a question relating to poverty reduction, which is one of the criteria included in the bill. You said that the requirement to consult is problematic. What exactly do you mean?

**Ms. Christiane Verdon:** I did not say much about the poverty reduction goal. I simply mentioned that it was one of the objectives of the bill. You are talking about the requirement to consult.

**Mrs. Vivian Barbot:** —about poverty.

**Ms. Christiane Verdon:** This is a requirement. A possible interpretation would be that before making a decision — and God knows hundreds if not thousands are made each year — to provide development assistance, consultations must take place beforehand. The consultation process can be quite demanding. Moreover, it has to include civil society and international agencies.

This provision is incomplete. It excludes several stakeholders such as foreign countries and provincial governments, in case we wish to consult them. According to this provision, the definition of the people to consult is somewhat narrow.

• (1610)

**Mrs. Vivian Barbot:** Can you suggest a way to include poverty reduction? Or do you think this criterion is not at all relevant?

**Ms. Christiane Verdon:** A way to include poverty reduction in the consultation process?

**Mrs. Vivian Barbot:** Yes, as a criterion.

**Ms. Christiane Verdon:** This is a good question. Would the consultation process be aimed at taking into account the perspectives of the poor or at reducing poverty? The bill has several criteria. Would it be aimed at making sure that the assistance is consistent with the principles of sustainable development? I am not sure. According to the provision, the requirement to consult is very general.

[English]

**The Chair:** Thank you, Madame Verdon.

Mr. Obhrai is next.

**Mr. Deepak Obhrai (Calgary East, CPC):** Thank you very much, Mr. Chair.

Before I ask my question, I would like to tell the Bloc members here that the responsibility of a bill, an amendment, and everything falls on the government, not on the agency. The agency implements that, so for you to go ahead and ask them why you didn't comment on it.... It's our responsibility.

It's also quite interesting that for the last thirteen years the Liberals were in power here, they never brought out any legislation or anything to do that. Now, suddenly, they're coming out with this legislation, and yet for thirteen years, with four CIDA ministers that have gone through, never once did the Liberals come out with anything.

**Some hon. members:** [Inaudible—Editor]

**Mr. Deepak Obhrai:** It's my floor. Let me talk. When you were talking, I was not challenging you.

**The Chair:** Order.

Mr. Obhrai, continue.

**Mr. Deepak Obhrai:** Thank you.

I just wanted to make that point, that it's a government responsibility, and it's not for an agency to do that.

But let me just—

**Mr. Bernard Patry (Pierrefonds—Dollard, Lib.):** On a point of order—

**Mr. Deepak Obhrai:** No, let me just go ahead.

**Mr. Bernard Patry:** It's not the government's, it's the committee's

**The Chair:** We have a point of order from Mr. Patry.

**Mr. Bernard Patry:** It's a committee privilege, it's not the government's, to add amendments. This time you can't do it. You're not the government.

**Mr. Deepak Obhrai:** No, we are addressing this—

**The Chair:** Let's go through the chair.

That's not a point of order. I think you're both just debating process here.

Mr. Obhrai, please continue with your question.

**Mr. Deepak Obhrai:** I'm doing that. This is my floor, my time, right?

**The Chair:** Yes. Go ahead.

**Mr. Deepak Obhrai:** Let me finish my time. You stay out of this.

Let me say this. The Conservative Party said before that we would like to have legislation. Even when we were in the opposition, it was our intention that the development assistance be followed by legislation, which it wasn't. We tried very many times to do it with the Liberals, but they never did that, like I said.

I'm quite interested in knowing something. There is legislation in other countries in the world. There's legislation in Britain. At the time when I was foreign affairs and international development critic, I called for looking at that bill to see how and what we could do to have something similar done here.

In comparison with what the other countries have done on this thing here—and I'm not going down the road of legislation, I'm going down the road of the bill that has been presented here, Bill C-293—what are the major differences between the bill that was accepted by that parliament and by that government, while we are having difficulties, as you have indicated, with this bill? Do you want to tell us that?

**Ms. Christiane Verdon:** Do you want to know the differences between the bill and other examples abroad, including the U.K. legislation?

**Mr. Deepak Obhrai:** I'm interested in looking at the legislation that is in the U.K. and at this legislation. You have highlighted what is wrong with this private member's bill, with all these things.

**Ms. Christiane Verdon:** The U.K. legislation at first seems similar to this bill because it has this lens of poverty reduction, but there are big differences between what this bill proposes to do and what the U.K. legislation does.

It's interesting, because we have a past history with the U.K. on the legal front, but there are quite a lot of differences between Canada and the U.K., particularly in the organization of government. Here in Canada, we have statutes that establish departments. In the U.K., that's not what they do. They have the statute that gives, in this case, powers to one minister. That statute doesn't have any impact on other statutes, because there are no other statutes creating other departments. In this case, in the case of the bill here in Canada, this bill does have an impact on other statutes that I've mentioned exist.



Also, another big difference in the U.K. legislation is that the legislation, this focus on poverty reduction, applies only to one minister, whereas under this proposed legislation here, there is a definition of “competent minister”. We assume there could be more than one competent minister, so it may apply to many, like two or three or I don't know how many ministers. So that's another difference.

I understand there was a lot of preparation work before the U.K. legislation was enacted. There was a white paper that had been published by the government at the time.

There's no petition system, no consultative committee in the U.K. legislation. It's a simpler mandate. It's clear that humanitarian assistance is separate from development assistance, because of course the situation is very different. When you deal with humanitarian assistance, you focus on saving lives, period, first.

The U.K. legislation also has its own definition of “development assistance”. It did not include the OECD one.

I hear there was a lot of debate in their House of Commons about whether or not they should refer to international human rights or human rights in the legislation, and the government decided that, no, they did not want that.

So there are differences, the main one being that it applies only to one minister and not to the whole U.K. government.

• (1615)

**Mr. Deepak Obhrai:** Do you know how many countries have legislation directing their ODA under a legislative mandate, as opposed to what we have in Canada, which is a policy mandate and a statutory mandate?

**Ms. Christiane Verdon:** I don't have the number of countries. We were very interested in that and we researched where we could find information. Of course, sometimes information is available only in a language we cannot read very well.

We looked at sixteen OECD countries. Out of that number, ten did not have legislation. Six had legislation, and two of those had a poverty reduction focus. One was the U.K., and Belgium also has a reference to poverty reduction.

There is the interesting case of Sweden. Some authors are referring to that situation as a case of Sweden having enacted comprehensive legislation on ODA, with poverty reduction and other criteria, but it looks more like their parliament has approved a government policy. It's a very wide-ranging, thick document discussing all sorts of aspects of ODA. So I would not put Sweden in the group of countries that have enacted legislation on ODA. It doesn't seem to be one anyway.

So you have ten out of sixteen.

**The Chair:** Thank you, Madame Verdon.

Mr. Wallace, I think you were going to answer the question on the number of countries.

**Mr. Stephen Wallace:** Because I don't have the advantage of a legal background, I can just give you a very general answer. The very general answer is that about half of the OECD countries have different bits and pieces of legislation that look at aspects of a

mandate or enabling legislation for development assistance. The reason why you have to unpack a little bit is that very few actually have comprehensive pieces of legislation. They'll deal with accountability or with payments or with mandate, but very seldom do they put things in combination together. You have to go to various acts to pull together a picture at a national level, but about half of them have features of legislation that I think would be relevant to the work of the committee.

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

Madame McDonough.

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

The parliamentary secretary's expression of frustration perhaps calls upon all of us to reflect a little bit on the context in which this bill was brought forward in the first instance. I think it's fair to say that it was a context fraught with frustrations and problems. Over a period of more than two years, we had been hearing from a series of many, many international witnesses before this committee about how disappointed and horrified—I think some people went to the point of saying that—they were at the level of Canada's official overseas development assistance.

Secondly, there was something of a vacuum at the time, because we were waiting and waiting for an international policy review paper. You referred to it being helpful to have had a white paper in the U.K., as the broader context in which their legislation was developed. We waited for that. When it finally came, it was stillborn after about two years' gestation. It actually didn't create the opportunity for a broader discussion, because it was quickly transformed from what was supposed to be a review into a statement, end of discussion.

In that context, there was a genuine attempt, across party lines and in the best tradition at this committee level, to say that we want the government to address this question of a legislative framework, one that clearly makes poverty reduction the principal purpose of our overseas development assistance and so on.

The frustration that I'm now feeling—I don't presume to speak for anyone else—is that it seems to me that we have now heard from two governments in a row that there actually is legislation in the works. It's like, “Hold your horses here. There's legislation in the works.” Meanwhile, we have had representation after representation from NGOs, from academics, from researchers, domestically and internationally, telling Canada to clean up our act here.

We've just come back from travelling in four Nordic countries and in the U.K., where it was actually quite humiliating. I think we shared the humiliation of Canada's ODA being at 0.32% at the moment. Actually, Finland, which is probably the worst off of the five countries we visited, was at 0.98%.

So I'm going to ask the broader question. You're here representing CIDA. Is there legislation forthcoming from the minister? In that case, it doesn't make sense for us not to at least have some kind of notion about that if we're going to proceed in good faith. Secondly, if that's not the case, if you're not in a position to speak to that—and perhaps the parliamentary secretary is right that it's the government's responsibility—at the very least, can we ask you for a written analysis of what we have before us?

I have to say it's very difficult to deal with quite a lot of wandering comments but not what you could consider to be a detailed analysis that would allow us to move forward to the next step of drafting. Certainly, some of your criticisms are very sound. On further reflection, I would think we would be saying that, yes, we see a problem here, but I think there is a genuine all-party commitment here to move forward. Four parties agreed to go to look at some of these questions abroad, and now we're trying to figure out where to go from here. Any concrete suggestions that you could make to help us with that would be much appreciated.

• (1620)

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

Maybe you want to respond to that, Mr. Wallace. She has basically asked—and we can get it out of the blues—for a written report or recommendations.

**Mr. Stephen Wallace:** First of all, thank you very much for some very relevant questions and comments.

We would be very pleased to provide a written analysis. I must say, in the process of trying to go through the due diligence and rigour you try to apply to legal analysis, that sometimes sounds like a lot. Sometimes, it can crowd out the underlying principles and intent behind legislation. We would not want to do that. We have really come to focus very much on the technical analysis of Bill C-293. But the underlying principles of strengthened accountability, achieving a new standard on transparency, and achieving greater clarity of purpose are value statements that we very much did not want to challenge. That speaks to a couple of questions from members as well.

We'd be very pleased to provide a written analysis.

We do not have a specific proposal to put on the table. That is the work of the members of the committee, as has been already stated. But we have been exploring options with respect to how to deal with the question of legislation. That's the point I was making. That's the kind of background work we've been undertaking on this matter.

I'm sure the minister would be very pleased to comment further on exactly where that process will be going.

• (1625)

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

Mr. Goldring, for a couple of quick questions, and then over to Mr. Wilfert.

**Mr. Peter Goldring (Edmonton East, CPC):** Ms. Verdon, could you advise whether DFAIT is going to be appearing on this bill?

**Ms. Christiane Verdon:** I don't know.

**The Chair:** I'm certain that if we ask them, they would come.

**Mr. Peter Goldring:** Ms. Verdon, it was mentioned by Ms. St-Hilaire about your responses perhaps being vague. I thought they were pretty clear. You were talking about the bill being vague in some of the terminology. I certainly have the impression that would be problematic. Perhaps you could expand a bit on that. How would some of these poorly defined terminologies manifest into problems in trying to implement it?

**Ms. Christiane Verdon:** There are some terms, such as “Canadian values”, which are very difficult to define. It may vary from one Canadian to another and from one person to another. When you have a vague term in a statute, the difficulty is that the statute has to be interpreted. You don't find much assistance to help in interpreting words like that.

Another thing I mentioned a few times in my remarks, and I'm sure something can be done about it, is that sometimes words are used, and suddenly, in the same section, you have the same term but with a different word. Words like that raise problems of interpretation. Problems of interpretation can raise the risk of litigation, of judicial review of decisions.

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

Continue, Mr. Goldring, very quickly, though, please.

**Mr. Peter Goldring:** Clause 9 says:

(c) a summary of the annual report submitted under the *Bretton Woods and Related Agreements Act*;

What is that act, and what does that really mean, to submit a report under it? Does that mean the report somehow has to be in compliance with that act? What are the specifics of that act that the report is to be relevant to?

**Ms. Christiane Verdon:** The act is administered by the Department of Finance. It's a statute of Parliament. Those agreements were negotiated after the Second World War. There is a section in that act that imposes an obligation on the Minister of Finance to submit a report. I cannot say more on that, because I'm not familiar with that legislation. It's administered by—

**Mr. Peter Goldring:** Would this be another vague area, again? Is being submitted in compliance with that act more vague terminology? Is that clear exactly what that is supposed to be doing?

• (1630)

**Ms. Christiane Verdon:** The people in the Department of Finance would be in a much better position to comment on that. I would not like to say something that I have not verified.

**The Chair:** Quickly, and then Mr. Van Loan.

**Mr. Stephen Wallace:** Yes, just very quickly, I think the issue here is vagueness with respect to accountability. If you have the Minister of Finance accountable to provide a report under that agreement, and in this particular provision you have the Minister of International Cooperation also adopting accountability, you have two ministers accountable to Parliament for the same thing. It's that element that will raise the question about the blurring of accountability relationships between ministers and Parliament.

**The Chair:** Thank you.

Very quickly, Mr. Van Loan. You have about 35 seconds.

**Mr. Peter Van Loan (York—Simcoe, CPC):** I'd like to make the comment that in hearing these witnesses—I don't want to be critical of you for your answers—I'm getting more concerned. I'm hearing stuff about Finance and Foreign Affairs, and we're not hearing from them. They can't answer those. Are we getting them?

**A voice:** They're coming.

**Mr. Peter Van Loan:** Both Foreign Affairs and Finance?

**The Chair:** They're on the list.

Thank you.

Mr. Wilfert.

**Hon. Bryon Wilfert (Richmond Hill, Lib.):** Mr. Chairman, Parliament has spoken twice on this issue. The last time, 178 MPs supported it. You indicated the U.K. has it. Sweden has it. Sweden has poverty, and they have human rights as well. There were about six examples.

I guess I'm a bit confused here. This bill has been floating out there for quite awhile. You agree in principle. Then, at the eleventh hour, we get all these technical amendments. I would suggest—and I will have a motion in a moment, Mr. Chairman—that this is consistent with CIDA's goals and with what the minister has certainly indicated in the past.

We talk about problems of interpretation. I'm going to suggest, Mr. Chairman, if we propose a motion today to pass on Thursday, that we deal with this issue clause by clause next Tuesday. In the meantime, I presume that will force a cleanup of these technical amendments.

In fact, if it's consistent with CIDA's goals and if we see this legislation is operating in other jurisdictions, given that Parliament has spoken twice on this and that this isn't something new, I'm a bit surprised. I asked the mover of this bill whether he had any indication prior to today about these technical issues. He indicated there wasn't any comment to him.

I'm a bit concerned, Mr. Chairman, that the will of Parliament may in fact be dragged out the door by what would seem to be technical changes.

I would suggest that if it's the will of the committee to vote on this on Thursday for clause-by-clause discussion on Tuesday, then we proceed, and in the meantime, we get those drafting changes.

**The Chair:** Just one moment.

Mr. Wilfert, this isn't uncommon to bring forward these individuals. They have technical concerns. Hopefully through the

blues—that's why I referenced the blues before—we'll be able to get this very quickly. It doesn't mean that they disagree with the spirit of this bill, or that anyone disagrees with the spirit of the bill.

**Hon. Bryon Wilfert:** Mr. Chairman, I said they agreed in principle.

**The Chair:** I don't see any huge changes to what's being proposed here. When we do get into clause-by-clause, certainly their recommendations are taken as recommendations. It's not that they have to be—

**Hon. Bryon Wilfert:** In order to get a timeline on this, I would suggest that the foreign affairs committee address Bill C-293, clause by clause, and schedule it for Tuesday, November 28. In other words, with 48 hours notice, you'll have to vote on Thursday. We would deal with it on Tuesday. In the meantime, going through the blues, certainly these technical changes can be addressed and before us for the 28th.

**Mr. Peter Van Loan:** We have a question about a provision in the act that you're going to want us to deal with in clause-by-clause, which they couldn't give an answer on and which we said we'd go to Finance for. Now, if we adopted your motion, we wouldn't even have evidence on it. How can we deal with it in clause-by-clause when nobody can even tell us what it means?

**A voice:** Why weren't they in?

**Mr. Peter Van Loan:** I don't know why they're not here, but we should have them.

**The Chair:** I think we will have them. We've agreed to have them. At the present time, we've already agreed. They were called. As soon as they were called, they said they would be here.

• (1635)

**Hon. Bryon Wilfert:** If I may, Mr. Chairman, I appreciate Mr. Van Loan's comments only in the sense that he was one of the members who objected to even having an extra session on this. So now he's suggesting we have another session on this, after objecting the first time to having this session.

**The Chair:** Thank you, Mr. Wilfert, and thank you, committee.

Thank you to our guests for appearing here today. We appreciate you—

I'm not recognizing you, Mr. Wilfert.

Thank you for being here today.

*[Proceedings continue in camera]*





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