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Chair

Mr. Rick Casson

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• (0805)

[English]

The Chair (Mr. Rick Casson (Lethbridge, CPC)): I call the meeting to order.

We're continuing our study of the procurement process, including the tendering process and the establishment of capability requirements. Today we're pleased to have before us the Honourable Michael Fortier, Minister of Public Works and Government Services.

Sir, I'll let you introduce your support people here. As usual, we'll turn it over to you for your opening comments, and then we'll start with a round of questions.

The floor is yours.

Hon. Michael Fortier (Minister of Public Works and Government Services): Thank you, Mr. Chair. I'm happy to be here this morning.

My deputy minister, David Marshall, is here with me. So is Terry Williston, who basically runs procurement for us with respect to military matters within PWGSC.

[Translation]

Mr. Chairman, members of the committee, thank you for inviting me to be here. I welcome the opportunity to participate in your study of defence procurement.

First, because it is consistent with the new Government of Canada's commitment to accountability; and second, because the Department of National Defence is one of our most important clients. I am proud to say that meeting the needs of our men and women in uniform is the government's first priority when it comes to procurement.

[English]

Let me begin by stating very clearly that our government is committed to fairness, openness, and transparency in the procurement process. These principles are now enshrined in the Federal Accountability Act and are applied to all of my department's procurements, military and otherwise. The application of these principles, together with other measures in the FAA, such as the appointment of an independent procurement ombudsman and the mandatory use of integrity provisions in all contracts, are cornerstones of our efforts to clean up government contracting.

I'm sure the committee is familiar with my department's role as the main procurement arm of the government, so I will not go into detail on that topic. Suffice it to say that we provide contracting and

procurement services to more than 100 federal departments and agencies. Our volume of business makes Public Works the largest purchasing agent in the country.

[Translation]

As I have already noted, the Department of National Defence is our biggest client, accounting for approximately half of our business every year. In 2005-2006, for example, PWGSC managed some 24,000 new contracts and contract amendments for DND, with a total value of \$7.6 billion. These transactions involved everything from extremely complex contracts for sophisticated weapon systems to purchases of off-the-shelf items. They also included service contracts for everything from operation and maintenance of offshore installations and equipment to basic custodial services at Canadian Forces bases across Canada.

DND's job is to define its needs for military equipment and services, to propose a procurement strategy, and to develop the technical specifications for bidding and bid evaluation. DND also acts as the technical authority for the contract, manages contract expenditures, accepts the goods and services being purchased, and authorizes payment.

[English]

My department's role is also well defined, Mr. Chair. Under the Defence Production Act, the Minister of Public Works has exclusive authority to procure military goods. It is our job to develop the final procurement strategy, to prepare solicitation documents, to conduct the tendering process, to do the corporate and financial evaluation and contract negotiation, and to seek approval for and sign the contract. Once this has been done, we have an ongoing role in interpreting contracts and negotiating any amendments that may be required.

In short, while DND has the authority to decide what it needs, the responsibility for contracting for those needs rests with Public Works.

[Translation]

As the committee may know, Canada is one of only a few countries where this separation of roles exists. In both the United States and the United Kingdom, for example, the military does its own procurement.

In Canada, this separation has existed for nearly 70 years. We believe that it is crucial to help ensure not only that the process is fair, but also that it is seen to be fair. By keeping the needs identification and contracting functions separate, the Canadian approach allows for civilian oversight throughout the procurement process. This is key to the way we do business in Canada.

I understand the committee has already heard from other witnesses about some of the major procurement projects that are underway to re-equip the Canadian Forces. So rather than revisit those specific projects, I would like to focus the remainder of my remarks today on efforts that are being made to streamline defence procurement processes.

[English]

Historically, it has taken on average more than 15 years from the time an operational deficiency is identified by DND to the contract close-out. Although much of this time is spent deciding what is needed, as opposed to actually procuring the product or service, there is significant room for improvement at all stages of the process.

We have worked in concert with the Department of National Defence to implement a number of initiatives aimed at streamlining the process. Some of these are, for example, moving to a performance-based, best-value, competitive process, wherein industry is provided broad, high-level, mandatory performance criteria and invited to propose solutions; adopting a single point of accountability concept within performance-based procurement, where a single prime contractor is responsible not only for the acquisition of the equipment, but also the long-term, in-service support of that same equipment; and finally, wherever possible, procuring proven off-the-shelf equipment, as opposed to riskier developmental technologies.

All of these initiatives seek to improve the existing procurement process; they do not circumvent it. Our oversight and challenge function remains the same. The basic tenets of fairness, openness, and transparency are, and will continue to be, the cornerstone of our military procurement practices.

As a result of these many improvements, the timeline for major projects, from identification of the need to contract close-out, has been reduced from the historic average of more than fifteen years to under seven years for some of the major procurement projects that are now underway.

We have demonstrated that urgent equipment can be procured quickly and competitively. For example, last summer 50 new armoured patrol vehicles were procured in record time, and these helped improve the safety of our Canadian Forces. An experienced integrated project team conducted a competitive bid solicitation and evaluation process, and awarded the \$60 million contract in eight weeks. The vehicles were delivered 75% sooner than it would regularly take, while achieving a savings of \$7.2 million over two years.

● (0810)

[Translation]

But more can and must be done to improve military procurement and it is our task to do so. Last year, Prime Minister Harper directed

a number of ministers involved with military procurement, including myself, to find ways to streamline the process.

At the official level, an interdepartmental ADM steering committee, chaired by the Treasury Board Secretariat and with representation from key stakeholder departments, has also been working to improve how military needs are defined, how they are contracted, and how the government interacts with industry to deliver goods and services.

Concerted efforts are being deployed by PWGSC and DND to develop and implement an integrated strategy that addresses the recruitment, retention and training challenges facing the federal procurement and project management of communities involved in military procurement.

The rapid action taken in the past year to support our troops in Afghanistan and to acquire major new assets for the Canadian Forces demonstrates that we do have the ability to act quickly. Our challenge is to make speed an integral part of the military procurement process, without compromising the integrity of the process or incurring unacceptable levels of risk.

I want to assure the committee that I am personally committed to developing a stronger, more effective approach to military procurement. Such an approach would ensure continued planning and coordination between the major departments involved in procurement. It would mean continuing our efforts to know the supplier base and supplier capabilities, particularly in Canada. And it would require flexibility, to allow for ongoing adjustments to reflect changes in needs, knowledge and procurement approaches.

[English]

In conclusion, Mr. Chair, the bottom line is that we need to find faster, more efficient ways to ensure that the Canadian Forces have the tools they need to do their difficult and often dangerous work, while also achieving value for taxpayers' dollars.

I welcome any suggestions your committee, Mr. Chair, might have on the subject, and I look forward to your questions.

Thank you.

The Chair: Thank you, Minister.

We'll begin the opening round with ten minute slots, and we'll start with Mr. Coderre.

[Translation]

Hon. Denis Coderre (Bourassa, Lib.): Mr. Minister, I am glad to see you, especially as we do not see you often in the House of Commons. It is good to have an opportunity to meet you once in a while.

I have many questions for you. There are two specific points that I want to discuss with you. Of course, I want to discuss standards. Secondly, I want to make sure that you clearly understand what ITAR stands for. In your statements, there seems to be a contradiction between what you said and what is really happening on the ground.

I would like to know whether you participated in the process as the Minister in charge of Public Works and Government Services. Apparently, the Department of National Defence has improved its procurement standards. Did you or one of your representatives participate in the meeting with the Minister of National Defence that was held last year on May 1 to make sure that you have the standards required for purchasing C-17s, for instance?

Hon. Michael Fortier: I cannot tell you this morning where I was on May 1. We will give you my agenda for that day later on.

• (0815)

Hon. Denis Coderre: Did you have a representative?

Hon. Michael Fortier: Where were you on May 1?

Hon. Denis Coderre: On May 1, I was preparing questions for you in the House of Commons.

Hon. Michael Fortier: Certainly, you were not here at 8 o'clock this morning.

Hon. Denis Coderre: I get up at 5:30 every morning, Minister.

This is important because, basically—

[*English*]

I'll say that in English.

In spring 2005 the Canadian Institute of Strategic Studies published a paper called "Implementing Canada's Defence Policy Statement". General Hillier says the following:

As to the question of material resources, before I criticize anybody outside the department I'd like to look inside and sort ourselves out. First, there is responsibility for me, as Chief of Defence Staff, and with the advice of the Armed Forces Council, to define for those big transformational equipments what the requirements are. I'm not talking about 15,000 pages of specification. I'm saying when we need a helicopter or aircraft or a fighting vehicle or a ship I am going to articulate four to six key principles—lines in the sand,

—He said "lines in the sand"—

if you will, that will become the driving force in the acquisition process.

[*Translation*]

Then he said, at a certain point:

[*English*]

I need advice to help shape it, but I'm going to do that. So for a helicopter, I'll say that I need to lift this much, at this altitude, this temperature, over this distance.

[*Translation*]

Ultimately, this means that you are not doing much as Minister of Public Works and Government Services to improve the transparency of the process. The Defence Chief of Staff, Gen. Hillier, tells you what he wants. Basically, your role is confined to making sure that he gets the equipment he wants.

Is this how you would define your role?

Hon. Michael Fortier: No, absolutely not. This does not exclude having a client, because the Department of National Defence,

Mr. Coderre, is a client of Public Works and Government Services in the same way that Health Canada or Foreign Affairs and International Trade are. My department's role does not consist in determining the client's needs. The best qualified person for determining needs is, of course, the one who is soliciting our services.

You missed my introduction. I introduced Mr. Williston, who is in charge of the military sector at Public Works and Government Services. More than 350 of our public servants work for the Department of National Defence. Both groups are interconnected, but clearly, it is perfectly normal that the client should determine his needs first.

Hon. Denis Coderre: The Defence Chief of Staff, Gen. Hillier, said:

[*English*]

"I am reluctant to buy a paper anything."

[*Translation*]

If your role consists in protecting the taxpayer, you are responsible for the transparency of the process and for making sure that funds are properly spent. You have to satisfy the needs of National Defence, but you must also make sure that the funds are properly spent and that the clients have really been consulted to make sure that the process is competitive.

Regardless of the fact that the Liberal Party said that the planes could have been rented rather than purchased, the procurement process exists, because you have had the Airbus A400Ms and the Boeing C-17s for six years. But if you draw a line in the sand during the process, you are, in a way, eliminating competition.

How can a process be competitive if the cards are stacked and we know what the chief wants? Therefore, your role is confined to meeting the client's needs.

Hon. Michael Fortier: As I said earlier, it makes sense to ask the Department of National Defence to define its needs. Once the needs have been recognized, we establish the procurement process in cooperation with the department.

Mr. Coderre, according to my past working experience with large organizations, I can tell you that this is how the procurement process works.

Hon. Denis Coderre: Mr. Williston came back to testify before the committee, and we remember him. Do you investigate the standards, or do you give the client what he wants?

• (0820)

Hon. Michael Fortier: Are you speaking to me personally?

Hon. Denis Coderre: No, I'm speaking to the minister.

Hon. Michael Fortier: Absolutely not. When the minister receives the standards, they have already been set. This is a healthy policy. The people in National Defence determine their needs, and Public Works and Government Services is called into play. As I said in my presentation, Treasury Board also participates in the process.

Hon. Denis Coderre: Mr. Minister, have you ever met companies that want to participate in this competitive process?

Hon. Michael Fortier: No, never.

Hon. Denis Coderre: Do you make any distinction between your role as a minister for the Montreal region and your roles as the Minister of Public Works and Government Services?

Hon. Michael Fortier: Yes, I do.

Hon. Denis Coderre: Would it be possible for you to tell these companies that you cannot speak to them as Minister of Public Works and Government Services, but that you can meet them as the minister responsible for the Montreal region?

Hon. Michael Fortier: First, I would never meet any companies from the military sector, nor any other companies. As I am in charge of procurement, all kinds of companies want to meet me. I never meet them. As the minister for the Montreal region, I would only meet them outside the procurement process, when a contract is awarded or is about to be awarded.

Hon. Denis Coderre: You never met with Airbus?

Hon. Michael Fortier: I have met with Airbus.

Hon. Denis Coderre: During the process?

Hon. Michael Fortier: No, after the process.

Hon. Denis Coderre: I was told that it was during the process.

Hon. Michael Fortier: Yes.

Hon. Denis Coderre: But was it in your capacity as minister for the Montreal region?

Hon. Michael Fortier: Exactly. Since you raised the matter, to avoid any insinuations, Airbus came to explain to me its approach for developing an aerospace industry zone in Montreal.

Hon. Denis Coderre: Therefore, companies can come to see you.

Hon. Michael Fortier: Yes, they absolutely can.

Hon. Denis Coderre: Now I want to discuss ITAR. What do you know about ITAR, Mr. Minister? As the minister responsible for the Montreal region, you know that Bell Helicopter has a share of the aerospace contracts, especially for defence. The other House asked you whether the next purchasing contract would be submitted to ITAR, and you answered that it was ITAR-friendly.

[English]

I want to reassure the honourable senator, however,

—*je crois qu'il parle du sénateur Prud'homme*—

that with respect to the purchase of the planes we have been talking about for the past 20 minutes, nothing in that contract will prevent any Canadian of any religion or nationality from working on those planes, flying them or being part of our Canadian Forces program related to that aircraft.

[Translation]

Was it because you were not informed about your file, or because you did not understand the process? At this time, not only has the contract been drafted and signed, but ITAR is being applied. Unfortunately, given that this is a direct commercial sale, which means that it is a direct transaction between the Canadian government and Boeing, we will be faced with an unsolvable problem because two countries are involved.

Why did you not arrange for a foreign military sale, or sign a memorandum to protect Canada above all, its sovereignty, and its Charter of Rights and Freedoms? Why do we have to apply ITAR, and are you being forced to negotiate after the fact?

Hon. Michael Fortier: You have asked—

[English]

The Chair: Make it a short response, please, if you can.

Hon. Denis Coderre: Take your time.

The Chair: No, we're out of time. We'll have to move on, unless you have just a short response.

Hon. Michael Fortier: Well, how short is a short time?

The Chair: We'll go on; maybe he'll ask that in the second round.

Hon. Michael Fortier: Like his colleagues last week, he's mixing up a number of issues.

The Chair: Mr. Crête.

[Translation]

Mr. Paul Crête (Montmagny—L'Islet—Kamouraska—Rivière-du-Loup, BQ): Thank you, Mr. Chairman.

Good morning, Mr. Minister. In your statement you said that:

Under the Defence Production Act, the Minister of Public Works and Government Services has exclusive authority to procure military goods.

You also said the following:

In short, while DND has the authority to decide "what" it needs, the responsibility for contracting for those needs rests with PWGSC.

With this in mind, when the press conference was held at Trenton regarding the C-17s, you were unable to say how this contract had been allocated in Canada. That was several weeks ago.

Could you tell us about the spinoffs of this contract?

Hon. Michael Fortier: When you refer to Trenton, do you mean last summer—

Mr. Paul Crête: No. I am talking about the notice of the press conference.

Hon. Michael Fortier: It was held here. We were supposed to be in Trenton. You are talking about the notice for the press conference.

Mr. Paul Crête: Yes, I am.

Hon. Michael Fortier: We were clear about this matter. I think that the Minister of Industry will appear before your committee next week. It would be better to direct this question to him. We said that we wanted to have economic spinoffs. We want \$1 to come back to Canada for each dollar awarded to a foreign company. This was not so in the past, as you know.

Our aerospace industry, everywhere in Canada, needs a shot in the arm. Billions of dollars of military contracts have been announced for the coming years. Of course, these are major industrial investments, and the Canadian aerospace industry will benefit from them.

● (0825)

Mr. Paul Crête: Mr. Minister, could you tell us how the spinoffs from the Boeing contract are being shared among the provinces or the regions of Canada?

Hon. Michael Fortier: No.

Mr. Paul Crête: You cannot tell us that?

Hon. Michael Fortier: Absolutely not.

Mr. Paul Crête: Nevertheless, according to what you said, you are in charge of negotiating and signing contracts. When you sign this kind of contract, are you not responsible for ensuring the spinoffs? Otherwise, it is as if you gave Boeing the responsibility of influencing Canada's aerospace policy.

Hon. Michael Fortier: Mr. Crête, you are mixing things up. I am responsible for signing contracts whereby the state acquires goods and services. Other contracts are settled between foreign manufacturers and their network of providers in Canada.

Mr. Paul Crête: But when you—

Hon. Michael Fortier: The state has nothing to do with that.

Mr. Paul Crête: You are in no way sure that there will be spinoffs from this contract. You have entrusted a private company with \$3.4 billion and the task of creating spinoffs. Do you not think that this might be highly destabilizing? Boeing has plants in Ontario and in the west of Canada, which is not bad in itself, but do you not think that the spinoffs might not be fairly shared? I am astounded by the fact that several weeks after the press release, you cannot give us the figures regarding this.

Hon. Michael Fortier: You are wrong in saying that we had not seen which regions would benefit from the spinoffs. Canada will benefit from them, and this is a great step forward. This was never done previously. Every dollar will be reinvested in Canada, Mr. Crête. If I were you, I would wait—

Mr. Paul Crête: It should be profitable for Canada at the very least.

Hon. Michael Fortier: You said that we had not chosen the region. We required the work to be done by Canada's aerospace industry.

Mr. Paul Crête: In your opinion, is Canada a region?

Hon. Michael Fortier: Let me finish.

Mr. Paul Crête: In your opinion, is Canada a region?

Hon. Michael Fortier: Let us take one question at a time. You are already four questions down the road and you are not listening to the answers.

Mr. Paul Crête: You are not paying attention.

Hon. Michael Fortier: This is my answer: the investments will be made in Canada, in the aerospace industry. I think that this is specific enough: one industry, in one country.

Mr. Paul Crête: However, you cannot tell me how this \$3.4 billion contract will be shared out among Canada's provinces.

Hon. Michael Fortier: You will find out when Boeing signs its agreements with the suppliers, Mr. Crête.

Mr. Paul Crête: You have entrusted Boeing with \$3.4 billion and you have also decided to entrust them with the sharing out of the spinoffs. You awarded the contract without any invitation to tender. You have the upper hand. So, you told these people that we were giving them \$3.4 billion, without a call for tenders, and that in return, we expect nothing from them when it comes to sharing out the spinoffs in Canada.

Hon. Michael Fortier: Mr. Crête—

Mr. Paul Crête: Do you not think that this shows a lack of responsibility towards the Quebec aerospace industry?

Hon. Michael Fortier: Mr. Crête, you are wrong in saying that there was no call for tenders. A contract award notice is an invitation to tender. You should learn to understand the terms.

Mr. Paul Crête: Were both companies able to tender a project and meet the production limit?

Hon. Michael Fortier: We are not dealing with two companies. There could have been 75 of them.

Mr. Paul Crête: Really?

Hon. Michael Fortier: Precisely. I even extended the period of notice to twice its normal length. I did this to make sure that all the companies had the time that they needed to notify us that they thought they had apparatus or equipment that was compatible with the needs of the Canadian Forces.

Mr. Paul Crête: You awarded the contract, but now you are telling me that you did not impose any conditions on Boeing. You cannot tell us how the spinoffs will be shared. Did Boeing not regularly report to your department regarding the contract awarding process?

Hon. Michael Fortier: I repeat that Mr. Bernier's department is in charge of this, not my department. Moreover, it is wrong to say that there were no conditions. The condition was that they would reinvest in Canada.

Mr. Paul Crête: Mr. Bernier is not in charge of monitoring the contract.

Hon. Michael Fortier: Mr. Crête, let me answer. There are conditions. For every dollar received, \$1 must be invested in Canada's aerospace industry. This seems to escape you. My department is not in charge of following up on regional spinoffs. This responsibility belongs to Mr. Bernier's department, and Mr. Bernier, I believe, will soon appear before this committee.

Mr. Paul Crête: Will Mr. Bernier have to answer for the way in which the Boeing contract will be shared across Canada?

Hon. Michael Fortier: In fact, Mr. Bernier and his department are in charge of monitoring the regional spinoffs of these contracts.

Mr. Paul Crête: If I understand correctly, your department has no data whatsoever regarding this issue.

Hon. Michael Fortier: No, because it has nothing to do with procurement. This is a condition of the contract that applies to a specific long-standing policy, Mr. Crête. Others have applied it badly, but it has existed for many years.

• (0830)

Hon. Denis Coderre: —for instance, as in Quebec.

Mr. Paul Crête: Do you think that you are being responsible in concluding a \$3.4 billion contract with a company without knowing how it will apportion the regional spinoffs, and without even asking them?

Hon. Michael Fortier: We are very responsible in requiring foreign equipment providers to reinvest dollar for dollar in Canadian industry. Not only are we responsible, but I think that this is desirable and that it is good from the taxpayers' point of view. In fact, people are still talking to me about it. They are telling me that they hope that this time it will be for real, because in the past, nothing ever came of it. But we will see to it! Moreover, Mr. Bernier can give you further information.

Mr. Paul Crête: Do you think that it is sufficient to ask the company to reinvest anywhere in Canada, without knowing how it will spread its investments across the regions of Canada?

Hon. Michael Fortier: I find that it is sufficient to require that they reinvest in Canada. Canada's aerospace industry has centres of excellence in many regions of Canada, and the suppliers will find what they need. We will be paying between \$13 billion and \$17 billion during the coming years. These enormous sums will come back to Canada, Mr. Crête.

If I were you, I would wait until I have finished reading this book before passing a judgment. You have opened only the first page.

Mr. Paul Crête: Mr. Minister, I think that this question is relevant right now, because if we destabilize financial structures all over Canada, there will be no time for rectifying the situation afterward.

We are not dealing with a private company or with competition among private companies. We are talking about a private company that will use \$3.4 billion of government money. It will be alone in deciding how the funds will be shared in Canada without any regard for existing structures. It will set its own priorities according to the needs of its plants and its contracts. It has been common knowledge for a long time that they are all outside of Quebec.

Are you aware of the fact that Bombardier is in competition with Boeing? If you were a businessman, would you be inclined to deal with your competitors?

Hon. Michael Fortier: First and foremost, we wanted to purchase the aircraft at the best possible price for taxpayers, and we did just that.

Regional spinoffs are important, there will be spinoffs all over Canada. I repeat that it is wrong to say that there are no conditions, because there are conditions. The company will have to invest an amount equal to what it has received in Canadian industry.

Mr. Paul Crête: Let us come back to my question about Bombardier. Do you think that Boeing will naturally be inclined to enter into technology transfer contracts with a competitor?

Hon. Michael Fortier: I cannot comment on competition that may exist between Boeing and other equipment manufacturers in Canada.

Mr. Paul Crête: I am not asking you to make a specific comment. Would a businessman usually give technology transfer contracts to one of his competitors if he is not compelled to do so?

Hon. Michael Fortier: That depends. Some competitors sign partnership agreements for certain products. You are asking me a very hypothetical question. I would prefer not to answer it, because I am not familiar with the competitive or non-competitive relationship between the two companies you mentioned.

Mr. Paul Crête: I can't believe this, this is beyond me. You're telling me that you have no idea about the type of benefits that this contract will have for all of the regions in Canada!

And yet, we were told that you had taken it upon yourself personally to obtain the maximum number of benefits. Did you in fact take such action in order to get the most benefits for Quebec?

Hon. Michael Fortier: Who told you that?

Mr. Paul Crête: That was written in the newspapers, but I wanted to check whether or not it was true that you have taken such initiatives.

Hon. Michael Fortier: I do not know who said that—maybe it was *Le Courrier de Sorel*—but I think that you should not always believe what you read in the papers.

Mr. Paul Crête: I don't know what was written in the *Le Courrier de Sorel*, I don't know it. It must be a good newspaper, like all the other weeklies in Canada, moreover.

But you did not answer my question. Did you take any steps to ensure that benefits would be distributed equitably?

Hon. Michael Fortier: That is not my responsibility, that is a matter for the Minister of Industry. The government was very clear about that: we will demand—

Mr. Paul Crête: I wasn't asking whether it was your responsibility—

[*English*]

The Chair: Thank you, Mr. Crête. That's your time.

We are going to go over to Mr. Hiebert for ten minutes.

Mr. Russ Hiebert (South Surrey—White Rock—Cloverdale, CPC): Thank you, Mr. Chair.

Thank you, Mr. Fortier, for being here today. I appreciate your presence, giving us an opportunity to clarify some things that have happened in the past and hopefully to improve the way procurement is done in the future.

I'd like to start by talking a little bit about the advance contract award notice, the ACAN, that was used for the Boeing C-17. Is the ACAN the same as a sole-source contract? Can you elaborate a little bit about how the ACAN works?

Hon. Michael Fortier: Yes, I can, and I may ask Terry to complement my answers.

An ACAN is not a sole-source contract; it's an RFP with a twist, that's all it is. Once a client department on the Hill has identified a need for a particular asset—it's not just the military, it could be any other department—and that department is convinced that there's only one manufacturer of that particular asset, and we at Public Works feel they are right—we have a good understanding of the industry, and so does the client department in terms of the supply chain—then we issue an ACAN. This tells the world that we think that for these glasses, there's only one manufacturer, we believe this is the manufacturer, and unless we hear otherwise within the next 15 to 30 days, we're going to go into a negotiation to award a contract to the manufacturer of the glass.

It is a form of RFP, but it's one step further in the sense that you've already identified which manufacturer you believe is the only manufacturer to produce the goods in question.

• (0835)

Mr. Russ Hiebert: How do you negotiate with a company that knows it's the only provider of the product you want?

Hon. Michael Fortier: That's a good question. You need a plan B, like anything in life. That's an issue I quickly identified. You need a plan B, and the plan B is to change the type of glass you're going to buy or to go to something else. If you don't have a plan B, then you get hosed.

So you enter into negotiations with the supplier, although ACANs are used in fewer than 4% of procurement opportunities in government. And in that 4% of opportunities, if you look at those situations where ACANs were used, you'll find the government got good value for money, including for example these C-17s, where we paid less than 8% of what was initially proposed to us by the manufacturer and what we also thought was the sticker price, given what we knew about the industry.

So there is a way to negotiate and get a good price, but it's one of those situations where you have to tread carefully.

Mr. David Marshall (Deputy Minister, Public Works and Government Services Canada): I would just add something to what the minister has just said.

If you go out for requests for proposals, the more official process, knowing that there is likely only one supplier who can meet the need, you are then obliged to accept any bid that is put forward, which could be quite a rich one. In other words, you can't negotiate from that point forward, so you could end up paying a lot more than you need to.

If you know there's only one supplier, the answer is to scan the market first of all, as the minister has said, to find out if there's anybody else out there. In that sense, it is not a sole source, it is an open process. If somebody does come forward, you go into a full RFP. If nobody comes forward, you then have the opportunity to negotiate hard with that supplier, inasmuch as you can say you won't buy unless you get a good price, first of all. Secondly, you want to know what their profit margins are, how they compare with what other buyers are paying. So you have leverage because you don't have to sign the contract. If you go with an RFP and there's only one supplier, then you're just stuck with whatever they propose. That's why you would do this in this other fashion.

Mr. Russ Hiebert: You're saying that an ACAN allows you a better opportunity to get inside information, as opposed to an RFP, where they can just say this is the price, take it or leave it.

Mr. David Marshall: That is correct.

Mr. Russ Hiebert: I see, okay.

I also understand there are some spinoff benefits to Canadian corporations as a result of the contract with Boeing. There's the support side of things, and I'd like you to elaborate on that, but there are also opportunities for other Canadian corporations to work on other Boeing commercial contracts. Is that not the case?

Hon. Michael Fortier: It is. This is what I was discussing with Monsieur Crête.

When we announced the program last summer, we indicated that for every dollar provided to a non-Canadian manufacturer on a contractual basis, we would insist that manufacturer reinvest in Canada dollar-for-dollar in the aerospace industry, which was critical. I think most objective people would agree this is a unique opportunity for Canada to see several billion dollars reinvested in the aerospace and defence industry over a certain number of years. The industry has welcomed this. As I said to Monsieur Crête, Mr. Bernier's department is monitoring the regional benefits program. The objective is to make sure that if we're going to give these dollars to non-Canadian manufacturers, at the end of the day our aerospace and defence industry gets a direct and indirect benefit out of all this.

• (0840)

Mr. Russ Hiebert: I understand as well, though, that there are even non-related defence contracts that are going to be available to Canadian corporations working with Boeing on commercial products.

Hon. Michael Fortier: It will depend on the type of contract Boeing will be proposing to the Minister of Industry. You can ask Mr. Bernier when he appears. They will be monitoring and declaring that a particular contract is admissible or not under the auspices of the regional benefits for that policy they have.

Mr. Russ Hiebert: I'd like to talk a little about the maintenance for the C-17s. There's been a lot of discussion and I think some misinformation about where that maintenance is going to take place, how often, and that sort of thing. Could you explain to the committee where the C-17 maintenance is going to be occurring, how often it will be outside Canada, and how often inside Canada?

Hon. Michael Fortier: I'll turn it over to Terry, who is the right person to answer this question.

Terry.

Mr. Terry Williston (Director General, Land, Aerospace and Marine Systems and Major Projects Sector, Public Works and Government Services Canada): The maintenance will be handled under the Globemaster III sustainment partnership we're signing with U.S. Air Force. A large portion of that maintenance will be done right in Trenton. Every 120 days there's a station- or depot-level maintenance activity that occurs. It's only every five years that it returns to the U.S. for what's considered to be a major overhaul.

Mr. Russ Hiebert: Every five years?

Mr. Terry Williston: Yes, that's correct.

Mr. Russ Hiebert: But between the five-year periods, all the work is being done in Canada?

Mr. Terry Williston: That's correct; generally by uniformed personnel, or perhaps some contracted personnel with Boeing.

Mr. Russ Hiebert: How do you negotiate the "in service" report? There's the purchase price for the product—the sticker price—but then there's the on-going support.

You talked in your opening comments about having a sole point of responsibility. How does that process work? Can you elaborate on that?

Mr. Terry Williston: Once again, it's a foreign military sales arrangement that we have with the U.S. Air Force, whereby we indicate to them that we want to participate in the Globemaster III sustainment partnership. They provide to us an outline of all the costs and activities included for the next five years. We sign up to that partnership, which other nations have signed as well, as partners who are using the C-17.

At the end of the five years, any of the moneys we have included as part of that agreement that are over and above what the U.S. Air Force requires to sustain the aircraft are returned to Canada, subject to audit. All of the work done under the foreign military sales agreement is audited, and we pay only the actual cost that the U.S. Air Force incurs.

Mr. David Marshall: Let me add a little bit to what Terry has said. The U.S. Air Force is buying the C-17s as well and maintaining them, and we are participating in that program. Instead of buying the Boeings through the U.S. Air Force as well as the support, we simply negotiated with Boeing directly, in order not to pay the commission. After that, the process is all controlled from one overall manager, the U.S. Air Force.

Mr. Russ Hiebert: As you are obviously aware, this committee is looking at the procurement process and at the fact that in the past it's been quite slow. You commented that it had taken about fifteen years on average and said things have sped up a little to seven years.

I'm wondering how, from a higher level perspective, you are working to improve the system. There's been talk about needing to get Canadian taxpayers a greater value for money. What are you doing to increase the value for money for Canadians?

Hon. Michael Fortier: As I said in my statement, there's the committee of senior public servants from my department, Treasury Board, and National Defence who are working on ways to simplify the process—basically to collapse the fifteen years into something that's far more reasonable. I think seven years is still, frankly, a bit on the long end of it.

One of the ways to do this, to be honest, Mr. Hiebert, is to have fewer specs when we're looking for assets: rather than trying to define every single widget in an airplane, tank, submarine, or whatever, just to come up with larger or macro specs, as we did with the C-17s. I think there were fewer than ten.

In some cases I've seen, there were more than 300 in prior years. It's very difficult when you have 300 specs. People don't agree on the specs, and it takes years and years for all these committees to reach a consensus. Then you go out to the market, and some folks can meet 201 of the 300, and other guys can meet 175, but they're not even the same ones. Frankly, it's a bit of a mess, and we need to streamline this, which is what we've undertaken to do.

• (0845)

The Chair: Thank you, Mr. Minister.

Starting our second round, five minutes, we have Mr. McGuire, then Ms. Gallant, and then Mr. Bouchard.

Mr. McGuire.

Hon. Joe McGuire (Egmont, Lib.): Thank you, Mr. Chairman.

Mr. Minister, you said in your remarks that you need a plan B when you were negotiating a sole-source contract. Who's the plan B with?

Hon. Michael Fortier: You need a plan B in the sense that we would have gone back....

Do you mean with respect to the C-17s?

Hon. Joe McGuire: Yes.

Hon. Michael Fortier: We would have gone back to the defence department in the case of having not reached an agreement with Boeing and we would have started the process again in terms of deciding how they could acquire this asset otherwise.

Hon. Joe McGuire: So there really wasn't a plan B. If you failed in your first negotiation then you would try something else.

Hon. Michael Fortier: I would go back to the client.

The client came to us with these specs. Mr. Williston's team negotiated with Boeing. We're now "in theory", because we know we succeeded with plan A. In plan B you go to the client and tell them listen, we couldn't acquire the asset at a reasonable price so we have to go back to the drawing board. I can only guess at what would have happened in plan B here.

Hon. Joe McGuire: If you weren't that sure of the Boeing contract, why didn't you have a competition and let Airbus compete at the same time?

Hon. Michael Fortier: There was a competition, Mr. McGuire.

Hon. Joe McGuire: Between who?

Hon. Michael Fortier: There was an ACAN, which was published. The other manufacturers could not meet the specs in the ACAN. Some of them actually raised their hands and we had a committee look at the types of assets they were proposing. It was decided by this committee that these alternative assets could not meet the requirements.

Hon. Joe McGuire: So your client would have to change the specs if the Boeing contract had fallen through? The client would then have to change the specs in order to...?

Hon. Michael Fortier: I don't know what would have happened. I haven't been involved in a plan B, but I believe you need a plan B in any negotiation—for sure.

Hon. Joe McGuire: Even though we don't know what it was.

Hon. Michael Fortier: It doesn't matter. You need to make sure you're not going to be buying assets at an unreasonable price just because you believe those assets are required.

Hon. Joe McGuire: Do you think the 20-year maintenance contract with Boeing was good for this country?

Hon. Michael Fortier: In what sense? From a financial perspective?

Hon. Joe McGuire: For the development of our aerospace industry, which we all want to support.

Hon. Michael Fortier: That's a side issue.

To me, what's important is that we get a warranty contract. When you buy your Ford automobile, most people have an extended warranty. They want to make sure the car is going to be fine for the years they require the car. These assets are expensive, and I think it's reasonable for us, as a purchaser, to ensure that we have an extended warranty.

Hon. Joe McGuire: The car warranty is usually at your local garage; it's not in some other country.

Hon. Michael Fortier: You actually go back to the dealership, Mr. McGuire.

Hon. Joe McGuire: That's right.

Hon. Michael Fortier: That's right.

Hon. Joe McGuire: The dealership in your analogy is not in another country, it's in your local town.

Hon. Michael Fortier: Mr. McGuire, believe you me, I would have loved to have bought these aircraft in Canada. They're not manufactured in Canada. Most of the assets—

Hon. Joe McGuire: But they could be maintained here.

Hon. Michael Fortier: With most of the assets we buy at Public Works—the billions of dollars this department buys on behalf of all of you—the very large majority is purchased here in Canada, from Canadians employing Canadians.

• (0850)

Hon. Joe McGuire: But the maintenance could happen in Canada.

Hon. Michael Fortier: Well, for four aircraft—I'll let Mr. Williston explain, as he's much more technical on this than I can be—it was more reasonable. I think it fit in with an overall long-term maintenance support feed that Boeing had with the U.S. Air Force. They have stations around the world where these aircraft are serviced. For us to build a system here in Canada for only four aircraft, most experts would tell you would be unreasonable.

Mr. Terry Williston: And that's the key. For a fleet approaching 200 airplanes, setting up a maintenance facility in Canada for only four was seen as completely inefficient, particularly when you could obtain those same benefits through indirect IRBs for other activities in the country.

Hon. Joe McGuire: On page 5, you said you bought 50 armoured vehicles. Are those the Nyala vehicles?

Mr. Terry Williston: Correct.

Hon. Joe McGuire: I thought they were purchased by the previous government.

Mr. Terry Williston: They were delivered in theatre in 2006.

Hon. Joe McGuire: But the operation was conducted by the previous government, so you really haven't purchased anything off the shelf since you became minister?

Hon. Michael Fortier: Sorry, there is something called the C-17 that we've been talking about, which is off the shelf, sir.

The Chair: Thank you, Mr. McGuire.

Hon. Joe McGuire: But it was competitively off the shelf.

The Chair: We will now go over to the government.

Mr. Blaney.

[*Translation*]

Mr. Steven Blaney (Lévis—Bellechasse, CPC): Thank you, Mr. Chairman.

Welcome, Minister. With respect to the two witnesses who preceded you, I would first of all like to say that I had the privilege of working at the same department as they do, and that this department has a reputation for integrity and results.

Mr. Minister, although it was clearly apparent that your role is to prepare the terms of reference, purchase equipment and that it is up to National Defence to clearly define requirements, I would like to read a brief quote:

[*English*]

The occasion arises so seldom in column writing to say something good about a government that we should waste no time congratulating Ottawa for its decision to step away from a hornet's nest of regional rivalries....

[*Translation*]

I'd just like to review some of what was said.

What I have gathered this morning—and this is a first for our government—is that now, when military procurements are made, it's a dollar for a dollar. Consequently, every time a dollar is invested in military equipment, it is put into the country. I am pleased that you have reminded us about that.

I would also like to tell you that I went to Afghanistan and I boarded that Nyala that was purchased this summer. These are really secure vehicles, which are appreciated by the Department of National Defence.

My question is very simple. We have just adopted the Accountability Act. I would like to know, initially, if there has been any impact on the general Public Works Canada procurement process, but also on the procurement process for National Defence, which is the subject of our study?

Hon. Michael Fortier: The impacts of the federal Accountability Act are general in nature and therefore could apply to both the Department of National Defence, the Department of Health or the Department of Foreign Affairs.

As for the guidelines or significant changes that have an effect on my department and suppliers, there are two aspects: the creation of a procurement ombudsman position and the drafting of a procurement code.

Currently, this code is online and is open to a comment period until March 7 on the MERX system. This is an online procurement system, a little bit like an eBay for the state, in order to purchase goods and services. This is a code that will govern contractual and other types of relationships between the suppliers and the state. It will establish the guidelines enabling us to do business together, namely the state and its suppliers.

As for the procurement ombudsman, this is a position that also was created by the statute. This individual will be called upon to advise the minister and also to receive complaints. These will not be complaints made by individuals because most they have lost a contract, because of these items can be dealt with through a court, either the Federal Court or the Canadian International Trade Tribunal, the CITT. The ombudsman may also receive complaints from people who may have been awarded a contract, but feel that the department has not treated them properly, that the promised payment for compensation has not been made. As I said earlier, the ombudsman will also advise the minister on ways to improve the procurement system in general.

Those are, Mr. Blaney, the two main changes or improvements introduced by the Federal Accountability Act that will deal with procurement in general.

• (0855)

Mr. Steven Blaney: For example, the ombudsman will ensure that suppliers who feel that they have been mistreated could consult him.

Hon. Michael Fortier: That would depend. If this is a supplier who was not awarded a contract further to the bidding process, it would depend on the amount: he would then have to appeal to either the Federal Court or the Canadian International Trade Tribunal, which we also call the CITT. Depending on the amount, he could also consult the Procurement Ombudsman.

Mr. Steven Blaney: In your presentation, Mr. Minister, you mentioned that the individuals in charge of project management and federal government procurements were facing a problem in the area of recruiting, retention and training.

Is this an internal problem? Are there adequate internal resources enabling us to run the procurement process?

Hon. Michael Fortier: Public Works and Government Services Canada is the drop-off place, but in some services on Parliament Hill, we have officials who look after procurement.

Accordingly, we have to act as a bridge between them and us as far as, for example, best practices are concerned and ensure that the practices of my department and that of another department with procurement responsibilities are harmonized.

[English]

The Chair: Thank you, Mr. Minister.

Mr. Bouchard.

[Translation]

Mr. Robert Bouchard (Chicoutimi—Le Fjord, BQ): Thank you, Mr. Chairman. Mr. Minister, gentlemen, welcome. Thank you for your presentations.

I have a few brief questions. I am presuming that the answers can be brief as well.

The Minister of Defence, Mr. O'Connor, testified before us. He stated that it was the responsibility of the armed forces to determine the requirements. Do you agree with that?

Hon. Michael Fortier: Yes.

Mr. Robert Bouchard: The Minister of Defence stated that tendering under the procurement process was the responsibility of Public Works and Government Services Canada.

Hon. Michael Fortier: Yes.

Mr. Robert Bouchard: Do you believe that the procurement process for the C-17 planes was competitive?

Hon. Michael Fortier: Yes.

Mr. Robert Bouchard: What are you basing yourself on when you say that?

Hon. Michael Fortier: The Department of Defence established the criteria for the plane, we issued a contract award notice and after that, we determined with them that there was only one manufacturer, to our knowledge, who could manufacture this equipment to the established specifications.

As I said a little earlier, Mr. Bouchard, I doubled the length of time usually given for the contract award notice to make sure that all manufacturers had enough time to respond. Some replied that they did not believe that their equipment met the standards. An interdepartmental committee was struck and assessed the submissions from the other manufacturers. It was concluded that only the Globemaster III C-17 met the criteria outlined in the contract award notice.

Mr. Robert Bouchard: The process resulted in the government determining that there was only one potential supplier: Boeing. You mentioned an interdepartmental task force. Could this group have possibly concluded that no supplier met the requirements?

Hon. Michael Fortier: No. Are you talking about new suppliers? As the contract award notice, we announced our intent to negotiate with only one supplier, that we had already identified. That meant that at least one supplier met the criteria. The contract award notice stipulated this. We believed that "X" complied with the criteria. If other manufacturers, after reading these criteria, felt that their equipment met the requirements, they could have indicated this to us.

Mr. Robert Bouchard: There is only one supplier for the equipment. Under such circumstances, what is the negotiating power? How is the price of this equipment established? How can a country manage to pay 50% more than another country for the same equipment?

• (0900)

Hon. Michael Fortier: Could you repeat your first question?

Mr. Robert Bouchard: I am talking about the ability to negotiate when there is only one supplier. Under such circumstances, how can the officials negotiate?

Hon. Michael Fortier: This matter was already discussed with Mr. Hiebert. You are right. Fortunately, in this case, the officials at Public Works and Government Services Canada did excellent work.

In answer to your third question, we paid approximately 8% less than the price suggested by Boeing. In addition, we believe that we paid less for this equipment than just about every other country. I would say that we were not taken for a ride, quite the opposite. I think that we got a very good deal for the taxpayers and I'm very proud of the team led by Mr. Williston.

Mr. Robert Bouchard: I have one other question. Does this contract include a termination or cancellation clause?

Hon. Michael Fortier: A cancellation clause—

Mr. Robert Bouchard: What are the provisions for cancellation?
[English]

The Chair: Does anybody have a response?

Mr. Terry Williston: Yes, I do.

As in most contracts, there's always the opportunity for cancellation. We don't plan, hopefully, to be cancelling a contract, but there is a termination-for-convenience article that will protect the rights of Canada should that situation present itself.

The Chair: Thank you.

It is over to the government, and then back over to the official opposition.

Mrs. Cheryl Gallant (Renfrew—Nipissing—Pembroke, CPC): I'll be sharing my time with Mr. Calkins, if there's any left.

So far, in our study on procurement, the testimony has indicated that there has been no political interference in the contracts for the planes we've been discussing.

I'd like to focus for a minute on an incident in which there were other allegations of political interference, which so far have cost the taxpayers half a billion dollars, and now may cost the taxpayers another billion dollars, and that was the cancellation of the EH-101 contract.

It's no secret that the opposition would prefer to rely on the benevolence of other countries for our strategic lift, and quite possibly pay exorbitant amounts to do so. What I'd like to know is exactly what stage of the purchase of the C-17 we are at. If the opposition does trigger another election, is it possible that this contract would be cancelled and we would face hundreds of millions of dollars in fines once again?

Hon. Michael Fortier: I will tell you—I guess I shouldn't say as a lawyer, because I'm not practising law any more—that this is an enforceable contract. We have agreed to buy and they have agreed to sell. When these aircraft are ready to be delivered, we have to show up with the cheque. If we don't show up with the cheque, and if they don't show up with the aircraft, there are going to be some very strong discussions between the two parties. We expect the planes to be there, and I think they expect us to show up with the cheque.

Mrs. Cheryl Gallant: Thank you. I'll share the rest of my time with Mr. Calkins.

Mr. Blaine Calkins (Wetaskiwin, CPC): Thank you, Senator, for coming before the committee today. I'm going to hopefully get some questions in the second round.

I'd like to start off with a little bit about the process here. You said that you were moving to a performance-based, best-value, competitive process. Others have argued that perhaps a lowest price should be the preferred method. I'm just wondering, for best value, if that is a points-price ratio you are using, or are you using a weighting system? How is that working?

Hon. Michael Fortier: I'll let Terry take you through this. But generally, what I was saying earlier was that, particularly with

military assets, we need to collapse the number of specs we have in contracts. It was getting out of control. We need to focus on the essentials. I don't think anybody cares if the green light indicating that something's going wrong in the back of the plane is on the right side of the cockpit or on the left side of the cockpit.

● (0905)

Mr. Blaine Calkins: I agree.

Hon. Michael Fortier: We need to focus on macro issues, which is what we've done, and the C-17 is a good example of bringing it down to fewer than ten specs.

I'll let Terry complement the answer.

Mr. Terry Williston: Generally, in life, none of us wears the cheapest suit or uses the cheapest pen or lives in the cheapest house available. We've all determined that there's some combination of characteristics that provides us with the best value for the way we purchase the goods and services we buy. In the government, we try to do exactly the same thing. All the methods you've talked about are used—weighting various capabilities that the government is looking for, or perhaps using formulas that weigh that technical evaluation against price—so that at the end of the day we can determine which of the goods or services being offered provides the best value to the taxpayers of Canada.

Hon. Michael Fortier: Once you've done a proper identification of your needs, once you know exactly what you want, then you go after the best value. It's not the other way around. You need to first figure out what you need and what you want. Once you've properly identified this, you negotiate to get the best price for that particular answer.

Mr. Blaine Calkins: Of course, you would have the information and the specifications provided by National Defence officials. Is that correct? They're up front with the documentation on how you're going to evaluate or how they would like Public Works to proceed with the evaluation, so from a life-cycle perspective, when does Public Works get involved?

We've got an analysis of a problem, which is probably done by National Defence. At some point there are going to be draft requests for proposals that are going to go out. They're going to go to industry for some feedback, and then we're going to have final requests for proposals. At what point does Public Works staff get involved in that process? Does it need to change? Have there been any improvements or efficiencies so that the people who are responsible for project management for the procurement end of things are involved sooner or later or at the appropriate time in the process to make sure that we're creating efficiencies?

Hon. Michael Fortier: I'll let Terry answer that.

The Chair: We'll have to come back to that. We're out of time.

Hon. Michael Fortier: That's a great question.

The Chair: It's a great question. I think you will repeat it on your next turn.

Hon. Michael Fortier: It was a long question.

The Chair: Mr. Coderre, go ahead, please. You have five minutes.

[Translation]

Hon. Denis Coderre: We will go back to serious matters, Mr. Minister.

You were certainly informed that defence purchases, under the procurement process, could be made in three ways. There is procurement through a direct tie with the company.

[English]

They call that direct commercial sale.

[Translation]

Mention was made of foreign military sales or FMS. We'll talk about this later on with Mr. Williston. There is also the memorandum of understanding or MOU.

Were you briefed about ITAR?

Hon. Michael Fortier: Yes.

Hon. Denis Coderre: You were informed about what Gen. Daniel Ross said regarding defence purchases and ITAR? With respect to this issue, there was a document that talked about green light, yellow light and red light.

Hon. Michael Fortier: No.

Hon. Denis Coderre: You were poorly briefed then. Why was it said that the C-17 contract was ITAR-friendly, particularly with respect to dual citizenship? You know full well that ITAR applies to this contract, not only to employees that may come from other companies—and that's why I raised the matter of Bell Helicopter, even though I don't need you to answer regarding that—but also to defence employees. So for someone with dual citizenship, being Venezuelan or Chinese, the American government's security rules will apply: this person will not even be able to get near the plane.

I am not talking to you about the region, but about the way that you have awarded this contract. Why didn't you negotiate the application of ITAR before signing this contract? Why didn't you take a firmer stance in order to protect our Canadian citizens?

Hon. Michael Fortier: First of all, I would like to go back to what you said about the briefing. I do not think that this was your intention, but you let it be understood that I am poorly briefed. As you know, ITAR comes under the jurisdiction of the Department of Foreign Affairs. Mr. MacKay is responsible for this file. I would suggest that you invite him here, if you would like to discuss this matter with him.

I would also like to make the following correction. In the contract that Mr. Williston negotiated with Boeing, there are clauses providing that the procurement of planes will be done in such a manner that ITAR will not apply.

• (0910)

Hon. Denis Coderre: I'm going to stop you right there. Daniel Ross himself told the House that negotiations were now under way because ITAR was applying. We are talking about procurement contracts, not maintenance contracts. You therefore misled the Senate and the people when you said that this contract was ITAR-friendly. ITAR applies.

So why did you say that, Mr. Minister?

Hon. Michael Fortier: I will finish my answer. Provisions in the contract stipulate that procurement of the equipment excludes ITAR conditions. You are mixing a lot of things up. When we purchase a plane, it has already been manufactured, it already exists, Mr. Coderre. We take delivery of it. As far as the procurement of the plane is concerned, this is a contract that we signed. This procurement—

Hon. Denis Coderre: But as far as the handling—

[English]

It's my time, Mr. Chair. I have the right to do what I have to do. Thank you.

The Chair: No, no, no, we'll let him go on.

Hon. Denis Coderre: That's my time. Go on.

The Chair: No, but we'll address all the questions to the chair.

[Translation]

Hon. Michael Fortier: You are confusing all kinds of concepts. Earlier you talked about Bell Helicopter, but that has absolutely nothing to do with the C-17 contract, Mr. Coderre.

Where were you in 2002, when GM Canada had to lay off 14 employees because of ITAR? GM Canada paid the U.S. government \$20 million in penalties because ITAR applied.

Hon. Denis Coderre: My problem, Mr. Minister, is not about what was done in the past; the problem, right now, is that you are the minister and you are the one who is responsible.

Hon. Michael Fortier: Yes, but I am not responsible for ITAR. That is not true.

Hon. Denis Coderre: And you said at the Senate that you are responsible for signing off on the contract. You said very clearly that the contract was ITAR-friendly.

Hon. Michael Fortier: Exactly, and that's what I'm telling you here again this morning.

Hon. Denis Coderre: But isn't ITAR-friendly.

Hon. Michael Fortier: That's your opinion.

Hon. Denis Coderre: You know that the process is extremely important in our analysis. Can you table before the committee all the correspondence between your officials and National Defence's officials dealing with briefing on the ITAR issue?

Before signing a contract, well, since you're a good lawyer, you have a plan B, as you said, and you want to make sure that everything is as it should be before you sign off on a contract.

Would you be prepared to table your correspondence before the committee, and be transparent like Gen. Lucas was last week, so that we can get a firm grasp of what went on in your briefing? Would you be willing to do that?

Hon. Michael Fortier: No. I'll table what should be tabled and if it is required by law, and nothing else, Mr. Coderre.

Hon. Denis Coderre: [Editor's Note: Inaudible] do that.

Thank you.

[English]

The Chair: Thank you.

Thank you, Mr. Minister.

Mr. Hiebert.

Mr. Russ Hiebert: Thank you, Mr. Chair.

My colleague in her previous round of questioning talked about an issue that I think is worth delving into a little bit deeper. Mr. Coderre has repeatedly argued before this committee and in public that it would be far better for the military to lease or rent strategic airlift from our allies than purchase it. Now, apart from the fact that every military witness who has been before this committee has testified that purchasing these aircraft was the best option, I want to talk about the possibility that—heaven forbid—if the Liberals were to return to power, they would cancel the contract.

This certainly wouldn't be a first time, as you probably know. As you may recall, the Liberal government, as one of its first acts of power in 1993, cancelled the EH-101 contract that had been negotiated by the previous Conservative government to replace the aging Sea Kings. At the time the Prime Minister called these helicopters just too expensive. He dismissed them as Cadillacs, as being too good for the military, and the previous Liberal government paid a \$470 million penalty to cancel the contract. They then took 11 years to identify a suitable replacement, which is the H-92 Superhawk, at a cost of \$5 billion. This was a billion dollars more than the EH-101 contract, and now we're expecting delivery in 2009, when we would have had the previous helicopters for several years now.

So my question to the minister is this. What would be the consequences if the Liberals were to return to government and cancel yet another contract for much-needed equipment for our military?

Hon. Michael Fortier: Sorry, I missed the beginning of the question. Did you ask what would happen?

Mr. Russ Hiebert: What would be the consequences if they were to return to power and cancel yet another needed purchase for our military?

Hon. Michael Fortier: As I said earlier, this is an enforceable contract, so if they cancelled it we would face litigation from Boeing. I can't tell you what the outcome would be, but this is an enforceable contract, and hence it could cost us a lot of money, for sure, most definitely.

That's number one, and number two is we'd need to go back to the drawing board in terms of providing our armed forces with the type of airlift they require, which is really also almost as important as the financial consequences, when you think about it. They've been deprived of these assets for too long. When we formed the government, we faced the situation that basically the Liberals had, for reasons of their own—I'm not quite sure what they were—decided not to equip the military as they should, particularly given the theatre they're in right now in Afghanistan. They actually sent them to Afghanistan.

Hence we're stuck having to equip the military. And I think we've gone about it the right way in the first phase of our C-17s, and I think our military are happy at the type of acquisition we've made. So if we were to cancel this, there would be financial consequences and there would be dire consequences, I think, also in Afghanistan and elsewhere where our forces serve.

●(0915)

Mr. Russ Hiebert: Considering that the contract that was cancelled by the previous Liberals was about a \$4 billion contract and the penalties that were paid were \$470 million, the C-17 contract being close in rough numbers to that same amount, is it not hypothetically possible that the penalties would be several hundred million dollars?

Hon. Michael Fortier: It could be. Listen, clearly it's going to be very expensive. Again, it's an enforceable contract. These aircraft are going to be delivered. We've signed a long-term in-service support agreement, so the consequences financially would be awful. There would just be clearly—

Mr. Russ Hiebert: For the government and the taxpayers.

Hon. Michael Fortier: For the taxpayers, and then for the military, as I said, they'd be devastating.

Mr. Russ Hiebert: Mr. Chair, I'll share the balance of my time with my colleague Mr. Calkins.

The Chair: One minute.

Mr. Blaine Calkins: I believe I had a question on the paper, if you remember what it was. By the time I ask it again, my minute's going to be up.

The Chair: You'll get another chance later on.

Mr. Blaine Calkins: In the project management life cycle, at what point does Public Works get involved? When does DND hand it off? Is there collaboration throughout the process? How is that working, and how is it being changed, if at all?

Hon. Michael Fortier: I'll let Terry answer that question with respect to the military per se.

Mr. Terry Williston: We're involved quite early in the process. Certainly the production of the statement of requirements is done with the military, by the military, and for the military. But once they have that produced, and they've decided to embark upon a project, we're involved very early in the game in what are called integrated project teams. So we get an understanding of exactly what the military is attempting to procure.

Then we go into interdepartmental committees, where the requirements that the military has put forward are challenged, and not just by us, but by our colleagues in the Treasury Board Secretariat, PCO, Finance, Industry Canada, the regional agencies, and Indian Affairs. Everybody has an opportunity to have a challenged function to make sure that everyone understands what the requirements are and that everyone is essentially in agreement with the project going forward.

From that point, we work closely with our colleagues in National Defence and Industry Canada to bring the project home.

The Chair: Thank you very much.

To finish up the second round, we have Mr. Coderre.

[Translation]

Hon. Denis Coderre: Thank you very much, Mr. Chairman.

Let's imagine, Mr. Fortier—given that Canada is a very generous country—that a disaster occurred in Cuba and that the C-17 was used. We get to Cuba, deliver the goods, just like we did with the Tsunami and in other situations. That's appropriate, that's normal, from a humanitarian standpoint. The plane is damaged, and there's a defect.

Are you aware that because we're talking about Cuba here, and also because of American security regulations, we wouldn't be able to, for instance, get the missing part needed to repair the plane? When you signed the contract, did you consider that?

Hon. Michael Fortier: As far as maintenance is concerned, Mr. Coderre, and more specifically what would happen should an aircraft encounter difficulties in a particular country, I'd have to ask Mr. Williston to answer that question as, I'm sure you'll agree, it is more technical.

Hon. Denis Coderre: I think it is a very political question.

Hon. Michael Fortier: You say it's "political". You chose the example of Cuba, obviously you didn't choose Spain because it suited you to choose Cuba.

Hon. Denis Coderre: No, it means that you have a list of 25 countries, and under ITAR—

Hon. Michael Fortier: I don't have any list.

Hon. Denis Coderre: No, I'm referring to the American security regulations.

Hon. Michael Fortier: You asked a specific question, so—

Hon. Denis Coderre: Mr. Williston—

[*English*]

The Chair: Mr. Williston.

[*Translation*]

Hon. Denis Coderre: —since the minister doesn't know the answer—

[*English*]

Mr. Terry Williston: In terms of the maintenance of an aircraft and the situation—and that is a hypothetical situation, so I'm providing an answer in a hypothetical state—for the in-service support that's been procured under a foreign military sale, this sale comprises an exception to the ITAR requirement, and a Department of State licence is not required for sharing ITAR-controlled technology material among the employees of the purchasing government.

So those Canadian Forces technicians who would have to go to Cuba to maintain that airplane, in order to bring it back home, would not be subject to ITAR requirements.

• (0920)

[*Translation*]

Hon. Denis Coderre: But, when it comes to parts, ITAR applies. You know when you signed the contract, there was an important section in relation to service support, dealing with intellectual property. ITAR doesn't just apply because of security reasons. One other reason is economic protectionism, and also a fear of industrial espionage, among other things. So, all manner of steps are taken. But given that this aircraft isn't our intellectual property, systems-wise... I

told you this before, we deal with frontline maintenance: we'll change the windshield wipers, change the oil and put fuel in the tank. But when it comes time to deal with computer integration systems and when we have to conduct second-line maintenance, well there'll be a problem because it isn't our intellectual property. So the foreign military sales, the FMS, will also apply; ITAR also applies to the FMS. That needs to be factored in.

Hon. Michael Fortier: One needs to be careful of one's choice of words: "changing the oil and replacing the windshield wipers". I know that you have a style rich in images—and I congratulate you on that—but one needs to do more than just scratch the surface.

Hon. Denis Coderre: No, when there's not enough fuel in an aircraft, it isn't an image, it's a problem.

Hon. Michael Fortier: Well, no. At any rate, I think that if an airplane like that one—and we can ask Mr. O'Connor perhaps—had a maintenance issue, as Mr. Williston said, Canadians would repair it.

Hon. Denis Coderre: Minister, with all due respect, when you sign a contract you're responsible for it. I didn't give you a hard time about the region, because we're going to haul your colleague Mr. Bernier over the coals on that.

I know that there is a little bit of a spat going on between the two of you because when you were minister responsible for the Montreal region you fought so that Quebec would get at least some share and unfortunately it didn't work because Mr. Bernier was better at grovelling than you. But that's another story.

But the question is, as the official in charge of signing off on contracts, the buck stops with you.

Mr. Steven Blaney: A bit of respect—

Hon. Denis Coderre: I think it's important to mention here that as far as ITAR is concerned, when you sign a contract—and you're a minister of the Crown; I've been a minister of the Crown—you work for the interests of Canada and Canadians. We were talking earlier about litigation. This is a problem that will only get worse, because when we're dealing with businesses and then have to make a choice between their employees and the contract, we're going to be in trouble. So you need to consider that.

I have a final question.

Hon. Michael Fortier: Mr. Williston told you a little earlier that we looked after maintenance here in Canada. I don't know why you may have missed that.

Hon. Denis Coderre: Because we're talking about frontline maintenance.

Hon. Michael Fortier: No, it's only every five years, he told you this earlier. Maintenance is carried out here in Canada every five years. That's what he said.

Hon. Denis Coderre: No, not every five years. We don't have the infrastructure, planes are taken to the United States and completely dismantled there.

[*English*]

We strip the plane totally.

[Translation]

And if this isn't our intellectual property, then that's not a good thing, my friend.

For the tacticals, it will be sole source, for a total of \$4.9 billion. The C-17 is an unnecessary purchase, in my opinion. It could have been rented; that would have been my plan B. It's a sole source. Now, as for the Fixed Wing SAR, some people seem to be getting their knickers in a knot over them. Will they also be sole sourced? Is the government making it a habit of having everything sole sourced?

Hon. Michael Fortier: I hear what you're saying about sole source. But where were you when the Chrétien government bought the Challengers, at the end of fiscal 2001? Where were you when the nuclear submarines were—

Hon. Denis Coderre: That was Canadian sole sourcing; that's good.

Hon. Michael Fortier: No. Where were you?

Hon. Denis Coderre: So you're against the Challenger, and you're against Bombardier?

Hon. Michael Fortier: Where were you when—

Hon. Denis Coderre: As minister responsible for Montreal, you're now against Bombardier? That's good to know.

[English]

The Chair: Mr. Minister.

[Translation]

Hon. Michael Fortier: Where were you when the nuclear submarines were bought from the English through sole sourcing?

Hon. Denis Coderre: You're against—

[English]

The Chair: Mr. Minister.

[Translation]

Hon. Michael Fortier: Where were you when the Hercules were bought, the—

Hon. Denis Coderre: Are you trying to tell me, Minister, that as minister responsible for Montreal you're against Bombardier?

[English]

The Chair: Mr. Coderre, time's up.

[Translation]

Hon. Denis Coderre: You think it's unacceptable that we should give Canadian businesses a helping hand.

That's good to know.

[English]

The Chair: Mr. Coderre, your time is up, please.

That ends the second round. To start the third round, we're going to have to keep to schedule in order to get through this. We'll take the extra minute that was just included there to start the third round with the official opposition, then the government, and then the Bloc. So the official opposition has the floor. It starts the third round. That's the way it's been set up for questions.

Go ahead. Your time's starting.

[Translation]

Hon. Denis Coderre: Go on, Mr. Fortier.

[English]

The Chair: [Inaudible—Editor]

[Translation]

Hon. Denis Coderre: Yes, it's important. I find that a tad sad, that you're minister responsible for making sure... You talked about transparency, openness and competition, and the Chief of the Defence Staff at the Department of Defence said:

[English]

"I've traced the lines in the sand. This is what I want, and this is what I get, no matter what."

[Translation]

Isn't your role also to play devil's advocate? We're not here to ask questions about an airplane that might look good on paper and yet in five years' time... When you embark upon the certification process, when you make a purchase of this type, it's not just for two years, it's for 20. So why aren't the appropriate questions being asked, given that?

Secondly, do you think after having the same plane for 50 years that the best way—and I don't favour one company over another, but I think it's important to ask this sort of question—to choose a new one is to deal with the same company? You have the option of buying a plane, you want to update. Doesn't it spring to mind that you should perhaps continue to do business with the same company given that you had the plane for 40 or 50 years? Or do you want there to be another pitch made and, regardless of the lines in the sand, do you want to ensure that there's real competition between companies and that we get our money's worth?

• (0925)

Hon. Michael Fortier: To answer the first part of your question, the criteria developed by the Department of Defence are discussed at the interdepartmental committee. We discussed this earlier, perhaps you remember, Mr. Williston referred to it. Representatives from Public Works and Government Services Canada and from Treasury Board are involved in these discussions. There's a dialogue about the criteria. Perhaps you don't like the standards they've come up with, and I respect your opinion. But they reassure me, Mr. Coderre, because independent of my role and of partisanship I'm reassured to see that there are men and women who aren't politicians and who care about these criteria and want a sensible procurement plan.

Hon. Denis Coderre: You just contradicted yourself. It is indeed very partisan and political, because the person who was dead set on the C-17s was certainly not Gen. Hillier, because when this plan was brought forward he was clear that it was the tacticals that people wanted changed. The Air Force said it preferred to have six C-17s and to keep the Hercules. And now there is talk of changing the Buffalos after they had a look at the new motors, but it was never a matter of having C-17s and tacticals: it was either one or the other. Your colleague and friend Minister O'Connor wanted these big flying boats, and it was part of your election platform. He said they were needed. So it's very partisan.

What's more, I would remind you that Minister O'Connor has the final say as the minister responsible for procurement in this area. He's the one looking at the criteria and the one with the authority. So don't come and tell me that is not partisan.

Hon. Michael Fortier: Mr. Coderre, saying that we want either strategic aircraft or tactical aircraft is a bit of a generalization. You're telling me that Mr. O'Connor and other politicians chose an aircraft manufactured by one company or another, which isn't accurate. Saying that is quite inappropriate and you know full well that I am right. Let me bring you back to the discussion at hand.

Some people who are independent of the political sphere have discussed these criteria and once they were developed, you still say that it was sole sourcing. That's not true, and you know it.

Hon. Denis Coderre: At one time—and Mr. Williston was perhaps there back then—the military wanted accessibility. If we didn't want to do business with the Europeans, we could have entered into an agreement with Boeing and said that because it was an American company located across the border, we could rent aircraft at the end of their production cycle when we needed them. I don't know if we'll ever know if political agreements were entered into.

At any rate, the Chief of the Defence Staff said that he was reluctant to put anything at all on paper. The only competition, over the past six years—and this was part of the army's strategic plan—was between two companies: Airbus and Boeing. Don't try and tell me that the Chief of the Defence Staff didn't choose the aircraft. So on the one hand, he didn't want to put anything down on paper, and on the other hand, he decided to buy aircraft off the shelf, Boeing C-17s. We don't have a handle on our backs minister, we're not suitcases. The C-17s were wanted. You and your government wanted to make sure you had strategic aircraft, and that's fine. It was your political choice, and you'll live with the consequences. The fact remains that we wanted Boeing aircraft.

[English]

The Chair: Thank you.

[Translation]

Hon. Michael Fortier: I don't know if you asked a question, but I listened to you.

[English]

The Chair: We're out of time for that round.

Mr. Blaney, and then Mr. Crête.

[Translation]

Mr. Steven Blaney: Thank you, Mr. Chairman, for recognizing me.

Minister, having listened to the witnesses, it has become clear that the C-17 purchase was not only strategic but also played a transitional role by replacing the Hercules tactical aircraft which are now outdated. Unfortunately, over the past 10 years the military air fleet has been drastically cut; one might even say that it is vulnerable.

My question is quite straightforward, and you've already broached it. Are we getting a good deal by purchasing these C-17s? You've made comparisons. I'd like to give you the opportunity to

demonstrate that the purchase of C-17s is a good deal for the country. It's been demonstrated that from a tactical standpoint, the practice of leasing makes us dependant on foreign powers, and that in a crisis situation, it may be impossible for us to get our hands on any planes. Nevertheless, from a financial standpoint, because at the end of the day we're talking about taxpayers' money, is this a good deal?

• (0930)

Hon. Michael Fortier: Yes it is, it's a good deal for both taxpayers and the Canadian Forces. After the Department of National Defence worked out what it needed and discussed this with Treasury Board and my department, it was decided that there was probably only one manufacturer. So we had talks with Boeing and purchased the aircraft. We still issued an award notice. According to our sources, we got one of the best prices per aircraft in constant dollars ever paid for this type of plane. Canadian taxpayers will be getting their money's worth. So it's a good deal. I can understand that you may disagree with the choice of aircraft; I respect other people's opinions. However, given how useful this aircraft is and as it meets all the criteria developed by the Department of National Defence, we and Mr. Williston's team have gone and got ourselves a very good deal.

Mr. Steven Blaney: In any case, we clearly saw that the C-17 was the only plane that can transport two light armoured vehicles and is a notch above all other aircraft available on the market, in terms of capacity.

The volume of purchases by Public Works and Government Services amounts to \$7 billion a year. Taking into account the new purchases that are planned, by how much will that amount increase?

Hon. Michael Fortier: That was the volume for fiscal year 2005-2006. Of course, the procurement program announced last summer will lead to an increase in that amount and, consequently, the total amount of federal government procurement and the share allocated to defence spending will also increase, given that this program will have a quite significant impact over the next few years. I do not have the exact figures with me.

Mr. Steven Blaney: It is spread over a number of years.

Hon. Michael Fortier: Indeed. This is a 17 billion-dollar program spread over 20 years. That amounts to an average of close to \$1 billion more a year.

Mr. Steven Blaney: If possible, I would appreciate seeing a projection for the next five years.

Hon. Michael Fortier: Very well, we will provide you with that.

Mr. Steven Blaney: You indicated that you were able to shorten the process from 15 to 7 years. You talked about improvements. Are you simply shortening the process to save money, or are you also ensuring that the equipment be available as soon as possible?

Hon. Michael Fortier: That is correct. We have to use common sense when making such purchases. In some cases, it will take a bit longer. Nevertheless, according to my understanding of what happened in the past—and the question should also be put to the Minister of Defence—over a number of years, the list of criteria adopted by the people searching for military assets had become very long. As a result, when my officials and the people from Treasury Board sat down for discussions, in some cases, there were hundreds of criteria.

In light of that, especially in an industry where there are only a few suppliers for certain assets, the more criteria there are, the higher the risk of excluding all potential suppliers. You then have to start anew and redraw the aircraft. This creates a vicious circle, and the army does not get its equipment.

Mr. Steven Blaney: You said—

[*English*]

The Chair: Sorry, your time's up.

• (0935)

[*Translation*]

Mr. Paul Crête: Thank you, Mr. Minister.

In the contract with Boeing, there must be one or more clauses that specify how the spinoffs will be split. I would like you to indicate how that will be done. To whom does Boeing have to report the economic spinoffs?

Hon. Michael Fortier: That is a question for Mr. Bernier, that falls under the responsibility of Industry Canada.

Mr. Paul Crête: How did the Minister of Industry contribute to preparing the terms and conditions of the contract? Was the company asked to provide a breakdown by Canadian region?

Hon. Michael Fortier: Who would have made such a request? I do not understand your question.

Mr. Paul Crête: In that contract that you negotiated with the company, there is a clause allowing them to invest economic spinoffs.

Hon. Michael Fortier: It does not allow them to, it is a requirement.

Mr. Paul Crête: The Minister of Industry will receive that. There must have been discussions between you or your officials and Department of Industry representatives regarding the breakdown.

Does that clause state how the breakdown will be done throughout Canada?

Hon. Michael Fortier: You would have to ask Mr. Bernier that question. That deals with negotiations between his department and Boeing. You have to understand that this is one component. Our department was responsible for purchasing the aircraft.

Mr. Paul Crête: Mr. Minister, you are telling me that some of the contract's clauses include a mechanism. Now, the contract is within your jurisdiction. You have signed it.

Could you or Mr. Williston tell us what mechanism was provided for so that Boeing reinvest those spinoffs? How does it work?

Hon. Michael Fortier: As I explained to you earlier, the company has to submit its proposed contracts to comply with the dollar-for-dollar principle.

Mr. Paul Crête: Yes.

Hon. Michael Fortier: It submits them to Industry Canada for approval. For example, if we were talking about the opening of a Subway restaurant in your riding, you would benefit from it.

Mr. Paul Crête: I do hope that the Subway restaurant is not part of the contract's expected spinoffs.

Hon. Michael Fortier: It will not be assessed on a dollar-for-dollar basis. The same would apply to a fountain in Mr. Coderre's riding.

Mr. Paul Crête: Will your department take part in assessing the Boeing contract, to check whether the process was effective and profitable, not so much in terms of equipment quality as in spinoffs? If not, will you only rely on Industry Canada's assessment?

Hon. Michael Fortier: That is the responsibility of Industry Canada. Ask Mr. Bernier that question. His department will ensure follow-up so that Boeing meets its contractual obligations to reinvest in Canada one dollar for every dollar received.

Mr. Paul Crête: Can Mr. Williston tell us how that will be forwarded to the Department of Industry?

Hon. Michael Fortier: That is not Mr. Williston's responsibility, it is Industry Canada's.

Mr. Paul Crête: But you have signed the contract.

Hon. Michael Fortier: The contract includes an obligation and a mechanism.

Mr. Paul Crête: What I'm interested in is the mechanism.

Hon. Michael Fortier: Company officials have to present Industry Canada with the contracts they believe are eligible.

Mr. Paul Crête: And that—

Hon. Michael Fortier: Industry Canada either endorses or rejects them. It could be because it is not related to the defence industry, or is an old contract that was recycled.

Mr. Paul Crête: Very well.

What will and will not be eligible?

Hon. Michael Fortier: I suggest you ask Mr. Bernier. It has to be related to the aerospace industry. He knows all the criteria, he will give them to you.

Mr. Paul Crête: Is that included in the contract that you signed?

Hon. Michael Fortier: No, that is a parallel policy for regional spinoffs. There is a clause in the contract that provides for such an obligation, but the policy comes under Industry Canada.

Mr. Paul Crête: If I understood correctly, the clause basically states that Boeing will provide Industry Canada with information that will allow it to decide.

Is that how it works?

Hon. Michael Fortier: Not like that, but—

Mr. Paul Crête: So how does it work then?

Hon. Michael Fortier: It's something like that.

Mr. Paul Crête: So, how does it work?

Hon. Michael Fortier: They have to reinvest in Canada one dollar for every dollar received.

Mr. Paul Crête: Do they—

Hon. Michael Fortier: Oversight is ensured by Industry Canada.

Mr. Paul Crête: I wasn't trying to be aggressive.

Hon. Michael Fortier: No.

Mr. Paul Crête: I am trying to find out what kind of information the signatory will have to provide, and to whom. I would think that that is a relatively simple request. You signed the contract. If you do not have the details, one of our advisors should be able to answer that question.

Hon. Michael Fortier: Your question is not aggressive, and neither is my answer. Simply put, they have to provide Industry Canada with the contract that they intend on using to comply with the one-for-one rule.

Mr. Paul Crête: If I understand correctly, Industry Canada will decide if it complies with what is in the contract.

Hon. Michael Fortier: That's correct, Mr. Crête.

Mr. Paul Crête: All of that must surely have been written in the contract.

Hon. Michael Fortier: That is correct. Would you like me to read the clause? It has just been summarized, Mr. Crête.

Mr. Paul Crête: I would very much appreciate it if you would read the clause.

Hon. Michael Fortier: I know that it would make you happy, but you have to be in government, Mr. Crête. It's hard to accept, isn't it?

Mr. Paul Crête: Sometimes the opposition has more clout than some ministers.

Hon. Michael Fortier: I don't think that is what Mr. Marceau said in Quebec City, this week.

Mr. Paul Crête: I don't know what he said, but I can clearly see that the minister who is responsible for Quebec was forced to accept a clause that will be detrimental to the entire province.

Hon. Michael Fortier: I am responsible for Montreal. Don't make me sound any more important than I am.

● (0940)

Mr. Paul Crête: There will be consequences for the entire province of Quebec because whatever happens in the aeronautics industry affects not only Montreal but every region in the province. [English]

The Chair: Thank you very much.

Moving along, it's over to the government side, and then it's back to the official opposition.

Mr. Calkins.

Mr. Blaine Calkins: Thank you, Mr. Chairman.

Minister, I'd like to talk a little about the single point of accountability that you highlighted in your speaking points. Others call it a total package procurement, whatever the case might be.

From my understanding, the rationale for this is such that if the company that's the supplier or the manufacturer of the good is also

the company providing the maintenance, you don't have a manufacturer and a separate maintenance company playing off against each other over who's responsible or accountable for something when something goes wrong.

Are there any other advantages that we should be made aware of at this committee level for the total package procurement?

Hon. Michael Fortier: I would say that we want more accountability, and I mentioned this in my speech. This is across the board. It's not only with respect to military assets; it's any and all assets.

If folks are going to subcontract behind, that's fine, but we want them to be accountable as a prime. If they subcontract a particular part of the contract to a third party and the third party is not meeting its obligations, we are making sure that the prime will be held accountable to us. We won't have to go behind the prime, which has been the case in the past, to seek redress from the third party who didn't sign a contract with us but actually signed a contract with the prime.

In our contracts, we're making sure that if the prime is not going to do 100% of the contract, that's fine, in cases where we agree it's fine. But if they're going to subcontract, then they're going to be responsible for the delivery of the services from that subcontractor.

Mr. Blaine Calkins: For all of the legal fees for anything that might accompany it, if you had two companies playing off against each other in dealing with the prime, the government was probably forced into a situation where it had to take legal action against one or both of the providers of either the service or the goods. The responsibility would now shift to the prime who has subcontractors or whatever the case might be. As a single point of accountability, they would then factor into their costs, for the service provided to the Government of Canada, all of the costs they would have to bear.

From a cost perspective, are we any further ahead by going with this total package procurement?

Hon. Michael Fortier: Most definitely, because picture us having to deal with a million subcontractors for one big contract. It's unmanageable.

Mr. Blaine Calkins: The level of efficiency is better.

Hon. Michael Fortier: It's better.

I'm not suggesting this is what you were saying, Mr. Calkins. But to assume that the prime would then factor in all kinds of little premiums in case things go wrong, in the real world you have competition, you're playing people off each other, and these so-called discrete premiums disappear. I think it's a smart way to do business, particularly for large contracts, to have one person accountable to us so that we can actually seek redress from that person.

Mr. Blaine Calkins: I couldn't agree with you more.

Public Works is responsible for the rules regarding the agreement on international trade, the articles in the agreement on international trade—is that correct?

Hon. Michael Fortier: Well, they apply to us.

Mr. David Marshall: Enforcing them....

Hon. Michael Fortier: Yes, that's right.

Mr. Blaine Calkins: I have a few questions on that, and if you don't know, that's fine. These are fairly specific questions.

There is an AIT threshold for goods and services. I think it's \$50,000 for a good and \$100,000 for a service. Does that sound familiar?

Mr. Terry Williston: I don't have them right with me, but that sounds—

Mr. Blaine Calkins: How long has that threshold been in place? Has it been in there for a long time? And when can we open up or should we open up the agreement on international trade to change these kinds of things?

It seems to me that if you have to go to a competitive process for something that's \$50,000, you can't buy much for \$50,000 any more and you start up this whole process. I'm just wondering whether anybody has looked at the cost-benefit analysis of changing those thresholds, because while the competitive process can save you a lot of money on large purchases, it can also cost you quite a bit of money on small purchases or light purchases.

I'm just wondering, from your perspective, Minister, whether or not that's something that should be looked at.

Hon. Michael Fortier: That's a good question you're asking. However, when we were elected and formed government, we had other issues at Public Works to deal with.

As you know, the government decided to table the FAA, among other things, to clean up government procurement. I think we need more transparency.

I think we're probably several quarters removed, to be very transparent with you, when looking at this issue. I think if you were to put the threshold even higher at this point, given some of the difficulties, as you know, with the ad scam and other procurement irregularities that took place before we showed up, to raise the level where you could actually go to somebody without competition is probably not in the cards.

From a pure value-for-services perspective, I think you have the beginning of a good argument. We should be looking at this.

• (0945)

Mr. Terry Williston: Perhaps I could just jump in here. The AIT threshold that I have is \$25,000 for goods and services and construction is valued at \$100,00, or greater. In terms of its application, AIT applies to 48% of our contracts, of defence agreements, and it is worth 84% of their value.

The Chair: Good. Thank you very much for that.

To finish out here, we'll go over to the official opposition, back to the government, to the official opposition, and we'll finish up with the New Democratic Party. And that gets us through the third round.

Your patience maybe paid off.

Mr. Coderre.

[Translation]

Hon. Denis Coderre: Congratulations, Minister. Last month, Mr. Bernier was Boeing's employee of the month, and it looks like you are in line to receive the honours this month.

[English]

You've heard about the statement of requirements? Do you know what it is, the SOR?

Hon. Michael Fortier: Yes.

Hon. Denis Coderre: The assistant deputy minister for materiel is a former general. The person who is in charge at the end of the day, of course, which is normal, is the CDS, who is General Hillier. The Minister of Defence is a general.

When you develop that SOR there is no civilian oversight, so it's among themselves.

It seems we need a few more civilians in the process. Your role on the procurement is to make sure you're asking the right questions, but we've noticed since the beginning that at the end of the day you're just applying what they've asked for. So there's a line in the sand, that's it, that's all, and thank you, *voilà*, and I'll give you what you want.

For the sake of governance, that's an important question. Don't you believe that you should be in the process, not when the requirements are settled, but during the process so you can ask all the questions?

It seems, especially with the C-17, when you look at some of the requirements, and if you take the ones on tactical, they're talking about the delivery and the certification. They had to change their minds in only a few weeks on the capacity, on the payload, meaning that they learned their lesson well—talking about trucks—but they moved from 43,000 pounds to 86,000 pounds.

If you had been there in the beginning of the process, when they were asking questions, at least you could see what was going on, and that's why General Lucas agreed to provide us with the correspondence, because within two weeks everything seemed to have changed.

Don't you believe the best way to have a true—and you spoke about transparency—procurement process...that you as the Minister of Public Works should get involved also in the statement of requirement so you can challenge a bit more as a civilian? As a military you have your needs, and it's normal, but your role, also, is to make sure that they not only have their equipment but also that at the end of the day it's the taxpayers' money. So don't you believe you should be in the process before everything has been settled?

Hon. Michael Fortier: Well, the SOR, as you know, is not a child of any particular government. It's been around for a while. It was around when you sole-sourced the Challengers, when you sole-sourced the subs from the Brits, when you sole-sourced several Hercules here and there. It's been around.

I know this committee's looking at this, and if this committee has suggestions about how to improve procurement within the military—and I say this very objectively—I'm open to them, and I'm sure Mr. O'Connor is as well.

I take exception to your suggestion that there are no civilians involved. I even understand why you're asking the question in English, given that we're two francophones speaking in English. I also understand why that's taking place in English.

Hon. Denis Coderre: Well, that's federal. There are two official languages.

Hon. Michael Fortier: It's just for the audiences, for the CTV people, and CBC—

Hon. Denis Coderre: No, they already left.

Hon. Michael Fortier: It's for the sound bite.

Hon. Denis Coderre: No, the sound bite has already been done. You're okay. Don't worry.

Hon. Michael Fortier: Okay.

Hon. Denis Coderre: It was about when you misled the people on ITAR.

Yes, go ahead.

Hon. Michael Fortier: Oh, that's already gone?

In any event, as I was saying, I take exception to the fact—

Hon. Denis Coderre: It takes two to tango.

Hon. Michael Fortier: —that you're suggesting that civilians aren't involved. As a matter of fact, I think I've demonstrated repeatedly here this morning, and so have my officials, that civilians are involved. My officials are. Treasury Board officials are. So once the final specs are determined, they have been discussed—

• (0950)

[Translation]

Hon. Denis Coderre: Yes, but careful now—

[English]

Hon. Michael Fortier: They have been discussed—

[Translation]

Hon. Denis Coderre: Minister, when you say—

[English]

The Chair: Just let him finish.

[Translation]

Hon. Denis Coderre: When you mention

[English]

the statements of requirements

[Translation]

statement of requirements that means that when I provide you with all of the information and tell you that I will be going to see Mr. Williston, he then gives me the go-ahead. When the three department representatives sit down together, it means that the specifications have already been set. Your role is to ensure that the process is transparent, whether it is a sole source contract or, possibly, an expression of interest and qualification. When you have the specs in hand, it means that the criteria have already been established.

My question is clear. It is true that some things were done in the past. However, we are looking at the procurement policy. Do you not

think that there should be some earlier involvement by Public Works and Government Services Canada? The navy has a public process. Do you not think that you are involved in that process?

[English]

The Chair: Thank you, Mr. Coderre.

Ms. Gallant.

Mrs. Cheryl Gallant: Thank you, Mr. Chairman, and if there's any time left over, I'd like to share it with Mr. Blaney.

The Auditor General appeared before the health committee a couple of weeks ago, and they were questioning her on her report that showed Public Works had not followed government contracting rules and regulations when it spent over \$25 million on the Canadian Health Network. It was revealed during questioning that of 15 million cases, a spot check of 905 billings yielded a savings to the taxpayer of \$4.5 million. So we had that much in the cases checked—\$4.5 million worth of work that was paid for, with no services given in advance.

It would appear that this decade of darkness prevailed in other departments as well. During the same period of time, there was a similar incident involving the Department of National Defence. That involved the contract with Hewlett Packard, for which there was \$160 million of billing, \$100 million of which was for services that were not rendered.

So my first question is what measures have been taken to ensure that sort of thing doesn't happen again?

Hon. Michael Fortier: Well, let me just answer, and I'll ask the deputy to answer specifically on Hewlett Packard if he wishes to.

I think the FAA is going to go a long way to ensuring these things don't take place again. I think we need to have a system in which people feel comfortable in raising their hands and identifying practices around them that are reprehensible, which, I believe, wasn't the case prior.

As I've stated in the past, and as others have stated in government, we have tremendous confidence in the public service. However, we need to have better checks and balances, and I think the FAA is going a long way to ensuring these checks and balances will be there and available to ensure that these situations don't occur.

Mrs. Cheryl Gallant: Some concerns have been expressed to me: firstly that while Hewlett Packard is reimbursing some of the defrauded taxpayers' millions, some may have been laundered. Canadians still want to know whether there's been a cover-up in the actual \$100 million that went missing.

In addition to the safeguards that you mentioned, we'd like to know—we want to confirm—that there's no way future contracts with Hewlett Packard, who have paid the \$100 million in return, will be padded to make up for what they have had to pay out in the millions that are still missing.

Hon. Michael Fortier: Do you mean with that company specifically?

Mrs. Cheryl Gallant: Yes, that concern has been raised.

Hon. Michael Fortier: I want to believe that wouldn't happen, because as we go out for competitive bids, obviously we'll be able to compare their bids for whatever services we require against those of other competitors. Hence, if they have padded their bids, they will obviously not come in as the lowest bidder for this particular RFP.

I think David wants to complement the answer.

Mr. David Marshall: Mr. Chairman, the situation you're referring to was a very unfortunate one. Obviously fraud had taken place. There have been prosecutions and so forth, but Hewlett Packard, if I may just state for the record, is a very honourable company. The issue was that they had acquired a subsidiary that had been engaged in this unfortunate situation, and in fact they stepped up to the plate and fully reimbursed the government. They are a very good and honourable company and they negotiated in good faith with us.

Clearly, we've continued to strengthen processes. In fact, in terms of involvement of civilians, it was Public Works that detected the problem and alerted National Defence to it, and then worked with National Defence to bring the whole thing to ground.

• (0955)

Mrs. Cheryl Gallant: In terms of changes in the work that needs to be done as a contract is ongoing, sometimes there are changes that affect the terms of the contract. There are safeguards in place to ensure that the price of a contract isn't inflated as a consequence of changes that are being asked for by the government.

Mr. David Marshall: Do you mean if the contract permits additional expenses if there are changes in requirements? Is that what you mean?

Mrs. Cheryl Gallant: Right.

Mr. David Marshall: Yes, but it is under specified conditions. Public Works is the only group...the minister is the only one who under his authority can alter a contract. A department can't just automatically add things to the contract. It must come back to us, and there must be an understanding of what's happening.

The Chair: Thank you very much.

We will go over to the official opposition and finish up with Ms. Black.

[Translation]

Hon. Denis Coderre: Ms. Black can have whatever time I have left.

[English]

Ms. Dawn Black (New Westminster—Coquitlam, NDP): Thank you.

[Translation]

Hon. Denis Coderre: She has been here since the meeting started and she should have an opportunity to speak.

I would simply like to thank the minister for being here and to tell him that I feel badly for him because he is missing his photo op with Bill Gates, but I am delighted that he was able to spend the last two hours with us.

Hon. Michael Fortier: And I was able to have a photo op with you.

Hon. Denis Coderre: Isn't it great?

Hon. Michael Fortier: It was even better for me.

Hon. Denis Coderre: And you are invited back to see us again and table the correspondence.

[English]

The Chair: He has his priorities straight. He's at committee, where he should be.

[Translation]

Hon. Denis Coderre: You've got that right.

[English]

The Chair: Ms. Black, you have five minutes to finish up.

Ms. Dawn Black: Thank you very much.

Thank you for your indulgence.

I have a few questions. I think you can hear by the tenor of the questions, particularly from the opposition side, but also from the government side, that there are still some unanswered questions about the C-17 contract.

I think that we reflect what Canadians are thinking when it appears to be a sole-source contract. People get nervous, and they're nervous about whether their tax dollars are being spent as wisely or as judiciously as they could be when they don't see a real competitive process taking place, one in which the suppliers sharpen their pencils and get down and give their very best offer. There are all of those worries out there. They're out there, I believe, with the Canadian people, as well as with members of the opposition here.

I have several times asked different witnesses who've appeared before the committee about the termination clause for the C-17s. I've asked when some of your officials were here, and we've never gotten the actual details of the termination clause. I'd like to know exactly what the penalties are.

My second question revolves around the issue of the national security exemption. I'm still puzzled about why that clause was used for the C-17 contract. The Minister of National Defence indicated that he was not involved in that process, so I'm wondering if it was you, Minister, who initiated and approved that exemption, and I'd like to know why that exemption was used.

It seems to me that your role is meant to be the protector of integrity in this process of defence procurement, so I'd like you to tell us why you can essentially have a sole-source contract for so much money—\$17 billion—and justify it.

Hon. Michael Fortier: Let me take them in reverse order.

I'm sorry to say this was not a sole-source contract—

Ms. Dawn Black: It gives that appearance.

Hon. Michael Fortier: I understand, and we'll try to help you fight this in your constituency if people are stopping you in the shopping centre and saying "You shouldn't have done this sole-source contract." We'll give you lines for them, because it was not a sole-source contract. An ACAN is not a sole-source contract; that's number one.

Number two is the NSE. The NSE is invoked by the Minister of National Defence. It's not invoked by the Minister of Public Works. It came from National Defence. It came from within, but we don't invoke the national security exemption—we do, but through recommendation of the Minister of National Defence.

Ms. Dawn Black: But he said he wouldn't have been involved in that process.

Hon. Michael Fortier: No, it's done by folks under him. But I'll tell you, I think it was a good decision, a good decision because we kept all of our commercial cards intact in terms of negotiating.

I'll give you an example that wasn't raised this morning. We were able to de-twin from this contract all of the training, which is the first time it's been done in the history of Canada. The training for the C-17s, everything involving the training, from simulators to anything remotely involved with training, will actually be done in Canada.

I've got something on MERX right now. It's a letter of intention informing companies in Canada that are in this business that they can bid for this. So we've de-twinning the training from the prime contract, which we were able to do because the NSE was invoked.

And then your first question was, coming back to—

• (1000)

Ms. Dawn Black: The penalties.

Hon. Michael Fortier: The penalties.

Ms. Dawn Black: Specifically, what are the penalties?

Mr. Terry Williston: In the event of a termination of this contract, Canada would be liable for:

“completed work in accordance with the basis of payment in the contract; costs plus profit thereon for all work in process; and costs of and incidental to the termination (e.g., taking of inventory, preparation of accounts and statements, etc.)”

But we've also built in a provision whereby Canada could choose to have Boeing sell the aircraft to another customer, including the U. S. Air Force, and in such an event Canada would receive the net sale proceeds calculated as the gross selling price less any milestone payments still owing by Canada. Appropriate and reasonable expenses related to the sale and the cost of any delays—

Ms. Dawn Black: But you don't have a dollar figure?

Mr. Terry Williston: No.

Ms. Dawn Black: No, okay.

Hon. Michael Fortier: You mean liquidated damages. You could have said—

Ms. Dawn Black: It's similar to—

Hon. Michael Fortier: —if this happens—

Ms. Dawn Black: —the helicopter contract. If you cancel, if the government changed—there's talk of an election—how much would it cost Canadian taxpayers, that's the base for the question?

Hon. Michael Fortier: Let's not have that thought this morning.

Ms. Dawn Black: When the Minister of National Defence was here discussing procurement, he said, and I'll quote for you:

I think you'll find in the procurement process, as you get into it, that the Department of Defence has very little to do with the procurement process other than setting the requirements and providing the funds.

So who do you believe is the lead minister for defence procurement? Who has the final level of responsibility? When you talked about ITARs, you said that goes over to the Department of Foreign Affairs. It's very difficult, as a member of this committee, to really understand who has the authority and responsibility at the final end.

Hon. Michael Fortier: Legally speaking, the government buys. So if you want a legal answer, the government buys. But I think the better answer, which is the one I believe you're looking for, is it's a collegial effort. The Minister of Defence, through his public servants, identifies the needs of the Ministry of Defence, which are then transmitted to Public Works and discussed with Public Works and Treasury Board. We've got three departments that are discussing the needs and the specs, and there's a consensus that's reached over the specs, and then the specs become an ACAN or an RFP or an SOIQ.

Ms. Dawn Black: Thank you.

The Chair: Thank you.

Mr. Minister and officials, thank you very much for being here. As you indicated, hopefully we will come up with some good solid recommendations—

Hon. Michael Fortier: Yes.

The Chair: —that will improve the process.

The meeting is adjourned.

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