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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)): Welcome to the 37th meeting of the Standing Committee on International Trade. We are continuing our order of reference on Bill C-46, An Act to implement the Free Trade Agreement between Canada and the Republic of Panama.

We have today witnesses from the Canadian Council of Chief Executives and the Canadian Labour Congress.

We'll get under way. Everyone is familiar with this. We've had both guests here before, so I think they're familiar with the proceedings.

We'll have Sam go first. He's the vice-president of economics and international trade from the Canadian Council of Chief Executives.

Mr. Sam Boutziouvis (Vice-President, Economics and International Trade, Canadian Council of Chief Executives): Thank you, Chair Richardson and honourable members, for the opportunity to appear this afternoon to discuss Bill C-46.

The Canada-Panama FTA is in the best economic interests of Canada. The free trade agreement that has been negotiated on behalf of Canadians is comprehensive and of high quality. It will benefit the Canadian and Panamanian economies and will provide positive employment opportunities. The agreement will contribute to political stability, democracy, and greater openness and integration in the western hemisphere. It will also contribute to Canada's overall priority to enhance economic cooperation in the region.

The Canada-Panama FTA will improve market access in Panama for Canadian farm products, particularly wheat, as well as industrial and other non-agricultural goods and services. The agreement provides a framework for expanded two-way trade opportunities. While our bilateral trade and investment is modest, this agreement will help Canadian farmers, manufacturers, service providers, contractors for government procurement, mining and resource companies, and consumers.

The reality is that Panama is not a large market for Canada. At about \$132 million in total two-way trade, one could easily conclude that this agreement has limited potential for Canadian businesses and workers. But such thinking would dismiss the potential of this market for growth and investment in the future, as well as the strategic importance of the country.

Panama has experienced exceptional economic dynamism in recent years, with average annual GDP growth of 7.5% from 2002 to

2008. Panama's main engines of growth are in the construction and financial services sectors. Panama demonstrated extraordinary resilience in the global financial crisis. The country avoided recession in 2009, growing by 2.4% in real terms, and it is expected to grow by 4% this year. Panama has the most open economy in the region, with a diversified and buoyant export base.

According to the Hong Kong and Shanghai Bank, the Government of Panama's investment plan could reach 7.5% of GDP annually for the next five years. This would provide tremendous opportunities in government procurement contracts for companies such as SNC-Lavalin, Hatch Ltd., and other engineering construction firms and service providers.

The government's investment centrepiece will be to expand the Panama Canal to deal with increased traffic to Asia and back. Members of this committee understand very well how strategically located this country is as a global logistics hub. The Government of Panama is in reasonably good fiscal shape, with a prudent approach to expenditure increases and better than expected revenues. Panama's deficit of 1% of GDP is well below its legal limit of 2.5% of GDP.

Panama is on a clear and disciplined path to sustainable growth and development. Over the next five years, the administration of President Martinelli will dedicate \$13 billion to public investments in education, roads, airports, mass transport, and other projects. Public finances will remain stable to lower the debt-to-GDP ratio to 35% or better by the middle of the decade. Social investment in reforms will further improve the standard of living of Panamanians, primarily focused, of course, on infrastructure and activities that will stimulate employment and foster sustainable development.

Finally, through accumulation of financial reserves from the Panama Canal expansion, establishment of a sovereign wealth fund will become a national priority.

• (1545)

This committee and this Parliament should act expeditiously so that the FTA can come into effect as soon as possible. Almost 100% of tariffs on non-ag Canadian exports to Panama will be eliminated. This will make Canadian exports of machinery, motor vehicles and parts, pharmaceutical equipment, and pulse crops even more competitive with respect to Panama.

Incidentally, about 90% of tariffs on manufactured goods exports from the U.S. to Panama will be eliminated under their agreement, once their agreement is ratified by Congress.

The Canada-Panama FTA will eliminate tariffs on 94% of ag exports from Canada to Panama. Panama maintains tariffs on agricultural products, as you've heard before this committee before, that average 13.4%, but with tariff peaks as high as 260%. In the still to be ratified U.S.-Panama FTA, half of America's agricultural products will enter Panama duty-free immediately, while most of the remainder will be eligible for free access over a 15-year period.

The Canadian market is already open to Panamanian imports. In 2007, 97% of imports from Panama entered Canada duty-free. So this FTA is not likely to have a detrimental impact on our competitiveness. An FTA would give Canadian businesses, farmers, and workers market access commensurate with that achieved by the U.S. with its FTA with Panama, to level the playing field with our major competitors.

As indicated in FOCAL's analysis submitted to this committee this past Monday, the Canada-Panama FTA includes chapters on investment, intellectual property rights, government procurement, temporary entry for business persons, and side agreements on labour and environment. This more comprehensive style of agreement presents a framework for modest growth in Canada and Panama, and through this agreement, Canada and Panama should expand their dialogue and cooperation on a variety of issues, including security, democratic governance, as well as economic prosperity—important priorities in this hemisphere. Effective dispute settlement provisions are essential to ensure that trade agreements are implemented and enforced fairly, transparently, and in a binding fashion. This agreement provides access to such a dispute settlement process. Positive prospects for growth, increased access, security, openness, transparency, predictability, protection, rules, recourse—all seem to be present in this agreement.

I'll end on this. Not so long ago, Canadian trade, investment, and even foreign policy priorities for Latin America were heavily tied to the free trade area of the Americas. It was an attractive proposition at the time that had the support of the Canadian business community. We have all come a long way since then, since those heady, visionary days of big ideas of negotiating a well-meaning but ill-fated regional arrangement for the hemisphere.

Fortunately, Canada did not stand still. We are indeed in the process of forming a Pacific arc in the hemisphere. Over the past two decades, Canada has negotiated a number of FTAs—from Chile, to Peru, to Colombia, to Costa Rica, to Mexico, the United States, and hopefully soon, Panama. What an accomplishment to be closer to completing a puzzle, at least on the Pacific side of this hemisphere, with a Canada-Panama FTA.

As a final comment, this FTA does not appear to be that controversial and deserves your expedited approval.

Thank you.

• (1550)

The Chair: Thank you very much.

We'll now turn to the Canadian Labour Congress, to Teresa Healy, senior researcher, social and economic policy department.

Ms. Healy.

Dr. Teresa Healy (Senior Researcher, Social and Economic Policy Department, Canadian Labour Congress): Thank you very much.

On behalf of the 3.2 million members of the Canadian Labour Congress, we want to thank you for affording us this opportunity to present our views today.

The CLC brings together Canada's national and international unions, along with provincial and territorial federations of labour and 130 district labour councils, whose members work in virtually all sectors of the Canadian economy, in all occupations, in all parts of Canada.

I'm here to reflect with you today upon the provisions of Bill C-46, an act to implement the free trade agreement between Canada and the Republic of Panama, and the agreement on labour cooperation between Canada and the Republic of Panama. I'd like to discuss with you our views on the labour provisions of the agreement as well as the context within which this agreement is being considered.

First of all, I'll turn to the labour provisions.

The Canada-Panama free trade agreement, chapter 18, is a two-and-a-half page outline of objectives and obligations on labour issues, which are elaborated separately in the agreement on labour cooperation. As in previous labour side agreements, the focus is on enforcing domestic labour law rather than raising standards. In line with Canada's recent commitments, International Labour Organization core labour standards are invoked.

In its cooperation agreement with Panama, Canada is following the pattern set in agreements with Colombia and Peru. These agreements are all stronger than NAFTA and the Canada-Chile agreements, so they represent, in effect, a different generation of labour provisions.

This agreement includes specific protections for the prevention of occupational injuries and illnesses, and compensation for such injuries. As well, the language concerning acceptable minimum standards is broader than that in Canada's agreements with Peru and Colombia.

However, the Canada-Panama agreement does not include specific protection for the right to organize and the right to strike. It provides instead for the "effective" recognition of the right to collective bargaining. On trade union rights, then, the agreement is weaker than previous agreements.

As well, there is a non-derogation clause in the labour side agreement. Article 2 states the following:

Each Party shall not, as a means to encourage trade or investment, waive or otherwise derogate from, or offer to waive or otherwise derogate from, its labour law in a manner that weakens or reduces adherence to the internationally recognized labour principles and rights referred to in Article 1.

This is a key article; it is a very important article. In other words, any violation of ILO standards cannot be raised if the requesting party cannot demonstrate that the violation was "a means to encourage trade or investment".

There are, in addition, serious problems with part two, “Institutional Mechanisms”. Each party must provide some means by which its nationals or an organization or enterprise established in the territory of the party may communicate on issues related to labour law. For example, a trade union may raise a complaint, but it is up to the party itself to go to the next step of requesting ministerial consultations.

This may be followed up by a review panel, if the matter is trade-related and if the party that requested the consultation requests this next step. The review panel then makes a report with recommendations, the parties may submit comments to the panel, and then the review panel makes a final report. If the final report indicates that there has been non-compliance, then the parties may develop an action plan to implement the recommendations. Failing that, the requesting party may further request monetary fines of not more than U.S. \$15 million.

The process is more streamlined than in previous agreements, but it is still a long and drawn-out process. There is no right of independent action by trade unions or any other human rights organization.

The requesting party must establish that the violation arose in order to encourage increased trade and investment; there is no independent review; the process is entirely controlled by the two governments and the bureaucracies established for this purpose; there is no judicial process. The process is not transparent. Again, it's not independent.

As has been noted by labour lawyer Mark Rowlinson, the agreement is intended to provide a forum for political negotiation between states rather than justice for workers whose rights have been violated. In contrast, the investment provisions of this agreement are much more demanding of governments and national sovereignty.

●(1555)

On labour issues, fines are small; there are no countervailing duties; there's no provision for abrogation or any other such remedy; and yet again, labour provisions remain in a side agreement rather than in the body of the text.

Let me speak a bit about the context of labour rights in Panama.

Panama is a country with a population of about 3.4 million people. It is currently recording relatively high growth rates, but it is the second most unequal society in the region: 40% of the population is poor and 27% is extremely poor, and the rate of extreme poverty is particularly acute in indigenous populations. Although the country has endured extensive structural adjustment, liberalization, and privatization in recent years, this has not translated into economic benefits for the population.

In response to the international perception that Panamanian labour laws were rigid and a disincentive to foreign investment, President Ricardo Martinelli announced unilateral changes to labour law in the summer of 2010. The law ended environmental impact studies on projects deemed to be of social interest, it banned mandatory dues collections from workers, it allowed employers to fire striking workers and replace them with strike-breakers, it criminalized street blockades, and it protected police from prosecution.

The severity of this attack on labour rights was met with strikes and demonstrations. The police were exceedingly harsh in their response—and this was just this past summer. At least six people were killed, protesters were seriously injured, and many were blinded by tear gas and police violence. Three hundred trade union leaders were detained before the President withdrew the labour provisions and called for a national dialogue of moderate trade union leaders and business leaders.

As a result of this political crisis, the government withdrew the most egregious aspects of the law. However, serious problems remain in labour law, and the disregard for labour rights continues to characterize this government. Let me give you an example, that of the free trade area of Baru.

Panama is rich in resources and is home to the most important shipping route connecting the Atlantic to the Pacific Ocean. The country is currently undertaking a \$5 billion expansion of the Panama Canal. Recently, the Panamanian government established a free trade zone in the district of Baru in the region where Chiquita banana has reduced operations. The Zona Franca de Barú is located on the port of Armuelles and is intended to be a deepwater container and cruise ship port as well. It will house over 200 storage facilities as well as a marina. It is also destined to be a hub connecting a four-lane highway to the Caribbean side of the isthmus.

Despite the \$5 billion expansion of the Panama Canal, it is thought that this dry canal will be needed because newer-generation cargo vessels will become too large for the existing canal. The zone will promote agri-industry and will establish an oil refinery.

I give this description of what's meant to happen here because it's significant. The government created a new law for the establishment and operation of this special economic area. Unfortunately, this new development is borne on the backs of workers.

Article 7 of the law regulating this special economic area makes all collective bargaining a discretionary option for employers for the first six years of operation. Article 17 ensures that for the first three years of employment, certain protections in the labour code will not apply. These protections relate to the conversion of short-term contracts to indefinite-term contracts. Article 18 provides that a worker can be legally dismissed if there are fluctuations in export markets that bring about a considerable loss in the volume of sales.

I use this example to make the point that free flows of trade and investment do not automatically lead to better wages and working conditions. In fact, the reason for this new free trade zone is precisely to provide incentives to ensure that the flow of goods and services attract and promote investments, generate employment, and make the Baru region globally competitive.

New laws are outright contrary to the non-derogation provisions of the labour chapter, and if these new laws had been established after the free trade agreement came into force, they would be considered contrary to the agreement. It would appear that not only are the free trade zones exempt from national labour laws, they are above international labour provisions as well—and the spirit of those.

•(1600)

I think I've reached the end of my ten minutes, and I have other comments on the tax information exchange agreement and the culture of impunity, which I'll be happy to speak about in questions, if we have time.

Thank you very much.

The Chair: I'm afraid we're not going to have time. Members will notice the bells are ringing. The vote is at 4:20. We probably have about five minutes.

Mr. Gerald Keddy (South Shore—St. Margaret's, CPC): Mr. Chairman, would it be possible to have both of our witnesses submit the information and any extra information they have, to save bringing them back? Then we would have the information to study.

The Chair: Mr. Julian.

Mr. Peter Julian (Burnaby—New Westminster, NDP): Certainly we don't want to inconvenience our guests. It's not their fault that we have some procedural games being played. I would expect, if they do want to come back, that we should give them the opportunity to answer questions—perhaps next Monday or Wednesday.

The Chair: We don't have to decide that right now, but I think we do have to adjourn at this point.

Ms. Martha Hall Findlay (Willowdale, Lib.): We can't start asking questions if we can't finish.

The Chair: The only question would be whether or not we return to the committee meeting. The vote is at 4:20. We'd be back by five o'clock. It's hardly worth....

An hon. member: Chairman, we have another vote after.

A voice: There's only one vote.

Mr. John Cannis (Scarborough Centre, Lib.): I'd like a ruling on Mr. Keddy's suggestion, because I think it's very important. If we have the information, at least, whatever the decision is—to bring

back or not—is irrelevant. This gives us a chance to look at the information, and next time in committee business we can decide.

Could you make a ruling on that, sir?

The Chair: I'm not sure what it was. The information is already on the record.

Mr. Gerald Keddy: It was that they could give us the information, and it would save the witnesses' coming back.

Mr. Peter Julian: If they want to come back, we would, of course, welcome them.

Mr. Gerald Keddy: I think that's what I'm asking.

The Chair: We have a pretty full agenda for the next while. I wanted to proceed to clause-by-clause one week from today. There's a meeting on Monday; we have five witnesses lined up for Monday already. We also have two more whom we were going to hear from today.

We have the information on record....

Mr. Peter Julian: We could also schedule an additional meeting of the committee.

The Chair: We could do that, too.

I think that is a possibility, that we just schedule an extra meeting—or we discuss how long it will take to get through clause-by-clause. I think we'll have to discuss this at Monday's meeting.

For now, I want to thank you for appearing. We did get your statements on the record. I'm sure there will be members who want to ask questions. So if we're able to reschedule, we'll do that, if it's possible for our witnesses.

Also, for our other witnesses, we'll try to get them in next week.

For now, we're adjourned. I don't think we'll be able to get back in time today to conduct any business.

We're adjourned.

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