



House of Commons  
CANADA

## Standing Committee on Canadian Heritage

---

CHPC • NUMBER 037 • 3rd SESSION • 40th PARLIAMENT

---

EVIDENCE

**Monday, January 31, 2011**

—  
**Chair**

**The Honourable Michael Chong**



## Standing Committee on Canadian Heritage

Monday, January 31, 2011

•(1535)

[English]

**The Chair (Hon. Michael Chong (Wellington—Halton Hills, CPC)):** Welcome to the 37th meeting of the Standing Committee on Canadian Heritage on this 31st of January, 2011.

We are here today, pursuant to Standing Order 108(2), for a study on the Canada-European Union comprehensive economic trade agreement, the anti-counterfeiting trade agreement, and issues regarding cultural diversity.

On our first panel we have the Honourable Peter Van Loan, Minister of International Trade, and Mr. Verheul, chief trade negotiator on the Canada-European Union talks. Welcome to you both.

We'll begin with an opening statement.

**Hon. Peter Van Loan (Minister of International Trade):** Thank you very much, Mr. Chair.

I appreciate the opportunity to provide an update on Canada's negotiations with the European Union toward a comprehensive economic and trade agreement, as the Europeans like to call it, or a free trade agreement with the European Union, as I prefer to call it.

I am joined by our chief negotiator for these Canada-EU negotiations, Steve Verheul.

[Translation]

I'll also speak to culture-related issues within the context of the negotiations.

[English]

These negotiations are, without a doubt, the single most significant trade initiative Canada has undertaken since the Canada-U.S. Free Trade Agreement, both in scope and level of ambition. They are at the heart of our government's ambitious trade strategy, a strategy that is creating jobs and prosperity for Canadians.

[Translation]

Over the last five years, we've concluded new free trade agreements with eight countries: Colombia, Peru, Panama, Jordan; and the four countries part of the European Free Trade Agreement: Norway, Switzerland, Liechtenstein, and Iceland. And we are in negotiation with almost fifty more.

[English]

Our negotiations with the 27-member European Union are a critical part of these efforts. Free trade agreements are a tremendous

opportunity for Canada and a critical part of our focus on the economy and on job creation.

[Translation]

An agreement with the European Union would boost Canada's gross domestic product by \$12 billion annually.

[English]

It would increase our two-way trade by 20% on an annual basis. These figures are based on a study that was done jointly in advance of the negotiations to determine whether it made sense to proceed with the free trade discussions.

An agreement would give Canada a significant competitive edge over other trading countries. Canada is the first ever developed economy with whom the European Union has sought to negotiate a free trade agreement. Canada would ultimately thus be in a position, should we achieve an agreement, of being the only developed economy in the world with free trade agreements with both the European Union and the United States, the world's two largest economies. That would make Canada a tremendous destination for investment, a tremendous platform from which to do business.

[Translation]

As Canada's economy continues recovering, we need these kinds of benefits. Europeans are excited about these talks, too.

[English]

I made a number of visits to Europe over the past year to help build support for the negotiations, and our partners see the many benefits of doing more business with and in Canada. Canada's reputation is very positive, and we're seen as a very good partner. People are increasingly noticing the strength of Canada's economy compared with many other economies at this particular time. So those partners are attracted by our economic stability as well as the quality of our workforce, the most skilled workforce in the world, with the highest proportion of post-secondary graduates of any Organisation for Economic Co-operation and Development country, as well as the strength of our job-creating businesses.

[Translation]

We are proud of our progress so far. Both Canada and the European Union have agreed to a demanding schedule of negotiations. In fact, the sixth round of negotiations took place earlier this month in Brussels and further meetings will take place over the coming months.

• (1540)

[English]

So far we have seen very significant progress in areas such as goods, services, investment, and procurement. We're getting closer to an agreement that benefits both sides.

You may know that I had the opportunity to meet with my European Union counterpart, Trade Commissioner Karel De Gucht, most recently this past week, but earlier in December, as part of a stock-taking exercise to determine whether the progress we had made was the basis on which to go forward. We are both pleased with the progress made so far and we agree that the negotiations are on track to conclude. We are also very encouraged by the unprecedented level of cooperation and flexibility we've seen on both sides. Both sides are determined, it seems, to actually work towards achieving an agreement.

Along with our European partners and our provincial and territorial representatives, who have been part of these negotiations from the very start—something, I might add, that has never before happened in Canadian history—our government is working hard to conclude a broad and ambitious agreement that will benefit Canadians across the country.

[Translation]

I would note, however, that we are also hearing some concerns—and in many cases, unfounded concerns—about certain areas under discussion. That includes culture. To many of us, this is a case of déjà vu.

At the time of the signing of the Canada-US Free Trade Agreement, and subsequently the North American Free Trade Agreement, we heard about the “end of Canada,” about how our economy and culture would be overwhelmed by our neighbours to the south. If anything, the opposite happened.

[English]

Free trade created jobs and prosperity right here in Canada, and today Canada is the envy of the world, economically and in quality of life.

The opponents of free trade also raised big fears about losing our culture, another fear that did not come to pass.

[Translation]

Our culture is alive and well, and Americans enjoy countless examples of Canadian books, television, music and art. Think of Céline Dion, Shania Twain, and now, Justin Bieber.

The federal government has demonstrated our commitment to culture from the very start. We've committed more than a billion dollars over five years in new and renewed investments for arts, culture, heritage and tourism—with our economic action plan providing about \$335 million to directly support Canadian arts and culture.

[English]

On the international stage, Canada is actively working with our partners on a variety of co-production treaties and cultural exchange agreements with countries such as China, India, and Colombia. We

also enjoy long-standing cultural relations with many key European countries, including France, the United Kingdom, and Germany, to name just a few.

We've also been a global leader in developing and implementing policies and conventions of the United Nations, including the United Nations Convention on the Protection and Promotion of the Diversity of Cultural Expressions.

[Translation]

As you know, the convention recognizes the importance of cultural diversity issues to international social and economic development. It gives countries like Canada the right to adopt policies and measures to protect and promote the diversity of cultural expressions.

The European Union, like Canada, considers the promotion and protection of culture to be an important policy objective. Let's not forget that the European Union is one of the most culturally diverse groups in the world. It's a single market with half a billion citizens across 27 countries, speaking 23 languages. If anybody understands the importance of culture and its place in society, it is the European Union—and that includes in trade negotiations.

[English]

As far back as 1989, during the Uruguay Round of negotiations on the General Agreement on Tariffs and Trade, the predecessor to the World Trade Organization, we've worked closely with our European partners to ensure that countries could maintain the ability to address domestic cultural priorities.

In fact, Canada has a solid tradition of negotiating cultural exemptions, including in the Canada-United States Free Trade Agreement, the North American Free Trade Agreement, and many other free trade agreements.

Our current negotiations with the European Union are no different.

[Translation]

I can assure the members of this committee, and all Canadians, that any trade agreement we conclude with the European Union will preserve our respective abilities to pursue domestic cultural policy objectives. Our government remains squarely committed to defending our cultural interests—including in all our trade agreements.

So as these negotiations move forward, I hope that all members—and indeed, all Canadians—will not be distracted by the alarmist, disproven rhetoric from the usual naysayers about Canada's culture and way of life being put at risk by a trade agreement with the European Union.

Rather, I hope they focus on the facts—that Canadian culture is alive, well, and thriving—and on the great potential this agreement holds to create jobs and prosperity for Canadians across the country.

Thank you. I look forward to our discussion today.

• (1545)

[English]

Thank you. I look forward to answering your questions, with the help of Mr. Verheul.

[*Translation*]

**The Chair:** Thank you, Minister.

We have a 30-minute period for questions and comments.

I will first give the floor to Mr. Rodriguez.

**Mr. Pablo Rodriguez (Honoré-Mercier, Lib.):** Thank you, Mr. Chair. Happy New Year to everyone. Good afternoon, Minister. Thank you for being here today.

Regarding culture, you say that we are hearing from alarmists, but that there is not much cause for concern. In addition, as you will not doubt remember, you also stated that: « I do not think that Canadians fear that our television, our literature or other sectors of our culture will be invaded by, let's say, Latvian literature ».

This statement gives me the impression that you took and that you are perhaps still taking the protection of culture somewhat lightly. And so I think, especially in light of that sort of statement, that there is indeed, on the contrary, reason to worry.

I would like to know what there is in that agreement, specifically, for the protection of cultural diversity.

[*English*]

**Hon. Peter Van Loan:** Of course we're at an early stage, in that there is not a complete negotiation yet. The negotiations are in progress and the agreement is not yet in front of us. But we have made it clear throughout that we wish to obtain protection for our culture and our cultural industries in the same fashion as has been the case in previous free trade agreements, from the time of the Canada-U.S. Free Trade Agreement.

It is not a significant challenge. I know that some who are concerned about the free trade agreement, who generally oppose all free trade agreements, wish to elevate it to that, but the reality is that we have, across the table, a negotiating partner that is perhaps the one negotiating partner in the world with a greater sensitivity to cultural protection than Canada, with a greater interest—as I said, 27 member countries, with 23 languages, all of whom have a very strong interest, notwithstanding their creation of an economic union, to protect and preserve their culture.

[*Translation*]

**Mr. Pablo Rodriguez:** According to you, do our European partners view the cultural exemption in the same way as we do, or do they have a more restrictive view of it? Do they feel that it covers all audiovisual production and books?

[*English*]

**Hon. Peter Van Loan:** Needless to say, again, you're asking a hypothetical about a cultural exemption that has not yet been completed and negotiated.

To give you an example of the concerns they raise, it has been our practice in the past, for example, to have a cultural exemption that says all chapters of this agreement are exempt insofar as it might affect cultural industries. But we're going to have a chapter on intellectual property, so they posed the question—and we're getting kind of philosophical here—if you're going to have protections for artists through an intellectual property chapter, then why are you going to exempt them in the name of protecting culture? We're

getting into the philosophy of asking, are you protecting artists by exempting them from their own protections?

These are the kinds of concerns we're talking about. In the end, it really comes down to how you draft an agreement to best protect the culture. But again, the direction they are coming from is one where their interests are actually quite aligned with us. In fact, the European Union and Canada have quite commonly been partners in larger multilateral organizations in trying to advance...we have worked together closely to advance the interests of maintaining cultural exemptions in multilateral agreements.

[*Translation*]

**Mr. Pablo Rodriguez:** Thank you.

According to what you say, we should not be too concerned, but in reply to my two questions you say that things remain hypothetical given that you have not yet negotiated these parts. Consequently, there is cause for concern. I would like to have a minimum of guarantees.

Are the provinces, and Quebec in particular, consulted with regard to culture?

• (1550)

[*English*]

**Hon. Peter Van Loan:** They've been consulted in a very unprecedented way. They're at the table. They are actually physically at the table participating in the negotiations. As a result, this puts us in a position where, particularly in the case of Quebec, the province with the strongest interest, they are able to, as negotiations unfold, as discussions go forward, offer their views on whether the solutions being discussed, the potential resolutions, the issues being raised, are of importance to them.

[*Translation*]

**Mr. Pablo Rodriguez:** Is the Minister of Canadian Heritage consulted as well? Is he a part of the process?

[*English*]

**Hon. Peter Van Loan:** For the Province of Quebec?

**Mr. Pablo Rodriguez:** No, the federal Department of Canadian Heritage. Are they involved? Are they part of the process?

**Hon. Peter Van Loan:** They are indeed involved. In fact, we have a wide range of consultations within the government, among the public, and with affected cultural organizations in Canada.

I could give you a list of the cultural organizations that we've consulted, if I can find that.

**Mr. Pablo Rodriguez:** Could you table it? Could we have that?

**Hon. Peter Van Loan:** I can certainly get you a list that we could produce.

**The Chair:** Mr. Van Loan, if you could table it with the clerk or have your staff table it with the clerk, that would be helpful.

Thank you, Mr. Rodriguez.

Madame Lavallée.

[*Translation*]

**Mrs. Carole Lavallée (Saint-Bruno—Saint-Hubert, BQ):** Thank you, Mr. Chairman. Welcome, Minister.

I must first off say that I am a little disappointed that you only spoke of the free trade treaty with the European Union. You did not broach issues related to cultural diversity at all, in particular the Anti-Counterfeiting Trade Agreement (ACTA). I would like you to share with us Canada's position with regard to that agreement, which is negotiated at the international level.

[*English*]

**Hon. Peter Van Loan:** I could have missed what you were saying due to the translation, but my understanding is that I am here today with Mr. Verheul for the first hour to discuss the CETA, the Canada-European Union negotiations.

In the next hour, I understand, you will have witnesses on the ACTA agreement. I did not understand that I was here to discuss ACTA today.

[*Translation*]

**Mrs. Carole Lavallée:** Would it bother you to talk about the position your department defends within the framework of the ACTA negotiations? Are you in a position to tell us something about that?

[*English*]

**Hon. Peter Van Loan:** Okay. Well, of course, the objective of the anti-counterfeiting agreement is one of creating greater protections for intellectual property rights, and that is obviously not exclusively but very much principally in the area of cultural industries—in film, writing, books, and audiovisual materials. We have governed our negotiating position based on Canada's existing law as well as legislation on copyright that is going through the parliamentary process.

We participated in the negotiations. What was arrived at is an agreement that by and large corresponds with those parameters that will allow for more effective cooperation with other countries in enforcing those intellectual property rights—again, to the benefit of the creators. We are waiting to see what happens to our own legislative processes before we proceed to the final stages of signing, because in order to sign we would obviously have to be comfortable that we can support that treaty with Canadian law.

[*Translation*]

**Mrs. Carole Lavallée:** You are in fact touching on one of my questions. I wanted to ask you how you intend to line up the agreement you are negotiating with the copyright bill that is currently under study. If I understand correctly, we are first going to study Bill C-32. Afterward, in light of the results obtained, you are going to once again sit down at the table with representatives of several large industrialized countries to resume negotiations. Is it that correct?

[*English*]

**Hon. Peter Van Loan:** I don't think that at this point in time it would be open to us to renegotiate the ACTA that has been completed. The question is whether or not Canada would be a party to it. In order to be a party to it, we would need to have laws that reflect it.

As presented to Parliament, Bill C-32 conforms, generally speaking, with the elements of the treaty, so that would be support of the implementation of the ACTA treaty.

• (1555)

[*Translation*]

**Mrs. Carole Lavallée:** As you know, this international negotiation in a select club has given rise to a fair bit of criticism globally, in particular in Canada and in Quebec. We have difficulty understanding why you chose, in a manner of speaking, to create a private club. Perhaps this agreement should have been negotiated within the World Intellectual Property Organization, the WIPO. Why did you chose to hold these negotiations outside the framework of the WIPO or the WTO?

[*English*]

**Hon. Peter Van Loan:** The ACTA negotiation reflects the interests of a number of countries that feel they are in the vanguard, shall we say, of protecting intellectual property rights and protecting creators' rights. The concern is that there are other countries out there for which the actual protection has fallen short of the objectives of parties such as the European Union countries or Canada, which place a high value on that. We all know that there are countries where copyright infringement has become quite widely practised.

The objective of the countries involved was to create a group that raises the bar for intellectual property rights and for intellectual property rights enforcement in particular. That was the motive behind the anti-counterfeiting agreement, the ACTA. Obviously we support that. We view ourselves as being among those who place a higher value on creators' rights. That was the reason for involvement.

I know there were issues during the negotiation about some of the transparency and the availability of draft texts. Canada was always of the view that those should have been made public, but of course they could not be made public without the agreement of all the parties. We're pleased that most of those elements eventually did get made public in such a fashion that the public did have an opportunity to comment on them.

**The Chair:** Thank you very much, Minister Van Loan. Merci, Madame Lavallée.

Mr. Julian.

**Mr. Peter Julian (Burnaby—New Westminster, NDP):** Thanks very much, Mr. Chair.

Thanks, Mr. Minister, for coming here today.

You seem to be skating a bit, so I'll get to the—

**Hon. Peter Van Loan:** On the ACTA stuff...I thought I was here on the EU.

**Mr. Peter Julian:** On the issue of the cultural exemption, I just want to ask you a very clear question. Are you saying that the government will not sign any agreement that does not maintain the full cultural exemption of Canadian cultural industries?

**Hon. Peter Van Loan:** I will say the short answer is yes. The longer—

**Mr. Peter Julian:** That the government will not sign an agreement that does not maintain a full cultural exemption.

**Hon. Peter Van Loan:** We will be seeking a full cultural exemption. The difference is that the actual form of this agreement is much broader and deeper than NAFTA, for example. We can't simply say we're going to take what we had in NAFTA and drop it in here, because in some places it may not make sense to do that.

**Mr. Peter Julian:** That sounds to me like cultural industries are on the table.

**Hon. Peter Van Loan:** I don't think so. I think, in fact, the interest on both sides is very much to protect culture.

**Mr. Peter Julian:** But you're saying there is negotiation taking place around our cultural industries. By extension we can assume there is no position of this government that there will be a maintaining of the full cultural exemption.

**Hon. Peter Van Loan:** I think what's on the table might be form. In substance we're seeking full exemption. I don't think that's on the table. Everything is on the table, in theory, because it's a broad negotiation, but we are seeking the full cultural exemption, and we're quite confident we will obtain full protection for Canadian cultural industries.

[*Translation*]

**Mr. Peter Julian:** Very well. We'll go further.

In the area of cable broadcasting and telecommunications, Canada has always maintained a level of Canadian content and protection for Canadian property. Are you telling us that these aspects are also under negotiation?

[*English*]

**Hon. Peter Van Loan:** My understanding is that there is probably only one area of potential substance that the European Union is seeking to negotiate with us. That would not extend to that. My understanding is there's no challenge to Canadian content, for example, in radio broadcasting. That is not being challenged.

The one area they are raising is the issue of the support we provide for the publishing industry through various programs. Their concerns there would be either that they have access to the same kind of support or that we not be able to provide that support for publishing industries. The position we are taking in the negotiations is that we wish to be able to continue those programs and have them covered by an exemption so that we can support our publishing industry and Canadian culture in that fashion.

I think that is probably the only actual difference—and I'll invite Steve to correct if he sees it differently—between the European Union and us in substance in the negotiations. All the other ones deal with form, how you're going to craft things, where things are going to be placed, and which chapters you'll have stuff apply to—stuff that doesn't change the outcome but might make it look a little different from what you've seen in previous agreements. The only actual substance one is the one relating to publishing, as I understand it.

Steve, do you have a different view?

•(1600)

**Mr. Steve Verheul (Chief Trade Negotiator, Canada-European Union, Department of Foreign Affairs and International Trade):** No. I think you've captured that, actually.

**Mr. Peter Julian:** The Canadian Conference of the Arts and other cultural industry organizations have said very clearly that they're concerned about this. They want to know the details about what's being negotiated.

I think we can surmise from what you're saying today that both cultural industries and some of the cultural protections that Canada has had are clearly on the table.

My next question is, quite simply, why haven't you sat down with the cultural industry to release the details of what's being negotiated, and what's being negotiated away, so that the cultural sector can have an understanding of the full ramifications of where this agreement could lead?

**Hon. Peter Van Loan:** I think I said quite the opposite, that there's only one narrow issue on which the EU is making a substantive ask on culture, and that is the issue of subsidies or programs to support publishing.

We have been consulting with, among other people, the Association of Canadian Publishers, Magazines Canada, those that would be specifically interested. They're aware of the fact that these issues are in discussion. We have their input, and I believe they are pleased with the position we are taking in the negotiations.

**Mr. Peter Julian:** I referenced the Canadian Conference of the Arts. This is an organization that has called for the full details to be released. So I come back to the question, which is, why haven't you released those details? Why haven't you sat down with the cultural industries?

**Hon. Peter Van Loan:** Well, we have sat down with the Canadian Conference of the Arts.

**Mr. Peter Julian:** And they are calling for the full details to be released.

**Hon. Peter Van Loan:** We're happy to meet with them and consult some more if they are unsatisfied with the consultations so far.

**Mr. Peter Julian:** Can I have a moment, Mr. Chair, for one brief—

**Hon. Peter Van Loan:** We have a very broad and open consultation here, and we're quite happy to do that again.

**The Chair:** Thank you, Minister.

**Mr. Peter Julian:** Could I ask a final brief question?

**The Chair:** One brief question, Mr. Julian.

**Mr. Peter Julian:** To what extent has your ministry done full studies on what the impact would be on the cultural industries of what is on the table in this agreement?

**Hon. Peter Van Loan:** At this point, the only issue is the question of the programs on publishing. We are obviously of the view, from the position we take, that something that would compromise those programs or end them would have an adverse impact on our publishing industry. That's why we take the position that we wish to maintain the programs and are holding that position in the negotiations.

**The Chair:** Thank you, Minister.

Mr. Del Mastro.

**Mr. Dean Del Mastro (Peterborough, CPC):** Thank you, Mr. Chairman.

Thank you to the minister and Mr. Verheul for appearing here today.

Every once in a while I'm struck by the comments of members. Of course, on any trade agreement that would be negotiated, the process—as I'm sure they and you are well aware—would be to present the deal to the House for full debate and ratification by the House of Commons. Is that not correct?

**Hon. Peter Van Loan:** We have an established process for treaties that does not necessarily require debate; it requires tabling in the House. However, if legislative changes are required, that does require debate in the House. I think it's fair to assume that this agreement will require legislative changes, and thus it will be subject to debate in the House.

**Mr. Dean Del Mastro:** Thank you.

I don't think it's the job of the Canadian heritage committee to negotiate free trade deals, Mr. Verheul, but I've been involved in the odd deal, and if you need some help, I could probably prove very handy.

But in all seriousness, Minister, first of all, I want to congratulate you for your efforts in expanding Canada's trade opportunities. Whether it's my farmers or local businesses that are talking to me, they are seeing success in markets in which they previously struggled to establish a beachhead and realize economic success. I think the bilateral trade deals that you have worked on, and that our government has successfully completed, are building a much stronger Canadian economy.

I was in London recently, where they talked about the opportunity for trade and the opportunity that trade presents to expand our economy. Are there specific sectors in the Canadian economy that you think would benefit? You talked about the potential for investment in Canada as a result of our position with the United States and the EU. Where do you see the opportunity for Canada in this deal?

•(1605)

**Hon. Peter Van Loan:** The nature of the Canadian economy and the European economy is that, as developed economies, they're mature and complex. As a result, the benefits that stand to be derived are quite broad.

That is what the study done in advance of this indicated. For example, you can't just say you're going to be able to sell a whole bunch more softwood lumber and that's where all the gains will be. There will be gains in services, gains through investment, and gains through reduced tariffs. Tariffs are already reasonably low, but about a third to a half of the gains to be made are simply in the area of reduced tariffs, and they affect a whole range of sectors. You can't point to one in particular.

The study that pointed out \$12 billion in benefits was done with an assumption that the Doha Round of the World Trade Organization would be completed. The actual benefits are likely far in excess of that, because many of the benefits that were discounted are unlikely to be realized. I don't see Doha being completed in the next few

months. As a result, the actual benefits for Canada from the Canada-EU deal are even greater in reality than what that study indicated, the \$12 billion. That means jobs for Canadians in a wide range of sectors.

**Mr. Dean Del Mastro:** Minister, the European economy, the EU economy, is very large. I think something like half a billion people live in the EU. It's a much larger economy than other places that we have agreements with. We've signed previous deals with other countries. If we look at the Canada-U.S. deal, which then became NAFTA, how many jobs have we generated as a result of those agreements? How many businesses now operate on both sides of the border in an efficient manner?

What are some of the benefits we've seen from NAFTA? Do you think we can expect to see similar benefits in a Canada-EU deal?

**Hon. Peter Van Loan:** Well, the best way I like to look at it is to look at what the critics said before the Canada-U.S. Free Trade Agreement and then look at what happened in the result. We were told in advance that we would lose our culture, we would lose our health care system, we would lose our water, we would lose our fine Canadian Baby Duck wines. In reality, since then Canada's culture has prospered, and in fact has been embraced in many cases by the Americans. As I indicated, our health care system is something that more and more American political leaders seem to be trying to emulate rather than run away from. Of course our water is still very much firmly in our control, and Canadian wines are now better than they've ever been.

That proves the point that Canada has benefited from the competitive discipline of the free trade agreement, and in fact our economy has grown. We have now a 21% share of the North American auto market in manufacturing even though we're about 9% of the population. We have had 4.1 million new jobs in Canada since the North American Free Trade Agreement, and more than that since the Canada-U.S. Free Trade Agreement.

The results are quite clear: the tales of doom and gloom that we would lose the auto industry didn't come true. The success that has made Canada now the economic envy of the world—the strongest economic growth, the lowest debt and deficit—is the true story of the success of the agreement for us.

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

Madam Crombie.

**Mrs. Bonnie Crombie (Mississauga—Streetsville, Lib.):** Welcome, Minister.

Happy new year to you both.

I do have legitimate concerns about protecting our wine industry from those fine European brands, by the way.

I also have some real concerns about this agreement. In your opening statement you said that the agreement will protect any domestic cultural interests. I want to know how, specifically; what measures are in place to ensure that Canadian culture will be legitimately protected?



Minister, you made some comments in the House of Commons that created some uncertainty about your determination to defend Canadian culture. You flippantly said that you're not worried about a possible Lithuanian cultural invasion, through their videos or whatever. Specifically what will you do to protect Canadian culture?

**Hon. Peter Van Loan:** We've been seeking cultural exemptions and protections for the programs that we have in Canada, and seeking to protect any future programs that any government, provincial or federal, might wish to institute provided it's done with the objective of supporting Canadian culture.

**Mrs. Bonnie Crombie:** And how has that gone?

**Hon. Peter Van Loan:** It's gone very well. It's gone well in the past and it's going very well right now.

The reason I make the flippant comments about the flood of Lithuanian culture is that I want to point out the rather absurd positions of the opponents of the Canada-European Union free trade agreement, who, in trying to raise fears, are pointing to fears that even in the worst-case scenario are unlikely to be realized. I think Canadians see that. I think it's important to point out situations like that, because it helps highlight that the European Union also has the same interest in the protection of cultural diversity that we do.

•(1610)

**Mrs. Bonnie Crombie:** Thank you.

Minister, I noticed that you didn't answer Mr. Del Mastro's question when he asked specifically how many jobs you expect to be created by the agreements. I would like to add to that and ask how many jobs could be lost, and which industries in particular could be impacted.

**Hon. Peter Van Loan:** Well, we would have a net benefit of \$12 billion to the Canadian economy, plus, so I don't know what that will work out to—

**Mrs. Bonnie Crombie:** But there's also a negative balance of trade with respect to cultural goods. I am going to ask you about that shortly, but first, how many jobs do you expect to be generated here?

**Hon. Peter Van Loan:** It will come down to how productive our Canadian economy gets. I'm not going to try to quantify what \$12 billion of additional gross domestic products represents, but you could do a fair bit of math yourself to figure out that it will be in the many tens of thousands.

**Mrs. Bonnie Crombie:** Minister, what impact, if any, will this agreement have on the CBC?

**Hon. Peter Van Loan:** On the CBC?

**Mrs. Bonnie Crombie:** Correct.

**Hon. Peter Van Loan:** I foresee no impact whatsoever on the CBC.

**Mrs. Bonnie Crombie:** Well, there are concerns from the EU about subsidies to industries, energy, agriculture; so what about culture? Are they concerned that we perhaps subsidize our cultural industries and are protectionist of our heritage? Will they have that view about the CBC?

**Hon. Peter Van Loan:** I don't know if you heard the questions I was answering for Mr. Julian, but I said there was only one substantive issue about which they are raising concerns, and that was

the issue of the subsidies and programs we have to support our publishing industry. Our position has been that we wish to maintain the ability to have such supports in place.

**Mrs. Bonnie Crombie:** Minister, have the EU negotiators expressed concern about the high degree of vertical integration that exists in Canada, and could that present an obstacle in negotiations of the agreement?

**Hon. Peter Van Loan:** I'm not aware of that, of if they have ever....

Mr. Verheul is telling me that he's never heard that raised.

**Mrs. Bonnie Crombie:** Okay.

How do you plan—I've already mentioned this briefly—to address the significant trade deficit that currently exists in cultural goods? There's a deficit of \$2.3 billion. Canadian exports are \$1.5 billion, imports \$3.8 billion. The EU represents 5% of our exports but 10% of our imports.

How will you protect the Canadian cultural balance of trade?

**Hon. Peter Van Loan:** The best way for us to do that is to try to encourage a vibrant and flourishing Canadian culture, one that can successfully gain a place on the world stage and have appeal globally. That's why we are seeking the kind of exemption we are seeking for cultural programs: so we can continue to encourage our cultural communities to be successful producers, not just domestically, but also internationally.

**Mrs. Bonnie Crombie:** Minister, what part of the negotiations focuses on IP? Tell us about the aspects of enforcement in the agreement for intellectual property.

**Hon. Peter Van Loan:** Well, there will be a specific chapter, it is contemplated, that deals with intellectual property rights.

**The Chair:** Thank you.

Madam Crombie, are you finished?

**Mrs. Bonnie Crombie:** I'm going to cede the rest of my time to Mr. Rodriguez.

**The Chair:** Okay.

One brief question, Mr. Rodriguez.

[*Translation*]

**Mr. Pablo Rodriguez:** I'd like to get back to the anti-counterfeiting agreement, a topic that was raised a little earlier. Perhaps I misunderstood your answer on Bill C-32.

Would Canada sign that agreement if Bill C-32 were not passed?

[*English*]

**The Chair:** Go ahead, Minister.

**Hon. Peter Van Loan:** If Bill C-32 is not adopted, we will be... well, first of all, once it comes into our form and it's adopted, once it's in, we'd have to go through chapter and verse of the substance.

But if we did not have a legal basis to support the commitments or obligations under the active agreement, we would not be able to sign it. We will have to be able to undertake the legal obligations that it contemplates. Bill C-32, as it currently sits, supports the obligations that come under ACTA.

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

We'll suspend here for two minutes to allow our next panel of witnesses to appear.

Thank you very much for your questions and comments.

• (1610) \_\_\_\_\_ (Pause) \_\_\_\_\_

• (1615)

**The Chair:** Welcome to the continuation of the 37th meeting of the Standing Committee on Canadian Heritage. We are here,

[*Translation*]

pursuant to Standing Order 108(2), study on the Canada-European Union Comprehensive Economic and Trade Agreement, the Anti-Counterfeiting Trade Agreement and issues regarding cultural diversity.

[*English*]

We have in front of us today on our second panel two witnesses from the Department of Foreign Affairs and International Trade: *Madame St-Hilaire et Monsieur Ready*.

We welcome you both. We'll begin with an opening statement.

**Mr. Robert Ready (Director General, Intellectual Property and Services Trade Policy Bureau, Department of Foreign Affairs and International Trade):** Thank you very much, Chairman.

[*Translation*]

I appreciate the opportunity to provide an update on the Anti-Counterfeiting Trade Agreement, the ACTA.

As you already know, negotiations concluded last October in Tokyo, Japan. This is a significant milestone in an initiative that began nearly four years ago, when the government announced that it would participate in negotiations toward an agreement.

These negotiations were undertaken by a group of like-minded countries, including Canada and its major trading partners, who share an interest in better combatting the growing trade in counterfeit and pirated goods and to protect consumers' health and safety.

This illicit trade continues to be an expanding global problem with no signs of slowing down. Numerous studies, including by the Organisation for Economic Co-operation and Development, indicate that the amount of counterfeit and pirated goods in world trade continues to grow steadily.

[*English*]

The government's view is that Canada and Canadians not only recognize this general problem but also have an interest in addressing it, as these activities have a significant negative impact on innovative and creative industries, Canadian employment, government and corporate revenues, and, in some cases, public health and safety.

While ACTA is an international process, it is important to note that the government's engagement on this issue begins at home. Canada's position in the ACTA negotiations did not germinate in a vacuum; they were guided by and built on current Canadian law and policy and informed by the views and recommendations made by Canadian stakeholders and lawmakers.

I would invite committee members to recollect reports relating to counterfeiting and piracy prepared by the Standing Committee on Industry, Science and Technology and the Standing Committee on Public Safety and National Security in 2007. The government response to these reports applauds each committee's work and notes the government's commitment "to building on our existing efforts". Domestic policy and legislative work in the area of intellectual property enforcement has been ongoing and longstanding, though these efforts are not yet finalized.

Since the beginning of the negotiations the government has consistently demonstrated support for strong intellectual property rights, reflected most recently in the 2010 Speech from the Throne, where the government committed to strengthening laws relating to intellectual property and copyright.

Canada's participation in the ACTA discussions, which was announced in October 2007 and emerged out of a domestic understanding of these issues, represents one part of Canada's international engagement to combat counterfeiting and piracy, which includes Canada's engagement in other fora such as the World Intellectual Property Organization, the World Trade Organization, working groups that have emerged from the G-8 process, Interpol, and others.

The government undertook significant consultations with Canadian stakeholders, including by online means, by hosting round table consultations and by maintaining an open door policy for consultations with interested stakeholders on request. Canada's position in the negotiations was fully reflective of Canada's and Canadian interest. Foreign Affairs and International Trade Canada coordinated the input of many federal departments and agencies with an interest in the enforcement of intellectual property rights.

By being at the table, Canada has been able to influence and contribute to the outcome of the ACTA negotiations and to ensure consistency with a Canadian approach to intellectual property enforcement.

In short, Canada's participation in the ACTA process is consistent with the government's broader domestic intellectual property strategy.

• (1620)

[*Translation*]

The government is currently carefully reviewing the agreement, and considering its possible next steps forward. Before signing any agreement, the government would have to be fully satisfied that it is in the best interest of Canada and Canadians to do so. Moreover, before Canada would commit to any obligations under the ACTA, the agreement would be subject to scrutiny under the Treaties in Parliament process instituted by the government.

[English]

To conclude, the ACTA represents a significant and positive step forward in the fight against illicit global trade in counterfeit and pirated goods. It does this by providing an international instrument that will enhance international cooperation and establish new international standards for the enforcement of intellectual property rights. These standards are complementary to existing international initiatives.

Canada's participation in the ACTA negotiations stems from the recognition that illicit trade is a real and growing problem requiring concerted international action. By being at the table, Canada has been able to influence and contribute to the outcome of the negotiations.

Thank you.

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

We'll have about 40 minutes of questions and comments, beginning with Mr. Rodriguez.

[Translation]

**Mr. Pablo Rodriguez:** Thank you, Mr. Chair. Thanks to Mr. Ready for being here.

I am not an expert on this treaty. I would like you to explain something to me. If I understand correctly, the agreement has been negotiated and now needs to be ratified by the countries concerned.

[English]

**Mr. Robert Ready:** The ACTA negotiations were launched in October 2007 and concluded a few months ago. So the negotiations have been concluded. The agreement is now in the process of what is called a "legal scrub", which is to say that the agreement needs to be translated into the languages that will be authentic for the treaty—

[Translation]

**Mr. Pablo Rodriguez:** So we have reached the stage where the negotiating countries must sign the agreement, is that correct?

[English]

**Mr. Robert Ready:** That would be one of the next steps.

**Mr. Pablo Rodriguez:** Negotiations are over. The next step after all of this should be the signatures of the countries involved.

**Mr. Robert Ready:** There will be legal scrub, signatures—the various domestic processes each country has to undergo with respect to treaties.

**Mr. Pablo Rodriguez:** You were there when I asked the minister what happens if Bill C-32 doesn't pass and we don't have that bill. I understand that we won't have the law necessary for us to sign that treaty. Do you agree with that?

**Mr. Robert Ready:** I'm not going to speculate on a hypothetical question. What I can say is that the ACTA, as it has been negotiated, provides the flexibility for that bill, that process of intellectual property protection, to be implemented.

[Translation]

**Mr. Pablo Rodriguez:** In order to be a signatory to an agreement like this one, certain national laws must allow us to sign the agreement or give us the credibility and necessary tools to do so.

I put the question clearly to the minister. If Bill C-32 or some other bill on copyright is not passed, we do not have the necessary tools to sign this agreement. The minister replied in the affirmative. I don't see why you can't tell me the same thing.

•(1625)

[English]

**Mr. Robert Ready:** I agree with my minister.

**Voices:** Oh, oh!

**Mr. Pablo Rodriguez:** Do you mean on a regular basis or just now?

[Translation]

What is in Bill C-32 that is absolutely necessary for us to go forward and sign a treaty like this one? What are the essential elements you absolutely need?

[English]

**Mr. Robert Ready:** There are elements in Bill C-32 that relate to Canada's ability to comply with terms of WIPO agreements, and that, as they're carried over into the provisions of the ACTA, wouldn't be sufficient if the legislation wasn't passed.

[Translation]

**Mr. Pablo Rodriguez:** Let's speak in concrete terms. What can be done illicitly now in Canada that could no longer be done if we adhere to this agreement? How would our signature on this treaty change things here? Do you have a concrete example?

[English]

**Mr. Robert Ready:** Chairman, with your permission I'll ask Edith St-Hilaire, who is our negotiator of the ACTA, to give some examples of counterfeit activity that would relate to this file.

**Ms. Edith St-Hilaire (Director, Intellectual Property Trade Policy Division, Department of Foreign Affairs and International Trade):** The ACTA agreement is divided into a few chapters. You have civil provisions, criminal provisions, border provisions, and provisions on cooperation among member states. One of the examples we have in the ACTA is that the competent authority at the border at this point cannot share information with rights holders if they know that counterfeit goods are coming to the border. They cannot tell the rights holder, "Look, they're coming; you can take action or do something." It's not in our current legislation.

**Mr. Pablo Rodriguez:** That would be corrected by the—

**Ms. Edith St-Hilaire:** That it is in the ACTA.... That's one of the examples. There are some examples like that.

**Mr. Pablo Rodriguez:** Can I have another one?

**Ms. Edith St-Hilaire:** Some of them are in the criminal area. If you have goods that are infringing, you have some criminal penalties. We don't necessarily destroy the goods. In ACTA there are provisions that say it's possible to destroy goods that infringe on IP rights.

[Translation]

**The Chair:** Thank you.

Ms. Lavallée, you have the floor.

**Mrs. Carole Lavallée:** I would like to discuss the content of this agreement. I would like to know if Internet service providers will be made accountable and what roles will be given them by the ACTA.  
[English]

**Mr. Robert Ready:** We're just clarifying our own understanding of the question, Mr. Chair.  
[Translation]

**Mrs. Carole Lavallée:** Do you want me to repeat the question?

**Ms. Edith St-Hilaire:** No, that's all right.

Forgive me for replying in English. I have the text of the agreement in English, and so it is easier to reply in that language.

**Mrs. Carole Lavallée:** Please go ahead. We have good interpreters.

**Ms. Edith St-Hilaire:** As Mr. Ready was saying, we are doing the legal scrub of the French text.

Concerning the Internet service providers, there is a provision concerning  
[English]

promote cooperative efforts between the ISP and the business community, which is encouraged.

It will also give the authority to order the ISP to disclose information that will identify the subscriber who used the service for infringing activities. That is something we currently have in our legislative framework.

Therefore, in terms of ISP liability, it will not change what we currently have in our legislative framework.

•(1630)

[Translation]

**Mrs. Carole Lavallée:** Unless I am mistaken, in the ACTA, the ISP's responsibility is simply to provide information when they are asked to do so.

To whom must they provide information?

**Ms. Edith St-Hilaire:** They must provide information to right holders.

**Mrs. Carole Lavallée:** To the right holders, and that is all? Are there any other provisions, other measures?

**Ms. Edith St-Hilaire:** There is nothing for instance about the notice and takedown. When we were negotiating there were a lot of comments in this regard. People asked whether there was going to be a notice and takedown. But this is not a part of the agreement.

**Mrs. Carole Lavallée:** It is not in the agreement.

So there would be a notice as is mentioned in Bill C-32.

**Ms. Edith St-Hilaire:** It is a matter of providing information.

**Mrs. Carole Lavallée:** Providing information, simply.

Is there a provision in the ACTA concerning digital locks or protection measures?

**Ms. Edith St-Hilaire:** Yes, there are certain provisions. I did not want to go into detail concerning the digital chapter, since this is discussed in Bill C-32. There are certain provisions concerning—

**Mrs. Carole Lavallée:** In fact, my question is the following. Are the provisions in the ACTA exactly the same as those in Bill C-32? We could review each one of the elements, but my question remains the same: are they exactly the same?

**Ms. Edith St-Hilaire:** No, the provisions are not identical. When we negotiated the agreement, we worked very closely with Heritage Canada and Industry Canada to try to work out a base level. That is what is in the ACTA. It provides flexibility to all of the parties that were a part of the negotiation to implement the agreement in the way that is most appropriate to their domestic system.

In our case, we wanted to ensure that this will not have an impact on Bill C-32. This will allow the parliamentary process to go forward without having to consult the ACTA. It would be a basic level, and the internal process could go forward without being influenced by what is negotiated here.

**Mrs. Carole Lavallée:** So it is exactly the same.

**Ms. Edith St-Hilaire:** It is not the same. It is more general, if I could put it that way, quite simply.

**Mrs. Carole Lavallée:** It is less detailed.

**Ms. Edith St-Hilaire:** Yes.

**Mrs. Carole Lavallée:** What will happen if we amend Bill C-32 in committee to improve it?

[English]

**Mr. Robert Ready:** I think the minister answered that question at a certain level of detail.

I could return to something that I mentioned in my introductory commentary.

We believe that the framework created in the ACTA is sufficiently broad to provide for the proposals that are currently in the legislative committee on Bill C-32, and sufficiently broad to address the different ways in which the various member countries of the ACTA grouping deal with some of these issues, which aren't the same across the membership.

We believe that a basic level of framework is provided by the ACTA, with scope for implementation in a Canadian context and in other countries.

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

Merci, Madame Lavallée.

Mr. Julian.

[Translation]

**Mr. Peter Julian:** Thank you, Mr. Chairman. Thank you also to our witnesses.

First off I would like to talk about the consultation process. Mr. Ready, earlier you mentioned the process to consult federal departments. Moreover, the provinces were also invited to contribute, but we do not know in what way they were involved in all of this consultation process. And of course, depending on the agreement, there will be a profound impact on cultural industries.

In each of those cases, how were the consultations carried out?

•(1635)

[English]

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

To reiterate, the government held consultations in an on-line capacity with respect to the ACTA. The government held a number of round tables with interested parties, including probably some of the groups you have in mind.

The ACTA was the subject of a briefing in the C-Trade committee, which is a grouping of federal-provincial officials that my department uses for consultation with provincial officials. After some reticence on the part of some members, the text has been put in the public domain.

[Translation]

**Mr. Peter Julian:** When you talk about round tables, are you referring to a number of meetings with the same organizations? Or could it also just be one meeting with some of the groups? What role do the provinces play in this whole process?

[English]

**Mr. Robert Ready:** There were two round tables. I believe the names of the participants on those round tables are available on the website, in addition to their inputs. The provinces would have been briefed on a scheduled basis through this mechanism called C-Trade.

[Translation]

**Mr. Peter Julian:** Does that mean that there was an actual consultation or that there would be a consultation only if the provinces were willing to answer some questions?

[English]

**Mr. Robert Ready:** From my perspective, it was real consultation, in the sense that information was provided and federal officials were there to receive feedback.

[Translation]

**Mr. Peter Julian:** All right. Thank you.

Ms. St-Hilaire, you talked earlier about the impact on ISPs. You said that there was now an obligation to disclose information. The first step is to ensure cooperation between ISPs. The second step is to impose an obligation on ISPs to provide the required information. Could you tell me what the penalties would be if they systematically refused to do so? What would the consequences be if they refused?

[English]

**Ms. Edith St-Hilaire:** I'm sorry, we'll have to take it under advisement.

[Translation]

**Mr. Peter Julian:** You are going to send your answer to the committee? Okay.

Has the department assessed the financial consequences, if any, for consumers? I am referring now to an area that is related, but a bit different. In international trade, we often enter into agreements without knowing what the costs and impacts are.

Were studies done before the negotiations to establish the consequences of the various directions the negotiations could take?

[English]

**Mr. Robert Ready:** The department hasn't done a specific study on that question related to the ACTA.

I would go back to the earlier information we provided. A number of international organizations, the OECD, and Canadian organizations have presented before other committees of Parliament information related to the scope and scale of illicit activity and some of the impacts that counterfeit drugs, counterfeit machinery, and so on, can have on Canadians.

**The Chair:** Thank you very much, Mr. Ready and Mr. Julian.

Mr. Armstrong.

**Mr. Scott Armstrong (Cumberland—Colchester—Musquodoboit Valley, CPC):** In the OECD report, in terms of culture, was there any threat posed to Canadian culture as a result of the illegal counterfeiting of products coming into Canada?

**Mr. Robert Ready:** There are no data that I'm aware of with respect to that particular question, although clearly if there are violations of copyright protection around the world, that has an impact on the producers of those materials.

•(1640)

**Mr. Scott Armstrong:** What was the actual motivation for these countries involved in this agreement in Tokyo? What was their actual motivation to engage in these negotiations in the first place?

**Mr. Robert Ready:** The motivation was that the evidence from international organizations was such that this is a significant and growing problem internationally. It doesn't just restrict itself to activities within the borders of one country; it manifests itself in terms of international trade and commerce and requires an international—at least in part—solution.

This was a group of countries that felt in a like-minded way that there were areas of enhanced enforcement cooperation, enhanced clarity around the types of legal frameworks that might be put in place to help combat this threat to Canadians at the end of the day.

**Mr. Scott Armstrong:** And during these negotiations what steps were put in place to ensure transparency when these negotiations were ongoing?

**Mr. Robert Ready:** As the minister indicated, Canada has always felt strongly about transparency in this kind of a process. We were subject to the consensus of the negotiating parties, and for some time this meant that there was no consensus to release negotiating texts until ideas had crystallized a little bit. The text was released by the parties and has been released subsequent times since the conclusion of the negotiation.

In a Canadian context, of course, there were the round tables and the online consultations that I indicated to Mr. Julian.

**Mr. Scott Armstrong:** My last question is this. From a Canadian domestic perspective, were we producers of some of these counterfeit products going abroad, or are we basically an importer of these? Were we the problem, or were we the destination for most of these issues?

**Mr. Robert Ready:** It's essentially an international...it's a problem that arises in other countries, and we tend to be recipients of a great deal of counterfeit product. Whether it's 100% would be impossible to say, but the vast majority of it comes from elsewhere into Canada.

**Mr. Scott Armstrong:** Were the countries that are primarily responsible—I'm sure there are some—part of these negotiations? Are they part of the solution, or are they still outliers or the causes of the problem?

**Mr. Robert Ready:** As I indicated in an earlier answer, the countries that came together in the ACTA process were typically those that were interested in enhanced intellectual property enforcement. There are probably some countries we would want to see inside the agreement at some stage that are probably more the source of this kind of product. The agreement is, of course, open to their accession in the future, if they are so inclined and if their domestic regime would permit them to meet the obligations of the agreement.

**Mr. Scott Armstrong:** Thank you.

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

Now we have Madam Crombie.

**Mrs. Bonnie Crombie:** Thank you very much, Mr. Ready and Madam St-Hilaire.

I was interested in your comment that counterfeit goods continue to grow steadily. How large is the counterfeit industry, both globally and in Canada? Can you put a dollar value on it?

**Mr. Robert Ready:** I can put a dollar value on the global estimate that the OECD calculated: \$250 billion a year in 2007.

I'm not aware of a similar analysis in a Canadian context, but it's the—

**Mrs. Bonnie Crombie:** Somebody must have done a valuation, though.

**Mr. Robert Ready:** It's the global flow that is the problem, frankly.

**Mrs. Bonnie Crombie:** Right. I'm just wondering what the impact is in Canada. Has nobody attempted to put a valuation on the impact in Canada?

**Mr. Robert Ready:** I apologize. I'm not in a position to say with any clarity or certainty that there's a number in Canada.

**Mrs. Bonnie Crombie:** How is counterfeiting enforced today prior to ACTA? Has any coordinated effort been made on the enforcement front?

**Ms. Edith St-Hilaire:** Yes, we already enforce IP rights. We have provisions in all our IP legislation, and there are damages, there are injunctive recourses. We already have international obligations. ACTA adds to what we have already at the international level. It builds upon what we have in the WTO, the TRIPS agreement, the trade-related aspects of intellectual property. Also, as I mentioned earlier, it adds some provisions on cooperation for countries to try to exchange information, to try to exchange best practices, because it's not just what we have in the legislation, but it's how people can work together that may help to prevent further—

• (1645)

**Mrs. Bonnie Crombie:** Which nations were the chief offenders? Do we have any information on that?

**Mr. Robert Ready:** I believe the OECD study makes some attempts to identify the source of counterfeit production. I would have to check with that study to refresh my memory.

**Mrs. Bonnie Crombie:** I'd be interested in knowing.

Which sectors are impacted in Canada primarily? Is it goods, services, or products that are affected, and I assume being imported rather than domestically...?

**Mr. Robert Ready:** Well, it's really across the spectrum of production in Canada. It can relate to pharmaceutical products, medical devices; it can relate to machinery. It can, of course, relate to fashion. It can relate to entertainment.

**Mrs. Bonnie Crombie:** And will all these sectors be covered under the ACTA agreement?

**Mr. Robert Ready:** Yes. It's not a sectoral agreement. It would apply across the board.

**Mrs. Bonnie Crombie:** So was ACTA an effort to ensure that enforcement is standardized globally?

**Mr. Robert Ready:** It's less an effort to ensure that enforcement is standardized. It's an effort to ensure that enforcement is improved and that there are elements of international cooperation with respect to enforcement. It provides a framework for enforcement, but it doesn't require standardized approaches in each country to deal with the same issue.

**Mrs. Bonnie Crombie:** How many countries will be signatories?

**Mr. Robert Ready:** Well, actually, at this stage there's a process in every country to determine whether people are going to sign on. But the list of countries includes.... I'll let Edith describe it, because she was at the table with all of them.

**Ms. Edith St-Hilaire:** Would you like the list of the countries? I think it's 11 or 12, plus the 27 members of the EU.

**Mrs. Bonnie Crombie:** And had there been cooperation between these 39 to 40 nations previously?

**Mr. Robert Ready:** There's an element of cooperation at all times among enforcement authorities and at a private level among associations and so on among all countries on this issue. As I say, this is an attempt to create a framework for such cooperation and to enhance it.

**Mrs. Bonnie Crombie:** Are those nations that we're concerned about breaching the international copyright rules? Will they be signatories to the agreement?

**Mr. Robert Ready:** I'm not sure at this point who will be a signatory to the agreement at the end of the day. The agreement, as I mentioned, is open to accession on the part of any WTO member country when they see fit.

**Mrs. Bonnie Crombie:** Who will monitor intellectual property rights? Who will monitor that those rights are being respected?

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

Go ahead, Mr. Ready.

**Mrs. Bonnie Crombie:** And will there be an overseeing body?

**Mr. Robert Ready:** Well, there are, of course, a number of international organizations that deal with and have responsibility for intellectual property. In the context of the ACTA as a treaty, there would be a committee of the parties that would look at the administration of the agreement. But it would be really to monitor the effectiveness of the treaty. It wouldn't be to get into the day-to-day monitoring of enforcement activity.

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

Thank you, Madam Crombie.

Madame Lavallée.

[Translation]

**Mrs. Carole Lavallée:** Very well. I didn't know when I would get another turn.

I have some trouble following your train of thought. First of all, the minister mentioned that the ACTA included high-level measures against piracy. That's what he said and I believe he used the expression "very high level".

Everything you have told me and I have read so far leads me to believe that the agreement in question will not go beyond the current bill, Bill C-32. So what are your reasons for wanting to conclude this agreement at an international level when some countries go much further than this bill with things like the graduated response? I am not saying that it's a good thing. I am simply noting that they are probing further into the graduated response, among other things, in terms of holding Internet service providers accountable. But, in the agreement you are negotiating at the moment concurrently with the bill, it seems you are not going into as much detail because you want to be as general as possible. I just don't understand your reasons.

• (1650)

[English]

**Mr. Robert Ready:** Mr. Chairman, perhaps one way of looking at that question is to make a distinction between Bill C-32 and other elements of intellectual property protection, which are the substantive protections provided in domestic frameworks for intellectual property, and the enforcement of those elements of intellectual property protection. This treaty doesn't set new norms with respect to protection. It sets an enhanced framework for the enforcement of intellectual property, so it speaks to the kind of civil and criminal—

[Translation]

**Mrs. Carole Lavallée:** I apologize for interrupting you, but my time is limited.

What will the Canadian government get out of signing this agreement? What would the difference be without it? What would it be if Bill C-32 were passed? That's not my wish, but let's just assume it is passed.

[English]

**Mr. Robert Ready:** Well, I think there are a couple of advantages. First and foremost, one of the main elements of the ACTA is to create a framework for enhanced cooperation among enforcement officials, and also to create space and opportunity for technical assistance with countries that may need it with respect to the enforcement of intellectual property rights.

Additionally, the clarity that the ACTA provides with respect to civil, criminal, and border enforcement, which may only be generally touched on in other international instruments, is an important precision in terms of how Canadians and others are going to go about enforcing intellectual property.

[Translation]

**Mrs. Carole Lavallée:** But weren't these rules in treaties that you have already signed?

[English]

**Mr. Robert Ready:** The rules, such as they exist, for example, in the WTO trade-related intellectual property agreement—

[Translation]

**Mrs. Carole Lavallée:** I guess these rules are already in the WTO.

[English]

**Mr. Robert Ready:** —are more general and less clear. So I think the value added in the ACTA is the clarity that is provided to some of those norms.

[Translation]

**Mrs. Carole Lavallée:** Something else really surprises me. You came to meet with us and you are not very familiar with the agreement. Every time the members of the committee asked you to clarify its contents, you had a hard time answering. Is it because you are not familiar with the agreement? For example, I asked you a question earlier about Internet service providers, and Mr. Julian asked you what the penalties would be if they didn't comply with various sections in the agreement. You were unable to answer. Is it because you don't have the answers or because you would rather keep the answers confidential?

**Ms. Edith St-Hilaire:** I cannot say that I am not familiar with the agreement. I negotiated it and I have spent a lot of hours on it. Earlier, when we were talking about the responsibilities of Internet service providers, I just preferred to answer by reading a text in order to provide you with the exact terms.

The other question did not come up in the negotiations. I have an answer but I don't want to mislead you. In my view, it is not in the agreement. It is up to each government to decide what the repercussions are if the provider does not meet the requirements. I just wanted to check that because we didn't talk about it during the negotiations. Once again, these provisions act as a floor that countries will rely on and will adapt them in their own legislation. In some cases, the consequences will be assessed at a national level and not necessarily in terms of the agreement. So this doesn't have anything to do with not knowing the agreement or with trying to hide answers.

• (1655)

**The Chair:** Thank you, Ms. St-Hilaire. Thank you, Ms. Lavallée.

We will end with Mr. Del Mastro. Go ahead.

[English]

**Mr. Dean Del Mastro:** Thank you very much.

Thank you for your time here this afternoon.

I just have a couple of questions, very briefly.

When we look at the international legal framework with respect to copyright and protection of copyrighted materials, and specifically, when you look at Bill C-32, do you think it adequately addresses the framework and some of the shortcomings that we see in the current copyright law? Is this something that you see as a progressive and positive step moving forward?

**Mr. Robert Ready:** Chairman, it's not within my competence to make a judgment with respect to the suitability or applicability of Bill C-32. We've consulted, in the context of these negotiations, with those officials who are responsible for that package of measures. We have delivered an agreement that we believe respects the content of what it is they're trying to do. But it's not the competence of Foreign Affairs and International Trade to make a determination as to whether one aspect or another is an appropriate element in that legislation.

**Mr. Dean Del Mastro:** Without passing judgment on that, are there any issues that come up in negotiations with partners, foreign partners, especially ones where we could see an expansion of trade or where there's opportunity to further trade? Are you hearing any concerns they may have with Canada's current copyright regime? And are they anticipating that we will in fact meet those, for example, WIPO obligations that we signed on to in 1997?

**Mr. Robert Ready:** Some of our major trading partners, the United States and the European Union, for example, have, for a number of years, been concerned that Canada's domestic framework in this area doesn't meet international best practice and could be improved. That is one of the rationales for moving forward on a number of fronts on intellectual property. The international enforcement aspects of moving forward, Bill C-32 and other initiatives, are part of the domestic response to those kinds of concerns from trading partners. So, yes, they do exist.

**Mr. Dean Del Mastro:** Thank you so much.

I have nothing further, Mr. Chairman.

**The Chair:** Thank you to our witnesses for their testimony in front of our committee.

Thank you to members for their questions and comments.

We'll suspend here for two minutes to allow our witnesses to disappear and we'll reconvene in camera.

*[Proceedings continue in camera]*

---









**MAIL  POSTE**

Canada Post Corporation / Société canadienne des postes

Postage paid

Port payé

**Lettermail**

**Poste-lettre**

**1782711  
Ottawa**

*If undelivered, return COVER ONLY to:*

Publishing and Depository Services  
Public Works and Government Services Canada  
Ottawa, Ontario K1A 0S5

*En cas de non-livraison,*

*retourner cette COUVERTURE SEULEMENT à :*  
Les Éditions et Services de dépôt  
Travaux publics et Services gouvernementaux Canada  
Ottawa (Ontario) K1A 0S5

Published under the authority of the Speaker of  
the House of Commons

### **SPEAKER'S PERMISSION**

Reproduction of the proceedings of the House of Commons and its Committees, in whole or in part and in any medium, is hereby permitted provided that the reproduction is accurate and is not presented as official. This permission does not extend to reproduction, distribution or use for commercial purpose of financial gain. Reproduction or use outside this permission or without authorization may be treated as copyright infringement in accordance with the *Copyright Act*. Authorization may be obtained on written application to the Office of the Speaker of the House of Commons.

Reproduction in accordance with this permission does not constitute publication under the authority of the House of Commons. The absolute privilege that applies to the proceedings of the House of Commons does not extend to these permitted reproductions. Where a reproduction includes briefs to a Committee of the House of Commons, authorization for reproduction may be required from the authors in accordance with the *Copyright Act*.

Nothing in this permission abrogates or derogates from the privileges, powers, immunities and rights of the House of Commons and its Committees. For greater certainty, this permission does not affect the prohibition against impeaching or questioning the proceedings of the House of Commons in courts or otherwise. The House of Commons retains the right and privilege to find users in contempt of Parliament if a reproduction or use is not in accordance with this permission.

Additional copies may be obtained from: Publishing and  
Depository Services  
Public Works and Government Services Canada  
Ottawa, Ontario K1A 0S5  
Telephone: 613-941-5995 or 1-800-635-7943  
Fax: 613-954-5779 or 1-800-565-7757  
publications@tpsgc-pwgsc.gc.ca  
http://publications.gc.ca

Also available on the Parliament of Canada Web Site at the  
following address: <http://www.parl.gc.ca>

Publié en conformité de l'autorité  
du Président de la Chambre des communes

### **PERMISSION DU PRÉSIDENT**

Il est permis de reproduire les délibérations de la Chambre et de ses comités, en tout ou en partie, sur n'importe quel support, pourvu que la reproduction soit exacte et qu'elle ne soit pas présentée comme version officielle. Il n'est toutefois pas permis de reproduire, de distribuer ou d'utiliser les délibérations à des fins commerciales visant la réalisation d'un profit financier. Toute reproduction ou utilisation non permise ou non formellement autorisée peut être considérée comme une violation du droit d'auteur aux termes de la *Loi sur le droit d'auteur*. Une autorisation formelle peut être obtenue sur présentation d'une demande écrite au Bureau du Président de la Chambre.

La reproduction conforme à la présente permission ne constitue pas une publication sous l'autorité de la Chambre. Le privilège absolu qui s'applique aux délibérations de la Chambre ne s'étend pas aux reproductions permises. Lorsqu'une reproduction comprend des mémoires présentés à un comité de la Chambre, il peut être nécessaire d'obtenir de leurs auteurs l'autorisation de les reproduire, conformément à la *Loi sur le droit d'auteur*.

La présente permission ne porte pas atteinte aux privilèges, pouvoirs, immunités et droits de la Chambre et de ses comités. Il est entendu que cette permission ne touche pas l'interdiction de contester ou de mettre en cause les délibérations de la Chambre devant les tribunaux ou autrement. La Chambre conserve le droit et le privilège de déclarer l'utilisateur coupable d'outrage au Parlement lorsque la reproduction ou l'utilisation n'est pas conforme à la présente permission.

On peut obtenir des copies supplémentaires en écrivant à : Les  
Éditions et Services de dépôt  
Travaux publics et Services gouvernementaux Canada  
Ottawa (Ontario) K1A 0S5  
Téléphone : 613-941-5995 ou 1-800-635-7943  
Télécopieur : 613-954-5779 ou 1-800-565-7757  
publications@tpsgc-pwgsc.gc.ca  
http://publications.gc.ca

Aussi disponible sur le site Web du Parlement du Canada à  
l'adresse suivante : <http://www.parl.gc.ca>