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## Standing Committee on International Trade

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EVIDENCE

**Tuesday, May 25, 2010**

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**Chair**

**Mr. Lee Richardson**



## Standing Committee on International Trade

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• (1540)

[English]

**The Chair (Mr. Lee Richardson (Calgary Centre, CPC)):**

We're a few minutes behind. We're going to open the meeting of the Standing Committee on International Trade, meeting number 18 of this session.

We are continuing our discussion of Bill C-2, an act to implement the free trade agreement between Canada and the Republic of Colombia, the agreement on the environment between Canada and the Republic of Colombia, and the agreement on labour cooperation between Canada and the Republic of Colombia.

As has been our practice for almost two years now, we're hearing witnesses on this subject. Today we will continue that practice and process with four witnesses from a long distance away.

I'm going to introduce the witnesses, we'll have a brief comment from them—hopefully opening statements that will assuredly be under ten minutes each—and then we'll proceed to questions. Let me start by introducing our witnesses.

With us here in Ottawa we have Steven Shrybman, who is a partner with Sack, Goldblatt and Mitchell, who has appeared before the committee before. Welcome back, Mr. Shrybman.

We have from Coventry, England, from the University of Warwick, James Harrison, who's an associate professor at the Warwick School of Law. Welcome, Professor Harrison.

Visiting us from Vancouver via video conference, as an individual, is Dawn Paley, a journalist. Welcome, Ms. Paley.

As well, via video conference from New York, we have Nazih Richani, who is also a professor. I'm sorry that I don't know where you're instructing these days, so before you begin your allotted ten minutes for statements, perhaps you could do a brief further introduction.

Again, the format is that I'm going to ask each of you for an opening statement, followed by questions. I hope we can keep these opening presentations under ten minutes so that we have ample time for the committee to ask questions.

I have an indication here that our guest with us in Ottawa would like to speak last, so I'm going to start with Mr. Harrison, from Coventry, England, who is coming to us via video conference.

Professor Harrison.

**Dr. James Harrison (Associate Professor, School of Law, University of Warwick):** Good afternoon, and good evening from

England, as it is now. Thank you very much for this opportunity to speak to you.

I am an academic. I work in the University of Warwick, and I specialize in issues of trade law and human rights law. I engage in a particular area of research on human rights impact assessments, both for trade agreements specifically and of human rights impact assessments methodologies generally. It is a great pleasure to talk on the subject and hopefully to raise some issues that may be useful to you in your deliberations about human rights impact assessments and reporting on the human rights aspect of the Canada-Colombia free trade agreement, which, as I understand it, is being proposed in an amendment to the current bill.

There is much interest in this topic internationally. UN treaty bodies have been calling for human rights impact assessments for many years. I've spoken recently to the WTO on this issue. I've spoken with politicians, civil societies, and many in the academic community, so the Canadian proposal is exciting and could become a model in this area, because no other country has yet included this within the scope of a trade agreement.

Hopefully you will have a copy of the one-page sheet I sent to you in advance. I set out there the original recommendation of the standing committee, with which I am sure you are all more familiar than I am, and the current proposal, as I have seen and understand it, for an amendment within the bill. It's the second proposal in particular on which I have some thoughts here and hopefully will shed some light on the way in which current thinking around human rights impact assessment may correlate with it.

What is a human rights impact assessment and why is it important? A human rights impact assessment is increasingly a term of art used to describe a particular process, and is being used in development projects, in parliamentary activities, in monitoring multinational corporations. So we have a lot of methodological guidance there. In the trade field, it builds upon work on social impact assessment done, for instance, by the EU, UNEP, and various ad hoc assessments. We have a body of work there about how social impact assessment of trade agreements takes place, which we can then apply in the human rights field. A limited number of human rights impact assessments have taken place as well, in Thailand, Costa Rica, Ghana, Honduras, Indonesia.

The key to a human rights impact assessment is that it must involve some form of evidence-based analysis of the trade agreement in question. So this is a technical process. It doesn't tell you anything ideological about whether a country deserves or does not deserve a trade agreement, nor about its overall human rights record or situation. What it aims to do is to look at the trade agreement itself and assess the degree to which that trade agreement will have or has had beneficial or negative human rights impacts.

In light of that, I want to go through some of the key characteristics of a human rights impact assessment that I think are particularly important for the proposed amendment to this bill.

First of all, on methodology, the legal obligations and key principles of human rights must be central to a human rights impact assessment, and indicators must be developed to tell us the measure of the human rights impacts of the agreement. This is a technical process that involves rigorous collection and analysis of data. We're talking about techniques like economic modelling, particular case studies, causal chain analysis, surveys, and expert opinion all being utilized to give us a picture of the human rights impacts of aspects of the agreement.

As a result of that, we require a multi-skilled interdisciplinary team with knowledge of economics, social science methodologies, and human rights standards. And we require an independent team, a team of experts rather than a team of people who are part of any kind of political process. We require participation from affected communities; that is an integral part of the human rights methodology, and it should be transparent and have open procedures adopted throughout. I won't go into the detail of that here, given there are time limits.

Going to the timing and the frequency of the assessment, a human rights impact assessment can be *ex ante*, so it would take place before the agreement—that was the original proposal of the standing committee—or it can take place afterwards, an *ex post* assessment.

● (1545)

That I think is the proposal we have before us now. It should become cyclical, so it should not be a one-off process, but it should be something that is repeated to assess how impacts are changing over time. Again, I think the current proposal is advocating a cyclical process.

The frequency of the assessment should depend on the scope of what is being assessed and the resources available. So in terms of scope, human rights impact assessments should be limited to specific impacts of specific provisions of the trade agreement identified by a scoping study. If we look at the Canada-Colombia free trade agreement, I think we have 23 chapters with a huge range of provisions on goods, services, investment, technical regulations, etc. The danger is that an assessment of all these different provisions without a previous identification of where the most important human rights issues may be occurring, particularly if they're occurring on an annual basis, may become a superficial exercise that is not able to appropriately use the methodologies, which will require extensive time and resources.

Obviously the scope of the assessment does to a certain extent depend on the resources available, so it is very resource-intensive.

The more experts you have undertaking the assessment and the more money to do primary rather than secondary research, the more quickly you can do an assessment and the bigger the scope you can hope to achieve in terms of the chapters of the agreement you can analyze. So there is some consideration there of scope and resources together.

Finally, the results: you need precise, directed conclusions and recommendations and actions to be concluded at the end of any assessment. Many of the assessments that fail to have an impact are those that do not include precise recommendations directed to particular actors who are in a position to take effective action on the recommendations that are made.

In conclusion, and I hope I haven't gone over time, there is a lack of detail in the current proposal, which means it is difficult to assess it fully in terms of the final procedure that might be adopted. But my experience suggests that a more detailed blueprint that can be put together when a proposal is first on the table and that can be transcribed does help guard against problems of uncertainty at a later stage.

There may be concerns in the current process about people, scope, frequency, and results. In terms of people, there's the importance of independent expertise being at the centre of the impact assessment process. In terms of scope, as I said, the huge range of chapters of the trade agreement mean that it needs to be honed to deal with those particularly significant impacts. Frequency again depends on the resources available to the assessment, but that issue of scope and frequency must be thought of together. Finally, on results, in terms of an effective impact assessment that will have an impact on policy, there needs to be a clear setting out of the way in which results will be set out in the assessment and then acted upon by relevant actors.

I hope those brief thoughts help the committee in deliberations, and I'm happy to take any questions when needed.

● (1550)

**The Chair:** Thank you. We appreciate your remarks and also your good timing.

We're going to go now to New York to hear from Nazih Richani, who is a professor, I believe, at Kean University in New Jersey. He's coming to us via video conference from New York.

Mr. Richani.

**Dr. Nazih Richani (Professor, As an Individual):** I'm Nazih Richani, a political scientist at Kean University. I've been studying the Colombian conflict for about 16 years, and in this respect I have a book and several other academic publications. The title of my brief presentation is going to be "Free Trade with What State? A Fragmented Sovereignty or a Co-opted State".

For the purpose of this hearing, two critical issues are imperative to consider. One is what type of state we have today in Colombia, and second is the possible impact this agreement could have on the rural economy and the long-term food security of the country and consequently on its civil war. Let me start on the type of state.

During the last decade, the state-making process in Colombia has almost graduated from a condition of fragmented sovereignty in which the central government in Bogota shared authority with regional *caudillos*, or political bosses, right-wing narco-paramilitaries, and leftist guerrillas. This fragmented sovereignty has characterized the country's history since its independence in the early 19th century. However, during the course of the last decade, the state-making process has entered into a phase whereby the state's coercive apparatus has expanded its radius of operations for almost all the country's—

**The Chair:** Excuse me, Professor Richani. I'm sorry to interrupt you, but we are doing simultaneous translation here, and it's sometimes difficult to keep up. I'd be happy to let you slow down just a little bit.

Thank you.

**Dr. Nazih Richani:** Okay. Thank you.

This dramatic expansion of the state security apparatus has been unprecedented in the country's history, making Colombia's one of the largest armies in Latin America, with almost 432,000 personnel in 2008, of which 286,000 are in the Colombian military and 146,000 in the police forces.

The Colombian government has increased its defence spending by 142% during the last ten years. This money was supplemented by the infusion of \$6 billion provided by the United States through Plan Colombia.

This might seem like the state may have advanced significantly in executing its sovereignty, so what's the frustration? Closer examination of the social and political content upon which this newly founded sovereignty is based may shed some light on the nature of this emerging state.

A key player in this emerging sovereignty has been the narco-paramilitary. Caruso launched a barbaric counter-insurgency campaign that targeted the civilian population on what they called “the social base of the guerrilla”. This led to the killings of thousands and the displacement of about three million people.

But more important for this presentation is the narco-paramilitary strategy of the co-opting of the entire state apparatus, from the local level to the central government, targeting almost all state institutions, including its congress, military, police, judicial system, and intelligence services. This process started during the Samper period, from 1994-98, and was perfected under President Álvaro Uribe Vélez, who started in 2002 and is the current president of Colombia.

This strategy has been successful to a great extent, as evidenced by the number of elected officials that are currently under investigation for their ties with the narco-paramilitary groups. The latest tally, according to the Office of the Attorney General, is about 291 investigations against 115 governors and mayors, 8 House representatives, 9 senators, 18 council members, 3 deputies, and 115 officials in 17 different departments, this to be added to about 80 other congressmen and -women, members from the 2006 elections, who are either under investigation or sentenced. This is close to 30% of the entire congress—which, incidentally, approved the free trade agreement—that is compromised.

Moreover, about 800 members of the police force are being investigated for corruption, abuse of authority, and, of course, collaborating with paramilitary groups. This is according to the national inspector general of police, Roberto Leone Riaño. He added that during 2006 alone there were 30,000 members of the police force under investigation. That is about 21% of the entire police force under investigation for corruption or collaboration with the narco-paramilitaries.

The functioning of the DAS, which is the administrative security apparatus, is not any better. Its new director, Felipe Muñoz, called for its dissolution because of the high degree of penetration by the narco-paramilitaries. It was entirely corrupted from within, including the latest new paramilitaries under Cuchillo, who is one of the commanders of the new and emerging groups of paramilitaries.

About 116 agents from the DAS at all levels, according to the director, are being investigated for links to the narco-paramilitaries. This is in addition to 38 agents who were convicted. Currently, DAS activities in several departments have been suspended because most of the officials in these departments were accused of allegedly being connected with paramilitary groups, including particularly departments such as Casanare, La Guajira, Valle, Tolima, and Bolívar, and several others will possibly close their operations as well. This is a very serious thing in departments that are key for narco-trafficking.

The military has also been penetrated by these groups at different levels. There is an inconclusive list of 150 officials mentioned by paramilitary commanders as collaborators, of which at least a dozen are at the rank of general.

These are some illustrative examples of the type of co-opted state that is emerging today in Colombia, to be considered in this discussion.

The second important component of this presentation is rural economic conditions and the possible impact that this trade agreement could have. Colombia has a rural population of 15 million, which is close to 38% of its population, of which 60% would rely on agriculture for their livelihood. The remaining 40% depend on other types of employment. However, the important thing to note here is that the small and subsistence peasants produce 63% of the total food production of the country.

● (1555)

This contribution of small and subsistence persons who own plots of less than two hectares is the highest in Latin America. On average, small peasant properties of 1.8 hectares are responsible for producing 41% of agricultural output for domestic consumption, producing at the regional level 51% of the maize, 77% of the beans, and 61% of the potatoes. So the average production of Colombian small peasant and subsistence farming is basically higher than the regional standards. Nonetheless, in the whole region, small peasant production is still very significant to feed the population of the region.

According to several studies, the free trade agreements that the Colombian government has pursued with Canada, the U.S., and the EU do not consider the fate of the subsistence economy and small-scale farming, which is essentially conserving the country's food security. If we consider the past global food crisis and we desire peace, stability, sustainable development, and human security, it is imperative to reconsider the interests of subsistence and small-scale farming.

As a case in point, an Oxfam study anticipates that small-scale producers of wheat and barley will be the hardest hit by the FTA with Canada. Oxfam estimated that 12,000 families, or about 48,000 individuals, will be undermined by the free trade agreement, specifically those who are producing wheat. Wheat and barley will be hard hit by this agreement, and 50% of the Colombian pork industry, which basically is informal and employs about 90,000 people, is also expected to be hit hard by this agreement. These are basic figures, but again I suspect that maybe hundreds of thousands of individuals in small-scale production will be affected by the free trade agreements, specifically in the sectors of rice, sugar, cotton, beef, and milk.

Undermining the subsistence and small peasant economy will have three important consequences to be considered very seriously. The first one is a threat to the food security of Colombia.

Second, in a country where the grievances of the rural population have led to an ongoing civil war and have facilitated the expansion of illicit plantations, these three free trade agreements, if they do not consider in their articles a clear-cut protection safeguarding these vulnerable sectors, would be as if you were adding more incentives to violence and to the narco-economy.

Third and finally, if the current trends in the political economy of Colombia persist, in a decade or so it will be transformed into a net importer to feed its population, specializing in a few cash crops such as coffee, bananas, and African palm oil, alongside the mining sector for gold, coal, and oil. Such an economy, as you may know, leads to neither sustainable development nor to a sustainable peace, but rather to a continuation of what I have termed a "war system" in Colombia.

Thank you.

• (1600)

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

Now we will have our final witness from outside. We're going to Vancouver, where we have Dawn Paley, a journalist.

Go ahead, please.

**Ms. Dawn Paley (Journalist, As an Individual):** Thank you for inviting me here this afternoon.

My name is Dawn Paley and I'm a journalist based in Vancouver. I've travelled to Colombia twice, for a total of about three months, and I've spent a great deal of time researching Canada's relationship with Colombia from here.

Most of my time in Colombia was spent in northern Cauca, which is unfortunately again in the news because of Sunday's assassination of Alex Quintero, a man who had been accompanying survivors of

the 2001 Naya massacre. This massacre saw 120 civilians slaughtered by paramilitaries. Some were killed by chain saws. Quintero was targeted because of his memory and because of his work trying to bring some kind of justice to families and survivors of the Naya massacre.

I know Colombians like Quintero who have been turned into victims of the war in Colombia. I know how they are systematically ignored; how they have their rights, freedoms, and basic necessities removed; and finally, how they have their lands and their lives removed from them so that corporations and others can reap the benefits. It is thus out of great sadness that I testify before you here today.

I'd like to clarify first that I think this agreement would be more accurately referred to as a preferential trade and investment protection agreement between Canada and Colombia.

I want to open by quoting Nobel Prize-winning economist Joseph Stiglitz, who said, "The links between trade liberalization and growth are far weaker than liberalization advocates claim." I think it is important to bring up Stiglitz because some members of this committee have accused witnesses and other MPs of having an anti-trade ideology. I wish to counter that in fact their position in favour of an agreement between Canada and Colombia is an equally ideological position—a so-called pro-trade ideology. But regardless of the strength of some committee members' ideological commitment to a free trade agreement, it is not possible for them to ignore the ethical implications of signing such an agreement with a criminal regime like the one in Colombia.

At a presentation in March 2005, Christian Côté, from International Trade Canada, pointed out to his audience that there exists pressure from the natural resource community for government to improve the investment climate for target countries. I think that pressure has led us to where we are today, with some members of this committee pushing a free trade agreement on behalf of the natural resource sector and dressing it up as if it were for the benefit of your average Canadians or Colombians.

Committee members here are obviously aware of the push from the Canadian oil and gas sector to ratify this agreement. Lobbyists from Nexen Incorporated, Petrobank Energy and Resources Incorporated, and Talisman Energy Incorporated have met with Canadian government officials to lobby for this deal.

When Armando Zamora, from Colombia's National Hydrocarbons Agency, went on an international tour to promote oil and gas investment in Colombia, Toronto was his first stop. He told the *Globe and Mail* that they started in Toronto because that was where the decisions to invest in the country were made.

I'd like to give an example of this, which is Gran Tierra Energy Incorporated. This firm produces approximately 14,000 barrels of oil per day in the southern region of the Department of Putumayo. The Calgary-based company controls 753,376 net acres of territory in Putumayo. Calgary's Petrobank has 14 exploration blocks covering a total of 1.6 million acres in Putumayo. Also from Calgary, Parex Resources Incorporated, formerly Petro Andina, is also active in Putumayo.

Oil drilling there is in the land of the Cofán peoples, who have been displaced as part of a concerted strategy to make the lands they occupy available for mega-projects. In 2006 there were 4,500 soldiers guarding oil facilities in Putumayo, as well as two extra brigades and one special brigade trained by the U.S. army. This oil is fueling bloody conflicts between the state, paramilitaries, and guerrillas. But it is also a war on the people, who are subject to terror and displaced by all armed actors, as well as through other instruments of the U.S.'s Plan Colombia, including aerial fumigation.

The victims are civilians, particularly indigenous peoples. In a classic case of the resource curse, an estimated 80% of the 250,000 people in Putumayo live below the poverty line. According to a report by the Colombian Consultancy on Human Rights and Displacement, 30,000 people—more than one in ten living in Putumayo, where these companies are based—have been forcibly displaced.

• (1605)

According to another study of the region, there is little to no civilian state presence in Putumayo. Instead, guerrilla groups, paramilitaries, and the Colombian army, acting with U.S. assistance, control the territory.

The operations of these oil companies are most often not unionized, and these companies—not necessarily the particular Canadian companies—have a history of collaborating in the past. We know, for example, about BP collaborating with paramilitary forces and the Colombian army in order to maintain operations.

Arguing that this agreement will benefit the bottom lines of Calgary-based oil companies is separate from arguing that this agreement will actually improve the lives of ordinary Canadians or ordinary Colombians through so-called free trade. I think if we presented this agreement to Canadians as one designed in large part to benefit Calgary's oil and gas elites at such a great social and environmental cost in Colombia, ordinary Canadians would be revolted.

Although this agreement might satisfy powerful constituents, especially in the eight Calgary ridings today held by the Conservative Party, it is only by ignoring and discarding the voices of the victims of terror that the Canadian Parliament could promote a free trade agreement between Canada and Colombia.

Thank you very much.

**The Chair:** We'll hear now from Mr. Shrybman, a partner at Sack Goldblatt Mitchell.

**Mr. Steven Shrybman (Partner, Sack Goldblatt Mitchell, As an Individual):** Thank you very much, Mr. Chair and members of the committee. It's a pleasure to be here today in person.

You actually have a copy of the gist of my remarks here as a chapter to a report prepared by the CCIC, the Canadian Conference of International Cooperation. The chapter that I contributed to that work deals with the environmental side agreement to this treaty. I'll primarily focus on that agreement, but I will offer a few comments about this proposal to attach some type of human rights assessment conditionality to the agreement as well.

Let me begin by relating a little history, because it provides the context within which I think we can better understand what these side agreements and assessment proposals really mean in the larger framework of international law.

It wasn't very long ago that most international agreements were of one type. They were largely expressions of good-faith commitment by nation-states that were binding on them as a matter of international law, but with respect to which there was no meaningful compliance or enforcement mechanism. That wasn't only true of environmental agreements and human rights agreements, such as those articulated with the founding of the United Nations in 1948; it was also true of the General Agreement on Tariffs and Trade.

As members of the committee should know, until the advent of the WTO, you would not be the subject of sanctions under the GATT unless you agreed. In other words, if someone filed a complaint against you under the GATT and the tribunal found you were out of compliance with GATT rules, you basically had to agree to fix the problem. If you didn't, there were no sanctions that could be imposed by the GATT without your consent, because the rule was one of consensus.

That changed. That level playing field for international law, human rights law, commercial law, environmental law, changed rather dramatically in the mid-1990s—not long ago—with the advent of the WTO and NAFTA.

Let me start first with the WTO. Under the WTO, the rule with respect to the imposition of sanctions changed fundamentally. Unless blocked by a consensus of WTO members, sanctions would be applied if approved by the appellate body of the WTO. We went from a system in which there was a consensus required for sanctions to be applied, to a system in which unless there was a consensus to block a decision by the appellate body that you were out of compliance with the WTO, sanctions would be imposed. That represented a sea change in terms of the enforceability of the WTO.

But something had happened previously that was even more fundamental, as a departure from the norms of international law, and that was to be found in the investment chapters of NAFTA. Under that chapter, for the first time—there were some antecedents, but certainly for the first time in a trade agreement—private parties, private investors, private companies were given the right to seek damages for non-compliance with the provisions of a treaty with respect to which they were not parties, and under which they had no obligation. Think of arbitration without consent. You don't have any obligations under this agreement, but you have the right to enforce it. That was a radical departure from the norms of international commercial law, because the rights being asserted weren't fundamentally commercial. We've seen this instrument being invoked to challenge environmental laws and privatization schemes that have gone sour. They're not about commercial arrangements. It was a fundamental departure from international law, where you allowed a third party the right to enforce agreement to which they weren't a party.

•(1610)

That changed the landscape in a very dramatic way, but not for the protection of ecological security and human rights. Those instruments still remained hortatory instruments. There were no new enforcement mechanisms attached to the UN convention on human rights or the various charters attached to it, or to the Framework Convention on Climate Change, or the international Convention on Biodiversity. Those largely remained, primarily remained, hortatory mechanisms that represented binding obligations for states, but not obligations that they would have to meet for fear of some sanction, because no sanction was permitted.

This brings me then to the environmental side agreement of this particular proposed free trade agreement, and the precedent for that can be found in NAFTA. The problem with these agreements is that they are similarly binding, I suppose, because they're agreements, but they're non-enforceable. So you get these side agreements attached to treaties that have very powerful enforcement mechanisms, particularly the right of private enforcement built into the investment rules, but they themselves have no meaningful compliance or enforcement feature.

If you're an environmentalist, and I happen to be—I still happen to be, but I worked for years for environmental NGOs—it doesn't seem like a very reasonable bargain unless you're persuaded that somehow protecting the commercial interests of large and powerful corporations, resource corporations, and oil and gas corporations is more important than protecting the climate, preserving biodiversity, or protecting human rights. Why is the protection of corporate and commercial interests more important than the protection of these other forms of security and human rights?

I am very doubtful that Canadians would agree to the essential ordering of priorities that you now find married in these international agreements, where the protection of commercial rights is very hard, very precise. If you're a large corporation, you're entitled to damages, often in the tens of millions of dollars, if countries fail to comply with their obligations under these regimes. But if you're a victim of human rights abuses or you're an environmental NGO concerned about the decline of the environment, you're without any effective remedy to address those problems.

In the last two or three minutes I have, let me comment on this proposal to attach some requirement for human rights assessment to this free trade agreement with Colombia. You'll suspect that I'm no more enthusiastic about that than I am about the environmental side agreement to the trade agreement, and in fact the proposal for human rights assessment is far more modest than the one associated with assessing the environmental impacts of the agreement.

My primary concern arises from the fact that we actually don't need another institution to remind us that we're in trouble ecologically or that there are serious human rights problems ongoing in Colombia. What we need are effective mechanisms to address those problems, particularly if, in establishing rights of private enforcement to the benefit of large corporations, we will actually aggravate ecological and human rights problems. That's an inevitable result when you give one actor in an equation special and powerful enforcement tools but no other.

I've looked at Mr. Brison's proposal, such as it is. There aren't any details there, as Mr. Harrison indicates. I don't think the proposal is a plausible one, even if it were fleshed out. But for it to be fleshed out you would have to create an institution to preside over complaints; it would have to be transparent. There would have to be a dispute process that allowed people access to meaningful remedies free from the threat of reprisals, and that would hold not only the state but private actors to some measure of accountability under the regime.

I look forward to any questions the committee has.

Thank you very much for your patience, Mr. Chairman.

•(1615)

**The Chair:** Thank you again, and thank you for recognizing our clock. I appreciate that, with four witnesses today.

We're going to begin our first round of questions. I think we will have time to get in all members if we stick to our time allotments. The committee has decided that there will be seven minutes for the first round of questioning, seven minutes to each of our committee members, and that means for questions and answers. I'm going to stick to it pretty tightly today.

I'm going to ask Mr. Brison to begin, for seven minutes.

**Hon. Scott Brison (Kings—Hants, Lib.):** Thank you, Mr. Chair.

I thank each of our witnesses for appearing before us today.

I'd like to begin with Mr. Harrison. I thank you very much for dialoguing with us today on this important issue. The details of a human rights reportage mechanism that would be put in place through the amendment and the signed agreement between the Colombian and Canadian governments have been read into the record at committee. It would require both the Government of Canada and the Government of Colombia to do annual reports on the impact of the free trade agreement on Colombia and on Canada, and the reports would come to our respective parliaments—our parliament, their congress—on an annual basis.

When we had public servants here from Canada's Department of Foreign Affairs and International Trade, they indicated they would draw from the NGO community and civil society groups in that reportage to help inform the reports on an ongoing basis. Would you be willing to participate in that type of process and to help inform the design and the deliberation of that group, of the Department of Foreign Affairs and International Trade, in terms of human rights reportage?



•(1620)

**Dr. James Harrison:** Thank you very much for the question. Clearly, in an endeavour such as this, I'd like to be of any kind of assistance in providing technical knowledge and support to make sure that the process is as rigorous as possible. I've said I think the idea of a human rights impact assessment is a great endeavour to be embarking on, but I would have, I suppose, fundamental worries about the process as it is currently set out. It may be that it's just a question of fleshing it out in more detail.

One of the fundamental points that is raised by what you just said is that it's going to be the officials of the relevant departments who are going to be undertaking the assessment, albeit with contributions from civil society actors of the two countries. This is somewhat at odds, I would say, with good practice internationally in this kind of impact assessment process, whereby we would be hoping for the appointment of independent experts who would be undertaking the report and then would be reporting back to the relevant ministries, which would then be reporting to Parliament or whatever on the trade agreement.

So that would be the technical advice I would give to the process to make it the kind of rigorous one that's being adopted, as I say, in human rights impact assessment methodologies more generally, and in processes with regard to multinational corporations or parliamentary activities, such as those of the European Parliament, and with regard to the EU social impact assessments. We do see independent actors who are independently commissioned to undertake these assessments.

The other thing I would also say is that I was worried about the scope of the current proposal and worried that undertaking a report on all the provisions of the trade agreement each year would seem to me in a way to be setting oneself up to fail in terms of the rigour of the process. Those would be my immediate comments, but I am of course very available to help on any kind of ongoing basis.

**Hon. Scott Brison:** Thank you, Mr. Harrison.

Are you aware of another free trade agreement that has a binding human rights reportage mechanism requiring an annual human rights impact assessment, an *ex ante* assessment effectively of the agreement? Are you aware of any other FTA with similar binding provisions on human rights reportage?

**Dr. James Harrison:** No. As I said, I think this will be the first time this will take place, which is partly why I'm keen to get the model up and running in the best way possible and to use the good practice, which we can see in other fields of human rights impact assessment, to make sure the terminology that we're using—human rights impact assessment—reflects, as I say, best practice elsewhere. And there are social impact assessments produced by actors like the EU and the UNEP, which we can draw upon as well for help in this endeavour.

**Hon. Scott Brison:** Thank you.

Professor Richani, do you view the UN Commissioner on Human Rights as a credible source of perspective or opinion on Colombia and the human rights situation?

**Dr. Nazih Richani:** Yes.

**Hon. Scott Brison:** Would you agree with the UN special rapporteur on the situation of human rights defenders in her report of September 2009, when she said:

I first want to commend the Government for the significant improvement in the overall security situation in the country since 2002. Respect for the right to life and the exercise of fundamental freedoms for Colombian citizens have improved.

•(1625)

**Dr. Nazih Richani:** We can problematize this statement.

I'm an expert on Colombia. That's the reason I'm telling you about the co-optation of the state itself from within. In other words, this aspect of Colombia's development has not been covered by that report you mentioned. We should pay attention to what's really going on and what has happened within the state itself. This report has not covered that damage, so therefore I don't think it's quite relevant.

**Hon. Scott Brison:** You referred to the drug trade and the violence caused by the drug trade in Colombia. Why do you believe that people get involved in the drug trade?

**Dr. Nazih Richani:** Briefly, there is a lack of other options. That's why, for instance, I'm referring to disagreement on other agreements of a nature that could impact the rural economy and lead to hundreds of thousands of peasants losing their livelihood. One of the only options they have is the drug trade. The other option may be joining the new narco-paramilitary groups. The third option is joining the guerrilla movement, and the fourth option is organized crime.

**Hon. Scott Brison:** At some point, sir, you're losing me on this. You're saying that the provision of legitimate free trade that is not drug-related wouldn't improve the situation and it would actually hurt the situation. I don't understand the rather circular argument that more legitimate trade will put more people in the drug trade. That doesn't make a lot of sense somehow.

**The Chair:** Sorry, we're going to have to pursue that in the next round. You've run out of time, Mr. Brison. You will have an opportunity in the next round.

Mr. Laforest.

[*Translation*]

**Mr. Jean-Yves Laforest (Saint-Maurice—Champlain, BQ):** Thank you, Mr. Chair.

Good afternoon to all the witnesses.

First, I have a question for Mr. Harrison.

You told us that you are, in a way, an expert in human rights.

Is that what you do at the university? You look at what is happening in places around the world where human rights are not respected or in connection with free trade agreements. Is that your specialty?

[English]

**Dr. James Harrison:** I missed some of that; I think there was a problem with the sound. But if you're asking about my speciality, it's on trade and human rights issues, and to a lesser extent on environmental issues.

[Translation]

**Mr. Jean-Yves Laforest:** In a way, your presentation did not specifically address the current human rights situation in Colombia. You looked at the proposal, the current free trade agreement, the original proposal for an independent pre-study on the human rights situation in Colombia. You compared that with the current proposal of conducting a study at governmental level after the agreement is signed.

Could you tell me what your opinion is? If this agreement is so important and so beneficial for Colombia economically and if it is beneficial for Canada, do you not think that the agreement is strong enough to allow Canada to insist that Colombia improve its human rights situation before the agreement is signed?

So, if an agreement like that really is as important as everyone says, is it not a strategic tool that Canada should use to move the human rights situation forward in Colombia, rather than signing the agreement first and carrying out a study later?

•(1630)

[English]

**Dr. James Harrison:** Yes. If I've understood your question correctly, then clearly the optimum scenario from a human rights situation is that you have what we would call an *ex ante* assessment. An *ex ante* assessment would take place before the agreement came into place, because then you're in a position to, as it were, deal with any negative human rights implications before they arise. From a human rights perspective, you do not want negative human rights implications, be they of agricultural workers or whoever may be affected by the agreement, and then have to react, have to mitigate, have to take action to compensate, or whatever.

What you want to do in an ideal scenario is to undertake the impact assessments before the agreement takes place—this is what the EU does with its social impact assessments—and then react accordingly, in terms of making amendments to the agreement, taking whatever other action may be needed. So certainly an *ex ante* assessment is the preferable option.

[Translation]

**Mr. Jean-Yves Laforest:** As you said earlier, this assessment has to be done independently and not by the current governments.

[English]

**Dr. James Harrison:** Again, absolutely yes. The assessment process is and should be a rigorous and scientific one, undertaken by experts in the field. That means experts in economics, experts in human rights, experts in social science methodologies for undertaking the form of participatory assessment that's vital in this kind of human rights impact assessment. And the rigor of the process is only going to be assured if there are independent people undertaking the assessment. What we see in leading models of human rights impact assessment, not in the field of trade but in other fields globally, is that for a rigorous assessment to take place there needs to be an

appointment of independent experts in order to undertake that process.

[Translation]

**Mr. Jean-Yves Laforest:** Thank you, Mr. Harrison.

I have a question for Ms. Paley.

A little earlier, you said that, in your opinion, signing a free trade agreement is, in a way, the result of pressure from the natural resource extraction sector in Canada. You said that lobbyists have met with members of Parliament.

Could you give us more details about that? What are the names of the members and the lobbyists? When was that pressure exerted?

[English]

**Ms. Dawn Paley:** Thank you for your question.

I don't have the dates in front of me. It was only through a cursory search of the Registry of Lobbyists in Canada. You could see that the companies, Nexen, Petrobank Energy and Resources Limited, as well as Talisman Energy, have all had lobbyists speak to MPs regarding the Canada-Colombia free trade agreement, as well as a few others, including the Canadian Council of Chief Executives and Human Rights Watch.

I'd be happy to pass on more specific details, or perhaps one of your aides could assist you with that in the future.

[Translation]

**Mr. Jean-Yves Laforest:** I would like that, Ms. Paley.

I have no other questions, Mr. Chair.

[English]

**The Chair:** Thank you.

I think most of the witnesses she spoke about appeared before this committee. Certainly in Colombia we heard from representatives of those Canadian companies. Whether that's construed as lobbying or not, I don't know.

Is this construed as lobbying? Did you register to come today? There you go.

Mr. Julian, seven minutes.

**Mr. Peter Julian (Burnaby—New Westminster, NDP):** Thank you, Mr. Chair.

Thank you to all witnesses for coming forward today.

I'm going to move along fairly quickly, and I'll start with you, Dr. Harrison. You're quite right to be worried about the phantom amendment, the amendment that never gets tabled, that basically forces the Colombian government to do what it already does, which is whitewash human rights violations on an annual basis.

You may be interested to know that we had the Colombian government and the Canadian government before this committee and they said exactly the same things about human rights, that the situation was marvellous, really, and when looking at the details such as the DAS scandal, they simply did not talk about the bulk of the concerns around human rights: African Colombians, forced displacement. None of that ever appeared.

So the issue around whether compelling the Colombian government to do what it already does—whitewash human rights by publishing an annual report—is in any way credible is a very good question. Many of our witnesses, when they've commented on it, have said it lacks credibility. But you've spelled out a very clear blueprint about what would actually constitute a human rights impact analysis. So knowing what you know now, that the Colombian government reports on itself, does it need in any way the blueprint that you've set out?

• (1635)

**Dr. James Harrison:** As I've said before, independent reporting is at the heart of the assessment process. Without all that independent reporting process, you would have to have serious worries, particularly in the kind of scenario where there seems to be a lot of contestation about the actual kinds of human rights impacts.

So yes, independence is going to be a vital part of the process, and also, as I've said, worries about the frequency and scope, and finally the results in terms of the recommendations.

In terms of a report simply being laid before Parliament, your parliamentary processes may be somewhat different from mine, so please put it into your own political context, but in my past experience, the danger is that a report by Parliament is not necessarily acted upon unless there is a procedure specified, in whatever agreement or regulations in advance, about the kinds of actions that could be taken. That would be the final concern I would have regarding the current process, along with the other ones I've spoken about.

**Mr. Peter Julian:** Thank you very much.

Dr. Richani and Ms. Paley, I'd like to reference yesterday's *Washington Post*, where a former police major, Juan Carlos Meneses, has alleged that Uribe's younger brother, Sanitago Uribe, led a fearsome paramilitary group in the 1990s in a northern town in Colombia who killed what they called petty thieves, guerrilla sympathizers, and suspected subversives.

Meneses said the group's hitmen trained at La Carolina, where the Uribe family ran an agro-business in the early 1990s. This is the first time the Uribe family has been directly implicated in the killings. Before then, we've had what Uribe has called, I guess, "deniability". We have direct implication.

At the same time, we have a motion to cut off witnesses, and both of you have referenced the issue around rural Colombians, the impact on Afro-Colombians, on aboriginal Colombians, and the concerns around this agreement making things much worse for those individuals.

My first question is how do you feel the direct implication of the Uribe family in brutal killings will change the debate around the Colombian trade deal in places such as the U.S. Congress?

Secondly, do you not feel it important for this committee to hear from African Colombians, from the free trade union movement, and from aboriginal Colombians, none of whom have had the opportunity to come before the committee and all of whom have asked to come before the committee in the next few days?

**The Chair:** Mr. Richani.

**Dr. Nazih Richani:** Let me just make a correction. I think his cousin was also implicated before. In other words, it's not the first time that Uribe's family was implicated with narco-paramilitary groups or paramilitary groups, so maybe other members of his family were also implicated before.

Again, the issue is not really Uribe. It's the heavy penetration of organized crime in the state. That's essential to keep in mind. We have a state that is heavily penetrated, and you will see the consequence of that penetration even after the elections. Therefore it is going to take the Colombian state many years to purify itself of this penetration process. It is really a very serious concern. In the Latin American context maybe Guatemala is second and maybe Mexico is third. But definitely Colombia is really high in terms of the level of penetration, so it goes beyond Uribe and his family, his cousin, and his brother. It is the whole apparatus of the state itself, and that's the most dangerous aspect that is attracting the attention of this committee to pay extra care. I've been studying that. I'm warning you—in other words, that's a warning shot. You have a state that is compromised, its legitimacy is compromised. Can you imagine 30% of the congress, 30% of the police force, the entire DAS department compromised? What kind of a state is this? That's the fundamental question.

On the implications of the free trade agreement, again, the economic consequences of that is basically to undermine an ongoing process of the food security of the country itself. According to the free trade agreement, the key sectors that will be affected immediately are, for instance, the growers of lentils, barley, wheat, and peas. We're talking about the livelihood of hundreds of thousands of people who might be affected. Just two days ago, as you may know, the president signed an agreement with the EU. Immediately, the reaction was that the cattle ranchers and the small-cattle ranchers were saying that 400,000 people will be affected by this type of an agreement. If you take the agreement of Canada in the context of all of the agreements that Colombia is making, it's disastrous for the future of the nation in terms of food security, its political security and stability, and ongoing conflicts. Therefore it's not only about Canada and Colombia; it's about what's happening to Colombia because of these different trade agreements that Colombia's government is committed to. There's a certain part of the economic development that's not sustainable.

• (1640)

**Mr. Peter Julian:** Thank you, Dr. Richani.

I'll ask Ms. Paley to respond.

**The Chair:** I'm sorry, Mr. Julian. That is eight minutes.

We'll go to Mr. Keddy.

**Mr. Gerald Keddy (South Shore—St. Margaret's, CPC):** Thank you, Mr. Chairman.

Welcome to our witnesses. I will try to leave Mr. Cannan a bit of time. He has a couple of questions as well.

My first question is to Mr. Harrison. Mr. Harrison, you present yourself as an expert in human rights assessments, and I appreciate that. Hopefully you understand that this is a new process here. It's not one that we've followed up on with free trade agreements in the past. If you will, we're going into uncharted territory, territory that quite frankly I think is positive for this trade agreement. The reaction and the answer I'm looking for from you is the fact that, as I see this at least, what we're doing, first of all, is having rules-based trading. That puts parameters on a whole number of areas. By adding the human rights assessment to that, we've put parameters in another area that traditionally would be outside of free trade agreements.

You've talked about the assessment process and the importance of it being independent, and I would agree with that. But the importance of adding it to the agreement is that no one is trying to say that every free trade is perfect. No one is trying to say that human rights in Colombia has been perfect. What we are saying is we do believe, and every indication has proven, that human rights have improved in the last decade in Colombia. There's still work to be done, but certainly we're moving in the right direction. So adding this human rights impact assessment to the free trade agreement, moving forward with a rules-based agenda on human rights, I would expect should be a positive step in this agreement.

**Dr. James Harrison:** Thank you very much for your question.

First of all, I don't purport to be an expert on the human rights situation in Colombia. You have experts before your committee who can talk to you on that. So I'll concentrate on the human rights impact assessment process.

You are right, we are at the forefront of a new process here in Canada, and these models are being developed globally. There is, as I said, an existing corpus of human rights impact assessment data to draw upon in terms of good practice for how this should be done, and that's not just a human rights impact assessment of trade agreements, of which there are few, but human rights assessments more generally. I've been researching a number of different models in a number of different areas, and there are core principles that come out of those impact assessment methodologies. Independence, which you've touched upon, is one of them. The others I set out briefly in the paper that you have, and I can go into those in more detail.

My concern is that when one adopts terminology like human rights impact assessment, one also adopts, and rightly so, the baggage of that terminology, so that there should be a whole range of recognized procedures to go with that. My worry about the current proposal as it stands—and as I say, there is not enough detail there to judge it in full—is that it may not have the rigour of what I would say is existing good practice in this field. So when we talk about rules-based trading, we need to be able to assess through human rights methodology the impacts of those rules on affected persons.

That's what this form of impact assessment purports to do. My worry is that.... Sorry, I'll stop there.

• (1645)

**Mr. Gerald Keddy:** Thank you, because I do have a couple more questions. I appreciate your answer and some of the challenges that I think lie ahead of us.

To Mr. Richani, I listened closely to your testimony, and I really can't quite figure out if the glass is half full or half empty. You stated at the beginning that about 70,000 farmers could be displaced because of agricultural imports. Then you stated it could be hundreds of thousands, and finally you just stated it could be in excess of 400,000 farmers who could be displaced. I'm not questioning numbers here—I really don't know—but again I want to go back to the whole idea of food stability.

Food stability—and I think Mr. Brison started to pick up on this—is based not just on subsistence farming, but on people having jobs and having opportunity, first of all having supplies of food they can purchase and second of all having the money to purchase it. So there are a number of things when we talk about food stability.

You also talked about the increase in the budget in military spending, but quite frankly in the last ten years human rights has improved remarkably in Colombia, and I mean by every conceivable measure. I'll repeat myself: no one is saying that human rights in Colombia is perfect. Government officials themselves don't pretend to say that, and never have. So my question to you is, if an increase in the military gives you increased stability in the country, more ability to travel, and more ability to pursue your livelihood, isn't that a good thing for Colombians? How can that be seen as a negative thing?

**Dr. Nazih Richani:** I gave you figures from different sectors that could be affected. Therefore, to answer you specifically, you have to add them up. In other words, the 400,000 are the ones that are small producers of milk. These would be affected directly by the latest agreement between Colombia's government and the EU, according to some statistics. And the other figures that I provided you are from other sectors.

If you want the overall assessment, I would think that all these free trade agreements will impact food security. We're not talking about having money. It's the people who are producing food themselves who will be displaced. That's what we're talking about here. We're not talking about people having money to buy food, we're talking about the ones who are producing now. These free trade agreements will displace them to the cities, and they will become consumers of food rather than producers of food. That's the dilemma.

The second component is to have security, but security at what cost? Who is benefiting from this security? And the provider of security itself is being compromised. The reason I provided all this intervention is to tell you that it is true that Colombia has more army and it has more security, but the security has a social content, and that's what we're talking about here. We could establish a fascist regime where security is very well done, but to benefit whom? That's the critical question.

Thank you.

• (1650)

**The Chair:** Thank you.

We're moving now to round two. These will be five-minute questions and answers.

Mr. Silva.

**Mr. Mario Silva (Davenport, Lib.):** Thank you, Mr. Chair.

I also thank the witnesses for their presentations.

Dr. Harrison, it's been a struggle, at least for me as a member of the committee, trying to figure out how one goes about doing an independent human rights assessment. I've always been in favour of that idea, but even speaking with NGOs, I've always struggled with how one goes about doing it. The reason I say that, to give you a context as to why it is a challenge here, is that it seems that some of the NGOs who come forward and even labour and even government officials have a certain perspective and a viewpoint. I wonder if you invite independent experts....

Most people who have knowledge of Colombia seem to have a viewpoint one way or the other. They are either for or against the agreement, or they focus on the human rights and no development, or they see the human development and the progress that's taking place and sometimes suppress the human rights issues. So there are almost polar opposite views.

Some of the attacks, for example, on the Uribe government.... It is a government that was democratically elected and at one time many independent polls had its popularity at 80%. Yet the reports I've received from labour, for example, call it a dictatorial government. So it becomes very hard to read the assessment of human rights if you start labelling in a black and white scenario.

As a member of this committee, I'm trying to figure out where independence and fair-mindedness come into play. How does one arrive at that? What individuals do we call upon when it seems that academia and government and labour all have a different, polar opposite viewpoint on the situation that's taking place in Colombia?

**Dr. James Harrison:** Thank you very much for your question.

Again, what we need to be careful about is what we're talking about with the human rights impact assessment, the process of analyzing the human rights implications of the agreement itself. So yes, you may have all kinds of disagreements about the overall behaviour in Colombia on human rights terms, and there is far more expertise out there than I have on that.

But in terms of the process, when you hear the kinds of disagreements that I am hearing now between people talking, for instance, about the issue of food and the issue of how the free trade

agreement will impact on subsistence farmers in Colombia, the idea is that by undertaking concrete, empirical research, which is human-rights-focused, on these kinds of issues—as I said, in preference in advance of the agreement being signed but as a second option, what we call an *ex post* assessment—you will cut through that ideological discussion. And instead, you may bring people together on the minutia of what's happening in the country. So the idea would be that it would then become a source of empirical data, which will feed into these arguments.

Who conducts the assessment is the second part of your question. There are independent experts doing this kind of work globally. I've just been invited to get involved in work like that in the Pacific, and I saw the other experts who were invited to tender for that work. That told me how many experts there are globally working on human rights and trade issues. So if you have to reach outside Canada and Colombia for expertise on this issue, that is perfectly possible, I think.

**Mr. Mario Silva:** How do you get a group of eminent individuals, and do they have to have agreement on the report? How many would you call upon, and would they be from different sectors? Certain sectors will have a certain perspective and bias towards one thing or another. I'm still struggling to understand how this would be independent.

If you're going to have acceptance by all sides—labour, government, business, academia—then you probably would want to include one of those types of individuals in it. How do you go about getting agreement from people who might come in already having their own perspectives on trade agreements, for example?

• (1655)

**Dr. James Harrison:** There are probably three different ways in which you might tackle those problems. The first might be with oversight of the actual impact assessment process. There's a decision that has to be made about the committee, or whatever structure would be appropriate in the Canadian context, that would oversee the process and set the parameters of the impact assessment. There you may opt for a model that gives you a range of different stakeholders.

In terms of the assessment team itself, the key there is in the members' expertise in the subject matter. You're going to need someone with expertise in economics assessment, someone with expertise in human rights, and someone with expertise in social science methodologies.

Then it's a question of who you consult as part of that process. The consultation process and the way that consultation process feeds into the final report is another way in which you can try to balance the views that are heard within the process.

**The Chair:** Thank you.

We're just getting our timing down. People are right on schedule today.

Go ahead, Mr. Cannan.

**Mr. Ron Cannan (Kelowna—Lake Country, CPC):** Thank you, Mr. Chair.

Thank you to our witnesses. It's a pleasure to have you present to us.

This issue has been in front of us for a couple of years. I was actually just looking back. It was May 12, 2008, when some of the committee had the chance to go to Bogotá and area and see first-hand the plight and the conditions. Some of the rural areas are intolerable. We want to work together with them to try to increase the quality and standard of living. I believe that's the goal of each one of us.

We had a chance to work with the United Nations. Canada's government invested about \$3 million—the largest contribution to helping with human rights issues at the time. Mr. Julian and a few of us toured a school and had a chance to meet with some of the individuals first-hand. Connie Watson, a CBC reporter who went with us when our chair, Lee Richardson, spoke to some of the folks, wrote:

Conservative MP Lee Richardson asked local officials whether a free trade deal will help the situation.... They said investment would be welcome, especially in roads, schools and jobs for the displaced people—40 per cent of whom can't find work in the city.

As I mentioned, we realize it's a significant challenge, the progress that Colombia has made to date, as my colleague Mr. Keddy alluded to. We're trying to strengthen their economy and society.

I guess my question would be to Professor Harrison. We believe that engagement rather than isolation is the best way to support positive change. Would you agree with that?

**Dr. James Harrison:** I think the question I would focus on would be the narrow one. The human rights impact assessment process is trying to assess what the actual impacts of the agreement will be. The important thing is that you don't take an ideological position, and the impact assessment process should not take an ideological position on isolationism or integrationism. It should stand above that, and only then will it have the kind of credibility with all actors to be a process that can tell people what the actual impacts are.

**Mr. Ron Cannan:** Professor Richani, you look lonely over there in New York, so I'll ask you a quick question.

As concerns the aspect of our friends to the south, we work closely with the U.S.—I'm a member of the Canada-U.S. committee, and recently had this discussion. My understanding is that President Obama has alluded to working towards trying to move this agreement into place. I hear timing is of the essence. We've heard from the cattle industry, the hog industry, the lentil industry, the pulse industry; we've had various agricultural witnesses before us.

From your perspective, what's your reading on the situation in Washington on the timing of this agreement?

**Dr. Nazih Richani:** I think they're waiting for you guys. In other words, maybe Canada would be the springboard for the FDA agreement. I think that's why in your deliberations it's extremely important to factor in the implications of your agreement on Colombia's political and economic future. In other words, I think that if you approve it, then it would provide justification for the Obama administration to go forward. But I can tell you, the Obama administration is facing serious problems regarding that issue, in terms of pressure from labour groups on the human rights component of the assassinations that are still going on in Colombia,

in spite of the improvements you alluded to. In other words, maybe your approval will give impetus to the Obama administration to go forward with the agreement.

• (1700)

**Mr. Ron Cannan:** And the last question is for whoever would like to answer. We were there with some Canadian companies. We had an opportunity to see first-hand the issue of CSR, corporate social responsibility. Do you think with Canadians moving into Colombia and working with the Colombian companies, we can lead by example? As alluded to earlier, is it better to engage them rather than sort of leave them with out any hope? Because I believe this agreement is providing hope, opportunities, and jobs. Maybe it's not perfect, but we can build on it as we have an annual reporting mechanism.

I'd like to hear your thoughts on that.

**The Chair:** I'm sorry, you'll have to get that on the next round, Mr. Cannan.

**Mr. Ron Cannan:** Okay, thank you.

**The Chair:** That's five minutes, and we want to hear from Mr. Guimond.

[*Translation*]

**Mr. Claude Guimond (Rimouski-Neigette—Témiscouata—Les Basques, BQ):** Thank you, Mr. Chair.

Good afternoon to the witnesses.

My first question is for Mr. Richani.

Good afternoon, sir. I greatly appreciated your testimony. I completely agree with you. You have expressed a different point of view on the economy. You talked about agriculture, food sovereignty, local agriculture and food security. In my opinion, this is increasingly important economically. Some say that all we have to do is open mines or large plants in Colombia and then producers could go work in the mines and buy the food. Personally, I think that is backwards.

In your opinion, what is the importance of food sovereignty in a country like Colombia and the importance of local agriculture for Colombian producers and the Colombian people?

[*English*]

**Dr. Nazih Richani:** I think this is the critical issue. My concern is we have said that at least 50 million people are living in the rural areas, and most of these people's livelihoods depend on agricultural production. So therefore we need to weigh the interests of these groups in any trade agreement with Canada or any other trade agreement.

Specifically, even the World Bank and the FAO are coming to an agreement that food production is the major thing, not only for Colombia but in the developing nations at large. And if you keep in mind what happened during the food crisis a couple of years ago, that was the first alarming shock.

This free trade agreement, if it incorporates in its provisions articles that safeguard the production of the small persons, would be a positive thing. In other words, you have to put mechanisms in place whereby the small producers of grain, maize, corn, peas, potatoes, rice, and sugar are not affected negatively. If they are, how could we provide for...? I mean, we should make sure that these peasants do have access to markets, that they do have access to better fertilizers, they do have better access to mechanization, and what have you.

In other words, we have to factor in the strategic interests of this sector, because we don't want to transform Colombia into a net importer of food, and making it just produce some cash crops and some mining. What happens after the mining dries up? We transform the 45 million people of Colombia into beggars.

Is this how we contemplate the future, in 10 or 15 or 20 years down the line? So it's not about today. It's not about tomorrow. It's about the future of Colombia. So that's why we should really make sure that we have a mind to the interests of the agriculture production in Colombia.

From my studies, I have seen that in every region where multinational corporations have invested, such as Casanare, Arauca, or Putumayo, it has affected our agriculture production negatively. It was detrimental. It created all the implications of the Dutch disease. In other words, people clamoured to become part of this new production of oil or coal or gold at the expense of food production, but the consequence of that is what? That's why provisions should be put in place to make sure that this does not happen. Basically it's the responsibility of the Colombian government to put in place policies that could mitigate the effects of the Dutch disease. This is not taking place.

Colombia today is witnessing a boom in the mining industry. Foreign direct investment has increased tremendously. Now the figures are alarming. Therefore, what will happen in the wake of this boom? Less agriculture production, less food security. And therefore what happens after that boom dissipates is the critical question.

Thank you.

• (1705)

**The Chair:** Thank you.

We have Mr. Holder.

**Mr. Ed Holder (London West, CPC):** Thank you very much.

I'd like to thank our guest for appearing today.

I will apologize. I did not hear opening statements, as I've only just arrived, so frankly I've not heard your testimony. So if any of this is a repeat of a prior question, I will apologize. For all I know, you also put the free trade agreement with...

**The Chair:** Mr. Holder, there's a problem of turning pages with the mike open.

**Mr. Ed Holder:** Sorry, can we try that again?

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

**Mr. Ed Holder:** Can you hear me better now?

I thank our guests for attending and providing testimony. And I apologize. I've only recently arrived. I'm not new to the committee, but I'm new to this meeting today. For all I know, you all support free trade with Colombia, which would be great. I say that insofar as I come from the government side, and we have some supporters around the table for this.

I want to take us back, if I can. Since this committee has been dealing with the issue of Colombia, we've had something like 125 witnesses discussing both sides of the issue, all with very strong and passionate views on one side or the other.

Some of the things that I have heard—and this is not intended to be selective hearing—from an economic standpoint.... And again, I will apologize if you are talking about the issues of human rights. We all respect that's important. We also understand that the economic issues are important. With economics you get into issues of agriculture and other things.

But the sense I have.... Probably the majority of testimony I've heard has suggested it's like that Beatles' song, *Give Peace a Chance*. It's like give this an opportunity, because there has been some remarkable progress, by whatever way we want to define it, since President Uribe has taken power. And he is soon to relinquish it, in a democratic forum actually, which I think speaks volumes on the man and the system.

We've heard from people from the agricultural side, both in Canada and in Colombia, who have talked about the importance of agriculture. Right now, and you may all know this, we do some \$1.35 billion of two-way trade. So it isn't that we don't do trade.

It seems to me that if I had a choice of a much more formalized, rigid, rules-based system, versus one that is loose, that doesn't address the labour agreement in detail, the environmental issue there, perhaps even a human rights issue agreement that may well be there.... I mean, this is a country, in my sense, that is trying very hard.

I think that when we look at this, as we're trying to create this rules-based system, my question—and I'll pick one.... Mr. Harrison, what's wrong with having a rules-based system? I don't mean that in an accusatory fashion. Does it not make practical sense? You're a lawyer, I gather, from the school of law. Does it not make sense? You live by rules. We are in a country of rules. England is a country of rules. Does it not make sense that if we do trade anyway, that we provide a rules-based system for them?

Could I have your thoughts, sir, please?

• (1710)

**Dr. James Harrison:** As I've been saying, I think I'm probably the least qualified person to answer a specific question, because I don't claim to have any knowledge of Colombia and Canada.

The point I am strongly making to the committee is about assessing the rules. One doesn't bring in any rules willy-nilly. The rules of any kind of game can be beneficial or they can have negative impacts. The important thing is that you assess those rules.

A human rights framework gives you the ability to assess those rules, for instance, on the impacts on small farmers. I don't think there is this big dichotomy between the economic issues, as you put it, and the human rights issues. In fact we can use the human rights lens to give us a useful medium through which to view what the impacts.... For instance, we talked a lot today about what the impacts of free trade deals on small subsistence farmers in Colombia might be. The important thing for me is scrutiny of the rules. To me, that is what the human rights framework does.

**Mr. Ed Holder:** I appreciate that.

I would challenge the phrase "willy-nilly rules". Perhaps that's a British expression—I don't know it—but it doesn't sound very formal. I think what we have here is a formal rules-based system, which in terms of labour conventions and in terms of environmental assessment and conditions is considered very strong. I think the details are quite precise.

There is a Canadian expression, and perhaps you know it: the devil is in the details. My Cape Breton mother made that up, and she would say you can't define anything until you know precisely the things you're dealing with.

I think this is as comprehensive an arrangement, perhaps with flaws.... But if you're going to assess it, wouldn't the opportunity to give it a chance be there?

You started, Mr. Harrison, and perhaps you could finish off that thought. Does it not make sense to give it a chance?

**Dr. James Harrison:** "Willy-nilly" probably was the wrong choice of words. I think I was making the point more generally that one shouldn't think that rules by themselves are a good thing. It's the nature of the rules that you bring in and the way that changes the way the game is played that is important.

Again, I would stress the fact that the human rights methodology gives you a particular perspective and a way of assessing those rules. I was heartened by the original proposal of the standing committee that an *ex ante* assessment of the trade agreement would take place because I thought that would have been a useful mechanism for assessing the rules of the game, and mitigating those rules where necessary in order to take account of potential negative impacts.

I am still positive about the fact that even if it's not an *ex ante* assessment, an *ex post* evaluation of those rules will take place. But as I said at a number of points, I think there are ways in which that assessment must take place to be meaningful.

**Mr. Ed Holder:** I wish I had more time. I'm being told by the chair that we're done, but can I say thank you and I'm sorry that we didn't have more opportunity to dialogue.

Thank you, Chair.

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

Mr. Brison.

**Hon. Scott Brison:** There has been quite a bit of discussion about the importance of Colombia's sovereignty, and of course inherent in sovereignty is self-determination. The two front-runners in the current presidential election, Mr. Mockus and Mr. Santos, support these free trade agreements. They also support the security agenda of

the previous government. In fact, all the major parties believe in the same direction that has taken Colombia where it is today from where it was in 2002.

Why do you believe that the Colombian people themselves do not deserve the opportunity to determine their futures democratically through elections, to vote for freer trade, to open up their economy, and to vote for governments that provide them with improved security over what they had prior to 2002?

Mr. Richani.

• (1715)

**Dr. Nazih Richani:** The issue is basically that we are academics and we have studied the implications of the free trade agreements, and the bottom line is we are better informed than the layman or laywoman on the street and therefore we know, as experts, the most vulnerable sectors that could be impacted by these free trade agreements. I'm not against it. All I'm saying is you have to factor in and weigh in the interests of the producers of food in Colombia. So if you do that, and you provide provisions and safety nets for the producers of food and food security for Colombia, then let it be. That's our role as academics: it's to tell you.

**Hon. Scott Brison:** No, I appreciate that. Thank you, Mr. Richani.

**Dr. Nazih Richani:** You are most welcome.

**Hon. Scott Brison:** Thank you very much.

You said that you are an academic. What do you teach?

**Dr. Nazih Richani:** Political science and Latin American politics especially.

**Hon. Scott Brison:** I see.

A trade agreement is economic. It's agricultural. It's not necessarily political science. It actually has a lot to do with economics, and of course you could argue human rights, you could argue agricultural sustainability. You've made the statement that you as an academic are better informed than the average Colombian voter, which strikes me as being somewhat culturally condescending. Do you view yourself as an expert on agricultural policy, in addition to political science, sir?

**Dr. Nazih Richani:** I'm a political economist, in fact. I studied the agrarian sector of Colombia, yes. Because I have studied the conflict of Colombia, I know exactly what is happening in the rural economy and its impact on the overall conflict. So yes, I can answer that.

**Hon. Scott Brison:** The only political party in Colombia that is against these FTAs is the Polo party. In the congressional elections, they garnered 7%. In the most recent polling in the presidential elections, they are garnering 5%. Are you saying that 95% of Colombians are wrong?

**Dr. Nazih Richani:** It's not that they are wrong or right. Basically what I am trying to tell you is that we are academics and we have studied the issue, and based on empirical studies, we anticipate that several sectors of the rural economy will be impacted negatively. It's not hearsay. It's empirical, and we know it. We know exactly the vulnerable sectors.



**Hon. Scott Brison:** I remember that in the 1988 election in Canada, it was predicted that Canada's wine industry would be eliminated by a free trade agreement. That's what the academics were telling ordinary Canadians at the time, and our wine sector has in fact flourished since that election. Even academics can be wrong sometimes, sir.

**Dr. Nazih Richani:** Yes, of course.

**Hon. Scott Brison:** Thank you.

I have one final question.

**Dr. Nazih Richani:** I hope we are wrong there.

**Hon. Scott Brison:** You say that as an academic you have empirical evidence as to what this agreement will do to agriculture. Don't you believe that average Colombian workers or Colombian people who want to get a job to help advance their families deserve the opportunity to determine what is best for themselves?

**Dr. Nazih Richani:** Of course, but this is not the issue here.

• (1720)

**Hon. Scott Brison:** Then you would support the 95% of Colombians who vote for parties that support these free trade agreements.

**Dr. Nazih Richani:** I think the line of questioning is basically....

We should be more informed than the average citizen, because we are making policy here. If you are making policy, you should anticipate the implications of your policy. The regular layman in Canada or the United States or Colombia will not anticipate all the consequences of a given policy. That is our function, as experts and as students. It is not condescending. It's a fact. With all due respect, this is the way it is.

Therefore we need to make informed decisions regarding the implications of a given policy. We are anticipating. We could be wrong. I hope I'm wrong. I wish I were wrong.

We are not claiming that I have access, but we have a number of empirical studies, even studies conducted by the ministry of agriculture in Colombia. We know exactly which sectors will be impacted. The cattle ranches, for instance—the small producers—are going to be impacted negatively. We know the *lecheros*, meaning the producers of milk, are being affected. The producers of beans are being affected. Wheat, corn, and rice production is declining. It's not a guessing game. We have the figures and we have the statistics.

**Hon. Scott Brison:** Have you done analysis of what the effect will be on the illegal drug trade in Colombia?

**Dr. Nazih Richani:** We have done a little bit, yes. I can make reference to a paper that I wrote recently. I can send it to you.

**Hon. Scott Brison:** Thank you.

**Dr. Nazih Richani:** You are most welcome.

**The Chair:** We have time for one more here.

Go ahead, Mr. Trost.

**Mr. Brad Trost (Saskatoon—Humboldt, CPC):** Thank you, Mr. Chair.

I'll follow up with Mr. Richani, not that we are picking on you in any way, shape, or form.

**Dr. Nazih Richani:** I love it.

**Mr. Brad Trost:** You're like most politicians—you love the attention.

Agriculture is probably one of the areas Canada hopes to expand most in its trade with Colombia. Perhaps you can correct me; perhaps I was misinformed when I was down there. I have been down on a couple of trips to Colombia. It is my understanding that Colombia imports most of its wheat, most of its barley, most of its oats, and most of its lentils, whereas it produces most of its beans internally. Is that correct?

**Dr. Nazih Richani:** I think so. I think it produces...yes.

**Mr. Brad Trost:** Are you aware that beans and lentils, while they are both very good protein sources for meals for everyone involved, are treated very differently for tariff purposes under this free trade agreement?

**Dr. Nazih Richani:** I'm aware that you called it the agreement toward the elimination of the Andean price band system, which affects the production of wheat, barley, lentils, and peas—

**Mr. Brad Trost:** That's correct, but—

**Dr. Nazih Richani:** Let me continue, please.

**Mr. Brad Trost:** But that category is treated differently from beans, and there's a reason why. I'm from Saskatchewan, where wheat, barley, lentils, and peas are all grown, but beans are not. I am curious whether this might change your view, because those crops we've listed—lentils, peas, wheat, barley, oats—are predominantly, to my understanding, imported by Colombia. Chile imports oats. The United States and Argentina import wheat, etc. But beans are treated differently because that crop is predominantly produced by the small producers.

My understanding is that they're keeping a 60% tariff, and that tariff will gradually go down over 20 years—Mr. Holder will probably know this better. But the crops that are not produced largely in Colombia will have their tariffs eliminated. I think that's a good idea, because it means that tariffs will be eliminated on crops that are not produced in Colombia, by and large—there are some exceptions and small things, but the crop that is most important to small producers is protected.

Do you not think that protecting that crop for small producers is good, whereas opening it up for the crop that is already internationally competitive is good for people who buy lentils, for the small bakers who buy wheat, etc? So is that not a good example of Canada and Colombia protecting the small producers but still expanding their trade?

• (1725)

**Dr. Nazih Richani:** That's a great example. Thank you.

But another component of this is, for instance, rice production. I don't know if your agreement covers it or not.

**Mr. Brad Trost:** Canada doesn't produce very much rice, so I don't think we'll be exporting. I understand that may be part of the U. S.-Colombia treaty, but I'm a Canadian and I'm not too interested in it.

**Dr. Nazih Richani:** As a Canadian you may not be interested in rice production, but as a student of Colombia I know the impact of that component.

What I'm presenting to you is an overall assessment of the different free trade agreements of others, rather than only the Canadian one.

**Mr. Brad Trost:** You mentioned beef and pork. They are two things I brought up when I was there talking with their ministry of agriculture. They opened it up to Canadian beef in mid-April because the Colombian ranchers were actually asking for barriers to Canadian beef to be brought down.

Are you aware that the Colombian ranchers themselves lobbied their own agriculture ministry to increase trade with Canada because they're interested in Canadian technology in breeding and genetics?

**Dr. Nazih Richani:** I am partially aware of that, but what about the *lecheros*, the milk producers?

**Mr. Brad Trost:** My understanding is that's not included in the treaty between Canada and Colombia. It may be with Europe and the United States, but today we're dealing with Canada.

Listening to what you say, I think your position is closer to the Canada-Colombia treaty than to the Canada-U.S. treaty or the Canada-Europe treaty. So I think we may have more points of agreement than we first thought.

**Dr. Nazih Richani:** One final thought, however, is on Canadian multinational cooperation investment in regions producing food, and the impact of that on the agricultural production of these regions—in other words, the unintended consequence of increasing mining in regions that produce food.

Have you ever contemplated the impact of that?

**Mr. Brad Trost:** A dual Colombian-Canadian citizen argued that it was very good to have Canadians involved in the Colombian mining sector. He was here as a witness the other day.

Thank you very much for your time. I appreciate your comments.

**Dr. Nazih Richani:** Thank you.

**The Chair:** That wraps it up. We scheduled for one more, but I think that's enough for today. I'm sorry I have to cut the Conservatives off, never getting the full opportunity to ask questions, but we try to be fair here.

To all of our witnesses, thank you again for coming today.

I think that wraps it up until Thursday.

**Mr. Peter Julian:** Mr. Chair?

**The Chair:** Mr. Julian.

**Mr. Peter Julian:** I want to stress that for Thursday's meeting the Afro-Colombian organization; the CLC, the national labour organization; NUPGE, which is Canada's largest union; and Justice and Peace have all indicated they're willing to come forward and are available to come before the committee.

**The Chair:** Thank you.

We are adjourned.

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