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Chair

Mr. Lee Richardson

Standing Committee on International Trade

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• (1555)

[English]

The Chair (Mr. Lee Richardson (Calgary Centre, CPC)): I call the meeting to order.

Welcome. We were delayed by a vote in the House, so I apologize to our witnesses, who have been very patient, and most particularly to Ms. Healy, who has been more than patient, having had to go through this twice.

We will continue our discussion of Bill C-46, an act to implement the free trade agreement between Canada and the Republic of Panama, as well as the agreement on the environment between Canada and the Republic of Panama and the agreement on labour cooperation between Canada and the Republic of Panama.

We will hear from three witnesses today. We have—returning from a previous meeting that had to be cancelled because of votes—Teresa Healy, who is a senior researcher of social and economic policy development with the Canadian Labour Congress.

Welcome back. You'll have any time you need today.

We have something a little different today. We have a video conference, as all those around the table can see, but we also have a teleconference.

First, from Panama City and the Environmental Advocacy Center, we have Félix Wing Solís, executive director.

Mr. Solís, can you hear me?

Mr. Félix Wing Solís (Executive Director, Environmental Advocacy Center): Yes, I can.

The Chair: There we go, and we can hear you loud and clear. Thank you.

Joining us by video conference from Montreal, from the Quebec Association for the Taxation of Financial Transactions for the Aid of Citizens, we have Claude Vaillancourt, the co-president.

For the ease of everyone, we'll start hearing from our witnesses. Give us a brief outline of your background and the contribution you're about to make today. We'll hear from each of our witnesses, and then proceed to questions.

Let us start in Panama City with Mr. Solís.

Mr. Félix Wing Solís: Good afternoon, Mr. Chair, members of Parliament, Canadian government officials, and guests.

Thank you for providing me with the opportunity to deliver my testimony via teleconference from Panama City, Panama.

Since its inception in 2007, the Environmental Advocacy Centre—*Centro de Incidencia Ambiental*, CIAM—our country's leading environmental law centre, has provided pro bono legal representation before government agencies, national courts and international human rights bodies to persons and indigenous communities affected or potentially affected by Canadian mining companies. At the same time, CIAM advocates for a stronger environmental law and policy framework that could prevent conflict through meaningful citizen participation, public consultation, and access to information, and provides citizens with the appropriate remedies should conflict arise.

As part of our mission, we felt it was important to make sure that the standing committee could listen to the views of the Panamanian communities that we represent. We hope this may allow the Canadian Parliament to adopt a more informed decision on whether or not the FTA between Panama and Canada should be ratified as submitted.

During the course of this testimony, I will make reference to two specific sections of the FTA that have cast serious doubt in Panama. They are the so-called environmental agreement and the investment agreement. The so-called environmental agreement, in chapter seventeen of the FTA, is made up of three articles that amount to a non-binding declaration of principles or good intentions. It then constitutes a non-self-executing treaty, the implementation of which relies on political will.

In fact, due to the lack of political will shown by both the Panamanian government and Canadian mining companies, we find it quite difficult to believe that the so-called environment agreement will allow Panama to pursue high levels of environmental protection and to continue to develop and improve its environmental laws and policies, based on the following:

One, Panama is not adequately enforcing its environmental laws. In fact, during the first year of the current government administration, the number of communities or individuals seeking legal advice from CIAM owing to environmental non-compliance or lack of enforcement has doubled in comparison with the previous two years.

Two, Panama is following a pattern of weakening current regulations while disregarding international standards and environmental protection in order to encourage trade or investment. In fact, our government has publicly committed to amending whatever laws are necessary to allow companies owned by foreign governments to invest in Panama's mining sector, even though this would require a constitutional reform. A Canadian company, Inmet Mining Corporation, has entered a financial agreement with a company owned by the Government of Singapore that depends on this legal reform.

Three, Panama has not provided a remedy to communities affected by the violation of environmental laws. For instance, there are three pending lawsuits filed by CIAM with the Supreme Court of Panama against the Molejón gold mine. Its construction began in 2005 without an environmental impact assessment. Owners at the time were three Canadian companies: Inmet, Teck, and Petaquilla Minerals. One of these cases has been sitting in court for more than a year waiting for its final decision.

Four, Panama has systematically denied the right of access to information on environmental and social impacts. Over the last three years, CIAM has filed 19 Freedom of Information Act lawsuits based on unanswered or denied FOIA requests. For instance, CIAM formally requested a digital copy of the EIA on Inmet's Cobre Panama copper mine. The government denied this request, while the company sent it to CIAM only after we complained about it at the UN conference on sustainable development and mining held in New York City last October, which, of course, Inmet did not attend.

The public hearing on the EIA was held November 26, and the recent comments were due December 6, but it has been quite difficult for communities and NGOs to go through a 14,500-page EIA written in very technical language, and seriously flawed, in such a short period of time.

● (1600)

Five, Panama actively sought to get rid of the EIA requirement by passing Law 30 last June. It is true that this act was repealed by Law 65 last October; however, draft regulations for the new law need to be submitted for public participation in order to define which projects will no longer require an EIA. This fact shows that the level of environmental protection provided by an EIA has effectively decreased.

Six, Panama has allowed environmentally and socially irresponsible companies to invest in our mining sector. For example, an Inmet subsidiary tried unsuccessfully to avoid EIA regulations by suing against them, alleging that their contract was the only law applicable. A successor company, Minera Panama, also owned by Inmet, is trying to overturn a resolution creating the Donoso protected area in 2008, which surrounds the Molejón gold mine and the Cobre Panama copper mine.

Seven, Panama has allowed, and continues to allow, such irresponsible companies to destroy an important portion of our incredible biodiversity. Actually, most of the area under the Petaquilla concession contract, including Inmet's Cobre Panama copper mine, was primary forest until construction of the Molejón gold mine started without an EIA in 2005, in violation of Panamanian law.

According to chapter 5 of the government's final technical proposal for the establishment of the Donoso protected area, more than 80% is still covered by forest, and the following biodiversity can be found: no less than 18 protected floral species, 8 protected mammals, 335 endangered birds, 67 endangered amphibians, and 12 endangered reptiles. Therefore, it is virtually impossible to build a 90,000- to 100,000-tonnes-per-day operation to produce around 200,000 tonnes of copper per year—all of this within the Donoso protected area, within the Gulf of Mosquitoes—an important bird area—and within the Meso-American biological corridor—without severely affecting this pristine forest.

Eight, Panama is not respecting the traditional practices of indigenous communities. Our government recently amended the Ngöbe-Buglé indigenous research act and sponsored their internal elections for the first time, which were boycotted by more than 70% of the electorate. It all happened as our government announced its intention to open Cerro Colorado, one of the largest copper mines in the world, located within the Ngöbe-Buglé region.

Nine, unlike other FTAs such as NAFTA and CAFTA, this agreement provides no specific mechanisms to local communities against these violations.

I will now briefly refer to the investment agreement in chapter nine of the FTA.

In order to bring fairness to international trade, CIAM firmly believes that developing countries like Panama need better trading conditions, which in turn may help them to achieve important goals such as environmental sustainability and social justice.

Unfortunately, we regret to say that this does not seem to be the case with the FTA between Panama and Canada in its 36-page investment agreement. It is a well-established fact that the vast majority of Canadian investments in Panama are currently allocated within the mining sector. Therefore, we may validly conclude that the investment agreement has been tailored to benefit Canadian mining companies, which under the current Panama mining code pay royalties of only 3% to 4% of their net profit. These companies also benefit from numerous tax breaks and tax exemptions.

● (1605)

In contrast, environmental damage caused by the loss of forest coverage and water resources associated with the Molejón gold mine has been estimated at \$52.7 million U.S.

Another Canadian mining company, Pacific Rim, has just bought the El Remance mining project in Panama. Pacific Rim sued the Republic of El Salvador under the investor-state arbitration mechanism of the Central American free trade agreement, CAFTA, because the Salvadoran government did not issue an exploitation permit after the company failed to comply with legal requirements.

Based on all of the foregoing, CIAM requests the standing committee not to recommend the ratification of the FTA between Panama and Canada until this aspect has been renegotiated by both parties with prior informed consent from affected or potentially affected communities, considering the fact that both executive branches included a provision in the FTA that prohibits both legislative branches from formulating reservations at the time of ratification.

I thank you for your attention and look forward to answering your questions.

The Chair: Thank you, Mr. Solís, in Panama City.

We'll go to our teleconference. Monsieur Vaillancourt, can you hear me?

[Translation]

Mr. Claude Vaillancourt (Co-President, Quebec Association for the Taxation of Financial Transactions for the Aid of Citizens): Yes, I can hear you. Can you hear me?

[English]

The Chair: I think we're getting you loud and clear.

The Chair: From the Quebec Association for the Taxation of Financial Transactions for the Aid of Citizens, we have Claude Vaillancourt, co-president.

[Translation]

Mr. Claude Vaillancourt: Good afternoon. Ladies and gentlemen, thank you for inviting me and for giving me an opportunity to talk about this agreement, which, I must say, raises some doubts.

First, I would like to tell you a bit about ATTAC-Québec. We are the Quebec branch of an organization with local groups in some 20 countries on four continents. ATTAC is especially focused on taxation issues and is in favour of taxing financial transactions. Doing so could bring in between \$400 billion and \$1 trillion a year, while reducing the amount of short-term speculative activity, which is very damaging for our economy.

ATTAC is also interested in tax havens, whose only purpose is to enable people to evade and avoid taxes and to launder the proceeds of organized crime. Therefore, tax havens encourage the globalization of crime and help people circumvent the rule of law. Yet, Canada is preparing to conclude a free-trade agreement with one of the worst tax havens out there. Panama is among the most active, least cooperative tax havens, and it finds itself on the OECD's grey list. For that reason, we cannot condone concluding such an agreement, because it would more or less legitimize an important tax haven, whose major economic activity, as pointed out by Todd Tucker with whom we share analyses and who was summoned by this committee, consists in providing financial and legal services to multinationals and drug dealers.

Of course, a free-trade agreement could be of interest to many businessmen, but they do not make up most of Canada's population, and we at ATTAC-Québec do not feel that this agreement would benefit the populations of Canada and Panama. We believe that the tax losses Canada will suffer as a result of companies setting up branches in Panama will exceed the benefits some companies might reap. In a period of financial restraint like the one we are currently

going through, one of the worst things the country can do is to encourage tax evasion because we need all our money more than ever to maintain the quality of public services.

We feel that this agreement could have an adverse effect on Panamanians. A tariff reduction can have the following consequences: first, making local products less competitive; second, depriving a state of much-needed income. We know that there are fairly serious poverty issues in Panama. Therefore, depriving the government of income could adversely affect a poor population.

The opening up of government procurement would deny the state one of its few tools for supporting the local economy by giving priority to national companies. Keep in mind that the poorest countries refused to sign the WTO Government Procurement Agreement, precisely because they thought they would be losing an important power. This agreement was ratified without proper consultation with the civil society. Of course, employers were consulted, but the Canadian population wasn't, and no proper public debate was held on the issue. However, we are talking about a first for our country. Canada signing an agreement with a tax haven is something of an anomaly, and it should have been the focus of a major public debate.

For all these reasons, ATTAC-Québec feels that the bill to implement the agreement between Canada and Panama should not be adopted.

Thank you very much.

• (1610)

[English]

The Chair: Thank you.

That brings us to our next and final witness. As I mentioned, we had this witness last week and had to ask her to come back. She is Teresa Healy, senior researcher in the social and economic policy department of the Canadian Labour Congress.

I understand that you got through your statement last week, but I think we rushed you a bit. Give us a quick update, and if there's anything else you'd like to add, please feel free to do so. Then we'll go to questions.

Go ahead, Ms. Healy.

Dr. Teresa Healy (Senior Researcher, Social and Economic Policy Department, Canadian Labour Congress): Thank you for the opportunity to return to continue our discussion. I don't want to abuse the privilege of being able to speak here, so I thought I would just recap the main points of what I said last time and point out where we might benefit from further discussion.

To recap, I discussed some of the concerns that the Canadian Labour Congress has regarding the labour provisions in the Canada-Panama agreement on labour cooperation.

I also discussed the context of labour rights violations in Panama, and this is the context within which we're discussing this labour cooperation agreement.

I discussed the political crisis caused by the government's unilateral changes to labour law in the summer of 2010, and I discussed the problems with the new free trade zone of Barú, which makes collective bargaining discretionary for the first six years of operation. It ensures that certain protections of the labour code will not apply for the first three years of employment and allows employers to dismiss workers legally if sales decrease.

These new provisions for Barú were written after the Canada-Panama labour cooperation agreement was signed and are contrary to the commitments made by the Government of Panama in that document.

Today I will be pleased to return to these issues, in particular to the limitations of the labour cooperation agreement and some of the problems with Panamanian labour law. If you like, I could also touch on the question of the suggested tax information exchange agreement, as well as the problem of Panama's granting asylum to a high-profile Colombian official accused of serious violations of human rights.

The Chair: Thank you.

Mr. Silva, will you begin today?

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

I appreciate the opportunity to ask questions of the witnesses who came forward with their presentations. They had quite interesting presentations on issues concerning the environment, taxation, and labour.

We realize that these free trade agreements are not always perfect. I don't know if we live in a world of perfect legislation and accords, but they are important steps in Canada for how we're going to do regulatory-type trade with these particular partners and countries.

Trade with Panama already exists, as it does with a number of other countries throughout the world. As a result of the collapse at the Doha meetings, which have not been very successful, Canada has been pursuing these bilaterals, which is probably not the way to go. However, given the circumstances, it's probably the only alternative that we have to figure out how we'll deal with trade.

In the process, Canada has been able to put in place some rules for trading regimes and has dealt with labour and human rights issues. These have not been included in many other accords that have been signed bilaterally by other countries. Canada has gone one step further and has been very progressive on those issues.

We realize that in all those countries the issues of human rights and labour are not treated the same way they are in Canada, but we know that Panama has much better human rights than Venezuela, for example. It has much better labour rights than Venezuela as well, in relation to how it deals with people who are critical of the government. We know that in Venezuela there is constant arrest and torture of people who don't sympathize with the government.

There are many issues of concern, but overall these issues are being addressed by the government. We have been working with our officials and the government. We're not going to resolve all the labour issues that we might have concern with, but progress is being made.

I would challenge anybody to say that there has not been progress made in Panama. If we look at Panama in the last 10 years, there has been remarkable progress made in that country in relation to labour rights and human rights. That is very positive and should be something to encourage. Maybe it's not perfection or to everybody's liking, but I would challenge anybody to say that they have not made progress in labour rights, environmental rights, and human rights.

We can always find unresolved issues and problems in every country. At the same time, what this country has gone through historically in the last many years, both in terms of civil unrest and dictatorship, shows incredible progress. They are doing extremely well economically as well. They've tried to engage with different partners throughout the world.

Canada, rightly so, would want to be a partner with Panama. Panama is strategically located in that part of the world and can play a major role. Canada also wants to play a bigger role in the Americas, and Panama would be a very supportive partner.

There is room to improve, I agree. If they have some suggestions for amendments to the legislation, I'd like to hear from them. At the same time, we have to be fair and remind the witnesses that there has been a lot of progress made in that country. We should be supportive and proud of the fact that Panama has made such incredible progress in the last few years. I invite anybody to comment that they have not made progress in the last 10 years. I'd like to know if that is the case. According to people I know on the ground and have spoken to, the progress has been phenomenal. People know what they've seen in the papers.

• (1615)

People have also had an opportunity to have a dialogue with the parliamentarians and NGOs and people on the ground. Canadians are also increasingly going abroad to Panama. The investment by Canadians there is phenomenal, as is the number of Canadians who want to retire there. I don't know if you're aware of it, but the number of Canadians who now want to retire to Panama has increased by over 200%.

I think there are issues that need to be addressed. I don't say everything is perfect, and I don't think anybody would write a report on how perfect Canada is on every issue, but I think we are mature democracies. Panama has evolved into a democracy, which I think all of us should be very proud of, given the fact a lot of these countries have gone through civil wars and lived through dictatorships for many years, and are only now slowly coming into being as fully democratic countries. I think we should be proud of that fact and supportive of governments that are making some strides.

You have seen, Mr. Chair, the phenomenal number of countries that have made progress in the Americas. It's not just Panama, but also Brazil, which is one of the countries that I'd certainly like to speak to, and we have to play our role.

One of the major problems a lot of these countries are facing—and Panama is one of them—is the issue of the drug trade. Drugs are a major problem that I think we need to work together on—

• (1620)

Mr. Peter Julian (Burnaby—New Westminster, NDP): On a point of order, Mr. Chair, I understand Mr. Silva's comments, but out of respect to our witnesses, could he please ask some questions? We have people here who have a great deal of expertise.

The Chair: Excuse me; I don't think that's a point of order.

It's a nice change for you to consider the witnesses, and not—

Mr. Mario Silva: Well, I've only been on the committee for about a year, Mr. Chair, but I think I'm following the same process as Mr. Julian has with many witnesses. He basically decides to make comments instead of asking a question. I don't know why he would be upset. I'm still getting to my question, which has to do with the fact that—

The Chair: Well, you won't this round—

Some hon. members: Oh, oh!

The Chair:—because you have about 30 seconds to complete your 7 minutes allocated.

Mr. Mario Silva: I actually feel I have asked the witnesses throughout the whole thing whether there was any way they could tell us there has not been development in the last 10 years in that country. That is what I have been trying to get at with my assessment of the development that's taken place in the country, and the investment there by Canadians, and the partnerships we've formed with them over the last few years. I've kept on asking the witnesses if they can challenge me and say that's not the case. I think that both statistically and in terms of the development of our trade and partnerships with them, it would be quite to the contrary, and that in fact the country has made incredible progress.

I think it's something we should recognize and respect. We should support the agreement, building on our relationship of friendship, which I think can develop into a partnership, so that we can actually engage on that country's many issues. We hope to be further involved not only commercially but also socially and culturally and on labour issues. I think that's a positive thing for Canada.

We're trading anyway; it's happening. The question is whether we want to have some rules in place and whether we want to have a template in place so that we both can work to achieve that.

The Chair: I thought those were good and well-received comments, but you've just run out of time. There won't be time, unfortunately, for our witnesses to answer you on this round, but you may speak to your colleagues about trying to get that in during the next round.

We're going to have to move on to Monsieur Laforest.

[*Translation*]

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

Good afternoon, witnesses, whether present here or participating via teleconference.

Mr. Silva said that he has noticed progress in Panama over the last few years. However, that's not the issue. We should look at who has benefited from that progress. We should look at whether a free-trade

agreement would only further benefit a small minority of Panamanians.

Mr. Vaillancourt, you talked about taxation issues. I don't know if you heard or read the comments made by the final witness who was here last Monday. We had with us Panama's chief trade negotiator and deputy minister of trade and international negotiations, who told us on two occasions that it was not in his country's economic interest to conclude a tax information exchange agreement. That helped us understand why Canada's Minister of International Trade is being asked whether he intends to conclude a tax information exchange agreement, which would be a prerequisite to signing a free-trade agreement.

I would like to know what you have to say about this, Mr. Vaillancourt.

• (1625)

Mr. Claude Vaillancourt: Let's get back to the issue of progress. No improvements have been made when it comes to taxation. Panama is still one of the most important and active tax havens. I think that the tax information exchange you mentioned, Mr. Laforest, is extremely important. However, based on what we know of tax havens, it's perhaps somewhat utopian to expect this, after all the efforts made to establish cooperation. I think that, since the G20 meeting in London, in 2009, the issue has been talked about somewhat openly.

It has become obvious that tax havens are not genuinely willing to change their current attitude. That's why we at ATTAC feel that the best thing to do at this point is to simply not negotiate trade agreements with tax havens. We don't think that changes are possible.

We think that we need to fight against tax havens both internationally and nationally. Canada should adopt real measures against tax havens by, among other things, cancelling the double-taxation agreement we signed with Barbados. We should also continue to fight against tax havens at the G20.

A few steps in the right direction were taken in London, but that's clearly not enough, since tax havens are still a serious problem. As I said during my presentation, negotiating an agreement with a tax haven of Panama's importance is tantamount to legitimizing the existence of tax havens.

Mr. Jean-Yves Laforest: Other witnesses, including Ms. Alepin and Mr. Deneault, told us the exact same thing. They said that, by signing the agreement, Canada would be legitimizing a money-laundering process. The international mafia would take advantage of such an agreement to launder even more money.

You said it would be utopian to even consider the possibility of a tax information exchange agreement. We suggested such an agreement to the minister, who said he had sent a letter to his Panamanian counterpart, but had received no response. I think this agreement is becoming more and more of a pipe dream. The negotiator did say that it was not in Panama's interest to sign a tax information exchange agreement.

I think that he gave us a fairly clear answer. It's obvious to us that, if Canada doesn't sign a tax information exchange agreement, we cannot really vote in favour of the free-trade agreement, and we will not. In addition, it was only after we asked for the preliminary agreement that we realized Panama is not really interested in one.

I would like to ask Ms. Healy a question. The group you represent, the CLC, is important. I support what Mr. Vaillancourt said to the effect that Canada is concluding a free-trade agreement for the first time with a country that is considered a tax haven. Isn't that an astonishing fact? You talked a lot about workers' rights. Is that another area your group is looking into?

[English]

Dr. Teresa Healy: One of the problems we face with the possibility of this agreement being signed and coming into force is that it will give legitimacy for multinationals to avoid their responsibilities in their domestic context. There is also the possibility that subsidiaries of corporations will use the investor-state provisions against democratic governments. It is astounding, in our view, that Canada would sign an agreement that would be so open to damaging Canada's economy by this linking with these sorts of criminal elements. We think the committee should take this very, very seriously.

[Translation]

Mr. Jean-Yves Laforest: I have one last question for Mr. Solís.

Earlier, Mr. Silva talked about progress and about some improvements made to the situation for Panamanians. As someone who's on site, could you tell us if you've noticed the progress Mr. Silva was talking about? Do you find that improvements have been made over the last few years?

•(1630)

[English]

Mr. Félix Wing Solís: Thank you for your question.

Actually, despite the fact the gross domestic product has increased in the last few years, according to UN figures Panama is the country with the second-worst distribution of wealth in Latin America. Only Brazil trails us. There is a huge difference between Brazil and Panama in size and population. The fact is that Brazil is an industrialized country, unlike Panama, which is an economy based on providing services.

According to those same figures from the UN, 20% of the population consumes more than 65% of GDP, while another 20% of the population consumes less than 3% of GDP. I say this only to illustrate how unequal it is. In fact, we cannot assume that an increase in GDP alone improves the lives of people. Panama has a poverty rate of between 30% and 40%. I don't know what the exact figure is, but it's between those two rates, so I don't think an FTA in itself will improve Panamanians' lives, especially if we do not have regard for environmental and social safeguards, as I mentioned earlier.

Thank you very much.

The Chair: Thank you.

Thank you, Monsieur Laforest.

Mr. Julian, you have seven minutes to speak or ask questions, whatever you like.

[Translation]

Mr. Peter Julian: Thank you very much, Mr. Chair.

I apologize for my colleague's behaviour earlier. I have a few additional questions for you.

Mr. Vaillancourt, as Mr. Laforest just asked, what have we heard from the Panamanian government? According to the representative who testified two days ago, signing a tax information exchange agreement is a non-starter. He said—and you can find this in the “blues”—that, since such an agreement is not in the interest of the Panamanian economy, his country would not sign it. That's been made very clear.

Our government is acting like the agreement is still on the table and is still being negotiated, but the Panamanian government has said that the agreement will definitely not be signed because the country's economy would be affected.

Do you think that the link between the Panamanian economy and money laundering activities, and often, according to the U.S. Internal Revenue Service, drug dealers accounts for the Panamanian government's refusal to sign this agreement, which should be a mandatory prerequisite to a free-trade agreement?

Mr. Vaillancourt, did you not understand that this question was addressed to you?

Mr. Claude Vaillancourt: Yes, I know it was. I'm sorry, I didn't understand.

Mr. Peter Julian: Oh, my apologies.

Mr. Claude Vaillancourt: I totally agree with that statement. As I was saying, Panama is one of the most important and active tax havens. Organized crime plays a major role in the country's economy. That being said, I haven't really looked into this specific issue. However, I couldn't agree more with the theory you put forth and can only respond to your question in the affirmative.

[English]

Mr. Peter Julian: Madam Healy, you stated today that there are aspects of the labour code that will not apply in the free trade zone of Barú for the first three years of employment. We heard from the Panamanian government representative on Monday, and I'll quote him. He said:

I can assure you that the Panamanian labour code applies throughout the republic.

You're saying very clearly, very specifically, that the labour code doesn't and that the labour code is being gutted. Briefly, because I only have a few more minutes, could you give us some of the details around this gutting of the labour code, which contrasts with what the Panamanian government was trying to put forward?

•(1635)

Dr. Teresa Healy: Certainly. I understand that the Panamanian government also indicated that while the labour code applies throughout the country as a whole, there are certain restrictions in the Canal Zone and in the export processing zone of Barú.

Mr. Peter Julian: He didn't say that. He just said it applies everywhere. You're saying very clearly that it doesn't.

Dr. Teresa Healy: The labour code is modified in the free trade zones. For example, the right to negotiate collective agreements is inferior to the process outside the Canal Zone, and the right to other things such as overtime pay, for example, is much less than in the canal zone.

As I mentioned, the other specificity of the port of Barú is that there are limitations making collective bargaining discretionary for employers for the first six years of operation. Another article ensures that for the first three years of employment, certain protections of the labour code will not apply. This is a new law that was brought in over the past number of months and is connected to the special economic area of Barú. As well, 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.

Very clearly, articles 7, 17, and 18 of the law regulating the special economic area of Barú do not correspond to the general labour law of the rest of the country.

Mr. Peter Julian: Thank you very much.

My final question is for Mr. Solís. Thank you for joining us today.

Many people have criticized the investor-state provisions of the Canadian trade template as some of the worst in the world because they allow for an override of democratic decisions. Are you concerned about the impact on the environment that these investor-state provisions would have? You've raised concerns about the environment in Panama. Do you think the concerns could be worsened by giving this override on decisions that are made at the local or national government level?

Mr. Félix Wing Solís: Yes, indeed.

We feel these provisions would only benefit companies that run their business in Panama without regard to community livelihoods and without the appropriate citizen participation and public consultation in the decision-making process. We feel that foreign direct investment is a higher priority than people's human rights to help the environment and to participate in decision-making, and that could eventually affect our democracy, our democratic processes, and the way in which laws are applied and complied with.

Mr. Peter Julian: Have you been concerned with what you've seen developing in other countries such as Guatemala, where companies are using the investor-state provisions and even incorporating themselves with a mailbox elsewhere to force the government off environmental issues and force local governments to not take environmental measures that will help their population and make for a better environment?

Mr. Félix Wing Solís: Absolutely. We participated in a hearing before the Inter-American Commission on Human Rights on October 25 of this year. We raised our concern, for example, as it relates to the language. Environmental human rights defenders are being persecuted all over Meso-America, from Mexico to Panama, because of their activism against mining companies, which happen to be mostly Canadian companies. They have, in some cases, been denounced for resorting to violence against communities that are defending their interests, their rights, and their livelihoods, supported by national governments.

On the other hand, as you mentioned, if a national government from this region—for example, in this case, Panama—tries to enforce new environmental regulations to look after the well-being of our own communities, and those regulations are in collision with this investment agreement, we can be absolutely sure that, unfortunately, environmental provisions will not be applied for the sake of foreign direct investment, regardless of whether it is environmentally and socially responsible or not.

Thank you very much.

• (1640)

The Chair: Thank you, and thank you, Mr. Julian. That was good timing.

We're going to go now to this side and to Mr. Keddy, if you're all set. You're going to share your time.

Thank you.

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

Welcome to our witnesses.

I'm going to share my time with Mr. Trost, so I'm going to try to ask a couple of quick questions.

There was a comment made earlier—and I'm trying to think—by Mr. Solís, I believe, about the Canadian copper mine that's being developed in Panama. Your statement was that they were going to deforest a large portion of the property, and you thought it was an environmentally unsustainable project.

However, we heard from witnesses here two weeks ago from Clarke Educational Services, which is a first nations company from Canada. Donald-Fraser Clarke is a representative who works with the indigenous community in Panama to develop best practices and to have informed consent. I don't have, off the top of my head, the number of people represented, but I think it was 40,000 or somewhere in that area. I apologize for not having that number off the top of my head.

In his words, basically he is saying the entire opposite of what you're saying. He's saying that they're developing best practices, that the business community is well developed, that it is business-friendly, that Canadian business is well positioned, and that they have a culture of accountability, which I would agree with, so I can't understand why you would look at this mining development—with informed consent, with an educated group of individuals on the ground, and with both Canadian mining expertise and political expertise to develop those best practices on the ground, if you will—and be against that.

Mr. Félix Wing Solís: We're not against best practices, nor are we against business, and we're not against free trade in itself. As I said, we believe that free trade should be fair trade as well—

Mr. Gerald Keddy: But your statement was that you were against this particular example, and on that particular example, we already had representation from someone who is working with the first nations community on the ground in Panama and is coming out with an opinion totally different from what you're coming out with.

Mr. Félix Wing Solís: Yes, but of course you have to look at the fact that they're being paid by the same companies that are interested in promoting this business in Panama, whereas we work directly with communities and represent them in court—

Mr. Gerald Keddy: He's working with the community, with respect. He's working with the community. That's my point.

I'm going to hand the next....

I have one more quick question. It's on the taxation agreement and it's to Mr. Vaillancourt.

We've asked to sign a TIEA with Panama, a taxation information exchange agreement. The Panamanians are saying they want to sign a double taxation agreement, and from what you're saying, I was getting a negative opinion on that. However, if we put more rules around taxation, more clarity, more openness around taxation, how can that be a bad thing?

• (1645)

[Translation]

Mr. Claude Vaillancourt: I don't think that an agreement like this makes it possible to set clear rules. Nothing in this agreement would suggest this possibility. In fact, all that we know about tax havens is that they enable people to engage in large-scale tax evasion and avoidance—especially avoidance. I have studied this agreement and found no provisions that could help address the issue of tax havens in a new, different way.

Mr. Laforest talked about the Panamanian representative's testimony and about his closed attitude toward information exchange. However, it's absolutely necessary to fight against tax havens, against tax evasion and avoidance. Therefore, I fail to see how this agreement could help address the tax haven issue with new, more stringent controls.

[English]

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

My question is open to all three witnesses. Any of you may respond.

My job as a Canadian legislator is predominantly to look after my Canadian constituents who will benefit from this trade deal, particularly in the agricultural sector, which is substantial in my region. We've heard very little testimony arguing against that.

The argument I'm hearing—and I hope I'm not putting too many words in the witnesses' mouths—is that this deal is bad for Panamanians. To my understanding, Panama is a democratic country that respects the rule of law, so I'm wondering why I should impose my judgment over and above what Panamanian voters have done by electing their representatives. It strikes me as somewhat paternalistic to do that, so my question is this: why should I interfere in the democratic process down there?

I'll give you a bit of background about who I am. I'm a Conservative and I come from a mining background, so I know how the environmental groups in Canada have distorted the mining companies' records in Canada. As a Conservative, my dad was blacklisted by a union once upon a time, so I know how unions can

abuse workers in Canada, and as someone who strongly believes in private property, I am adamant that investor stake elements be included in there so that socialist regimes, be they local governments or national governments, do not take Canadian investors' private property.

With that as a background, why should I not vote in favour of something that helps my constituents?

A Voice: Exactly.

Mr. Félix Wing Solís: If I may, I would like to answer.

The Canadian Supreme Court has adopted the precautionary principle as an international valid standard to prevent environmental and social impacts and damages. The kind of business that Canadian mining companies are trying to do here in Panama, and that they have already started to do here in Panama, would not be feasible in Canada according to those same standards, because in Canada the degree of protection given to the environment is much higher than it is in Panama. As a result, companies are coming here to do business on very unequal terms for our population, taking advantage of the lack of protection and also making the kind of infrastructure and using the kinds of chemicals that are likely to be widely spread by our huge rainfall—about five meters per year—in the area where these projects are going to take place.

Because of our rainfall, it's not possible to keep pollution caused by a copper mine or a gold mine enclosed in a single area and prevent it from widely spreading to rivers and communities located near these huge mining sites. It is unlike what happens in Canada, where there is no rain where mines are located. You can observe that. I would be very happy to host members of the Canadian Parliament here in Panama to talk to the communities and visit the sites so that you yourselves can make your own opinions about this after listening to the communities and seeing the actual places where those investments are taking place.

Thank you very much.

• (1650)

The Chair: I'm sorry, but that's all the time we have on that round. I think we could do a very quick round of three or four minutes each. We can then have a second round.

Mr. Malhi, would you like to begin?

Excuse me; before you do, I wonder, Mr. Solís, if you might be kind enough at some point, by text or call, to give us that Supreme Court reference you referred to. There seems to be some doubt here as to whether or not that was the case. Just for clarity, could you send the Supreme Court reference on the precautionary principle? That would be useful, because it would be news to us.

Mr. Mario Silva: Mr. Chair, on that issue of the precautionary principle, the Supreme Court, along with many other courts, uses that language. It's used all the time for different rulings on everything.

It doesn't necessarily mean they're opposed or against something; it just means that we should always use all precautionary principles. That's just something that is part of international language used constantly by different courts, but it doesn't necessarily mean anything in a particular case. It's just the language that's being used.

The Chair: In this case, it's not the case. That's what I just asked for.

Go ahead, Mr. Malhi.

Hon. Gurbax Malhi (Bramalea—Gore—Malton, Lib.): Thank you, Mr. Chair.

It has been mentioned that the Government of Panama is opening its doors to irresponsible companies. Could you please give us some examples of irresponsible companies you're talking about, and do you think there are any mining companies that are good and responsible? Please give us their names.

Mr. Félix Wing Solís: Actually, I gave those names in my presentation earlier. I was referring to Inmet Mining Corporation, Teck, Petaquilla Gold, and Pacific Rim.

Hon. Gurbax Malhi: What do you think about the free trade agreement Canada has with the European association, which includes Switzerland?

Mr. Félix Wing Solís: I'm sorry; could you repeat the question, sir?

Hon. Gurbax Malhi: What do you think about the free trade agreement Canada has with the European association, which includes Switzerland?

Mr. Félix Wing Solís: I'm sorry. I'm not getting the question. I'm very sorry, sir.

Hon. Gurbax Malhi: That's fine. Thanks.

The Chair: It seems straightforward.

Mr. Malhi was just asking what you thought of the European free trade agreement that we have signed, the EFTA agreement that includes Switzerland.

Mr. Félix Wing Solís: Unfortunately, I am not aware of the contents of that agreement.

The Chair: I think perhaps it would have been better directed to Mr. Vaillancourt. It's tax-related because of Switzerland's similar position.

[*Translation*]

Mr. Claude Vaillancourt: What was the question? Was it about the agreement between Canada and Europe? Was it about CETA, the Comprehensive Economic and Trade Agreement between Canada and Europe, which is currently being negotiated? Is that what the question was about?

• (1655)

[*English*]

Mr. Peter Julian: I have a point of order, Mr. Chair.

The EFTA agreement doesn't include any of the financial information that's in the Panama agreement, so it's not an appropriate question. The EFTA agreement only concerns tariffs. It doesn't concern all of the aspects of the Panama agreement that touch on taxation—or the lack of transparency on taxation—so we're talking about apples and oranges.

The Chair: Well, we often do.

Did you have any further questions?

Ms. Martha Hall Findlay (Willowdale, Lib.): If we still have time, I wouldn't mind asking a question to Monsieur Vaillancourt. The question was about the EFTA, which is an agreement that includes Switzerland and Liechtenstein. Notwithstanding the point of order by my colleague, the question really does relate to the fact that a number of Canada Revenue Agency investigations were being conducted with respect to at least Switzerland, as I understand it. During the time that Canada was negotiating the EFTA, this issue never came up. Interestingly enough, Canada Revenue Agency has, to my knowledge, confirmed that there are no similar investigations currently under way with respect to Panama, yet this seems to be a very big issue, so the first part of my question is to ask you for your thoughts on that and the discrepancy there.

The second piece of the question would be on Canadian enterprises. If there is in fact a concern about Panama being a tax haven, that ability is there now. Canadian enterprises can set up in Panama now and take advantage of it. How exactly will free trade, which, as some of my other colleagues have mentioned, would help agriculture and help some of the other industries and would benefit a number of our constituents, actually make that worse?

It's a two-part question. We're short on time, so if you could be brief, that would be much appreciated.

[*Translation*]

I apologize for not asking my question in French.

Mr. Claude Vaillancourt: At the G20 in London, in 2009, the issue of tax havens was considered to be extremely important. Therefore, it was decided that a series of measures would be adopted based, among other things, on information exchange are interrelated issues.

We should see those measures as a first step the international community is taking to deal with the issue. They show that the economic crisis, income difficulties experienced by governments in times of financial restraint and tax havens are interrelated issues.

So, what does Canada do? Instead of taking things even further and promoting reforms that would help us eliminate all tax evasion, our country is trying to sign an agreement with a tax haven. Yes, it's true that, currently, it's very easy to avoid taxes through Panama. This agreement could not only facilitate tax evasion, but also send the message that Canada seems to care so little about the tax haven issue that it would go ahead and conclude a free-trade agreement with one of the worst tax havens.

I think that the losses we could incur as a result of this agreement greatly exceed the benefits that could no doubt result from certain economic ties with Panama.

[*English*]

The Chair: Thank you. We're going to go to this side now.

Mr. Cannan and Mr. Holder, could we keep it to maybe one quick question each? Who would like to begin?

Mr. Ron Cannan (Kelowna—Lake Country, CPC): Thank you, Mr. Chair, and thanks to our witnesses. I know Ms. Healy came back for a second time, so I want to thank her for making a special trip.

We talked briefly about the strong side agreements for the environmental and labour agreement, and as part of our global commerce strategy, we're working on expanding trade beyond the North American Free Trade Agreement, which I understand the CLC had some concerns about. The previous government signed three trade agreements; we've entered into eight different agreements. We support free and fair trade.

Canadian Labour Congress, could you just list which free trade agreements you've supported?

• (1700)

Dr. Teresa Healy: We would support free trade agreements that are fair trade agreements.

Mr. Ron Cannan: Which ones have you supported in the past?

Dr. Teresa Healy: The ones that you refer to are all based on neo-liberal principles of free trade, and we have a set of commitments that—

Mr. Ron Cannan: It's not a trick question. I'm just asking which agreements you have supported out of those that the Canadian government—the previous government and our government—have ratified in the past. Have you supported any trade agreements in the past 18 years?

Dr. Teresa Healy: We do not support the free trade agreements that are based on investor-state principles or based on neo-liberal principles that are not organized around principles of social justice and the development of equality, economic sustainability, and environmental sustainability. We have lots of ideas about how fair trade could be organized.

Mr. Ron Cannan: Whatever that means.

Thank you, Mr. Chair. I'll turn it over to Mr. Holder.

Mr. Peter Julian: On a point of order, Mr. Chair, I think “whatever that means” was a question.

The Chair: I don't think that's a point of order. We're running out of time.

Mr. Holder, you have the floor. I think we had a question asked and answered.

Mr. Holder, go ahead.

Mr. Ed Holder (London West, CPC): Thank you, Chair.

I'd like to thank our guests for attending and providing their testimony to us today.

It certainly seems clear to me that what we have is a philosophical difference about what free trade is intended to do. I suspect that no level of questions that I might ask or any answers that you might provide in support of this would probably provide any monumental shifts in the way either of us thinks. That's too bad in a way, because quite honestly, as I think about what we're trying to do in Panama with this deal, I look at what we've done with this. The effect, ladies and gentlemen, of a free trade deal with Panama would be to immediately remove tariffs from most of the two-way trade between our two countries. I don't know how that's bad for people.

I note that Miss Healy indicated that a free trade agreement would help multinationals avoid their responsibilities. That was a piece of a quote from an earlier comment. What I don't understand is what's

wrong with having a rules-based system. We already do trade now. In fact, as I look at the statistics for trade between Canada and Panama, there's a balance of trade of about \$50 million in Panama's favour. We do some \$132 million of bilateral trade, and most of that is Panama's exports to Canada.

What I don't understand is how eliminating tariffs to help the economies of both countries prosper in the worst recession we've ever had can be bad for any individual, when in fact we're trying to give them the dignity of a job. I certainly understand social justice. I think I do. I think I understand what it is to treat people with respect. I think I know that as well, but it surprises me when what we're trying to do is increase the standards of living in our two countries. In addition to that, here we have a labour cooperation agreement that respects the International Labour Organization's Declaration on Fundamental Principles and Rights at Work and has in place an agreement on the environment that has a number of things that talk about the importance of that.

In the absence of those things, can you please tell me—and perhaps, Ms. Healy, I might ask you, because I'm not sure who to ask this question to, quite frankly—how not having this deal hurts the people of Panama and helps Canadians? Can you please help me get my head around that, because I'm terribly stressed by an arbitrary position that, frankly, feels that way and has no give, and I don't sense a given in all of this. Maybe you could help me understand in the brief moment that you have for a response.

Dr. Teresa Healy: Nothing would make me happier than to have a discussion along the lines you have suggested. I would start by suggesting that if we look at the labour cooperation agreement, what we see are certain principles being offered as important and as having to be taken into account right at the beginning.

• (1705)

Mr. Ed Holder: Do you agree with those principles?

Dr. Teresa Healy: Yes. Those principles are freedom of association and the right to collective bargaining. This is very good. This is weaker, as it's written down, than the Canada-Colombia agreement, which is interesting.

I just want to point out that we already have a rules-based system. The question now is what kinds of rules are being developed on top of rules that already exist. The first four obligations that are outlined in the labour side agreement refer to the 1998 Declaration on Fundamental Principles and Rights at Work. Then the next three obligations refer to the decent work agenda.

What happens in the process of dispute resolution is that the parties must make a decision as to whether or not a complaint will go forward from any dispute that comes up, but what happens is that not all of those obligations would ever be brought to a review panel. Only the first four would. The ones that have to do with the decent work agenda would not be brought to a review panel.

The other thing is that in this labour provision, part 3 stipulates that the matter must be trade-related if it's to go to the next stage of a review panel, which raises the question of why investment is not there, when trade and investment were mentioned earlier on.

With a fuller discussion, we could talk about why we have objections to the labour side agreement—

Mr. Ed Holder: I have one last question.

In the absence of any rules, is this not a better arrangement than the current one?

Dr. Teresa Healy: We do have rules. The question before us is whether or not Canada would offer a preferential trade and investment agreement to this particular country. Canada and Panama are already quite related in terms of a whole web of international rules around trade and investment. The question now is whether Canada would offer a preferential bilateral deal to Panama.

Mr. Ed Holder: Are you suggesting that these rules are somehow not as good as what's currently in place?

Dr. Teresa Healy: What I'm suggesting is that these rules are not as good.... They do not defend labour rights to the extent that investment rights are protected, and it's the relationship between the two that's crucial.

Mr. Ed Holder: I would agree from this standpoint that they probably don't meet the perspective you would like to have on them. I understand that you have a very specific position, but I come back to the firm position that this labour cooperation agreement—this agreement on the environment—may not be to your magnitude, but it's significantly stronger than what we currently have in place.

Let's not forget that we do trade with these folks. We have a rules-based system that brings better clarity and advantages Canada and Panama, which from my perspective makes this a very sensible thing.

You've been very kind to answer as far as you have.

Thank you, Chair.

The Chair: We are out of time on that side.

We'll have a final question from Monsieur André.

Welcome back.

[Translation]

Mr. Guy André (Berthier—Maskinongé, BQ): Good afternoon. Mr. Richardson, we visited Panama together. I don't know if you remember, but, at that time, I was a member of the committee and we had begun looking into the development of this agreement.

Good afternoon, Mr. Vaillancourt. Good afternoon, Ms. Healy. I have five minutes and I would like to ask each of you a question.

Mr. Vaillancourt, I would like you to tell us who you think will benefit from the agreement between Canada and Panama. Who will really benefit from the agreement?

Do you have any data on the amounts of money Canadians currently have in Panamanian tax shelters?

I also have a question for Ms. Healy. You are probably aware of a bill that was adopted in Panama, bill 30. This piece of legislation penalizes unions to some extent and goes as far as to criminalize union members who could object to their working conditions. I know that this agreement greatly affects the mining sector.

Do you have any data on this? Could you tell us how this bill affects the labour conditions of people who work in the mining sector and how it affects the operators? There are often issues in the

mining sector regarding compliance with environmental norms. I would like to hear your opinion on this.

Mr. Félix Wing Solís, you talked about fair trade. You said you were not against free-trade agreements. The Bloc Québécois certainly supports the free-trade agreement between Canada and Europe, but we were against the Canada-Colombia agreement, which is somewhat similar to the Canada-Panama agreement. It's not exactly the same thing, but there are some similar elements in connection with the mining sector and non-compliance with labour conditions.

How do you view this fair trade? Do you see it more in the context of a multilateral agreement? I think that a multilateral agreement can often ensure a better basis for negotiations and greater compliance with certain international standards than a bilateral agreement can. I would like to hear your thoughts on this. What kind of an agreement do we need to have with Panama to ensure fair trade?

• (1710)

Mr. Claude Vaillancourt: Can I answer first?

Mr. André Guy: Yes, go ahead, Mr. Vaillancourt.

Mr. Claude Vaillancourt: First, as I already said, this agreement will certainly not benefit Canadians owing to tax evasion and avoidance. It will not benefit Panamanians either. As far as tariffs go, here are some statistics from African countries:

[Translation] [...] the 40% tariff reduction in Ivory Coast resulted in massive layoffs in the chemistry, textile, footwear and automobile assembly industries. In Senegal, a reduction of tariffs from 165% to 90% led to the disappearance of one third of all jobs in the manufacturing sector between 1985 and 1990.

Therefore, reducing tariffs makes local companies a lot less competitive. That could have negative consequences. It's important to point this out.

Regarding your question about whether we have data, the problem with tax havens is that the money disappears into big black holes. We have looked into this, and it's extremely difficult to get exact data. This is a constant challenge because bank secrecy stands in our way. This secrecy makes it impossible for us to know how much money is tucked away in tax havens. If only for this reason, that is, the cloak of secrecy under which transactions take place, we should withdraw from these kinds of agreements.

[English]

Dr. Teresa Healy: On the question of labour law in Panama, one of the important things to realize is that there was a profound political crisis that erupted in the summertime over the institution of the new labour law in Panama. There were deaths. It was a very profound crisis.

The law was then withdrawn after the objections of civil society. What happened was that the most egregious aspects of the law were withdrawn. However, there are still problems with limitations on the right of freedom of association in Panama. There are restrictions on the right to hold office. The minimum number of workers to form a union is 40. Therefore, for example, to avoid unionization, companies will restructure themselves to make sure that they have fewer than 40 employees.

There are problems with the federations and confederations having the right to strike. There are limitations on the right to strike in enterprises that have been in existence for less than two years. We've talked about the problems in the Canal Zone and in the zone of Barú. There are severe limitations on the right of maritime workers to strike. There's a very broad definition of what essential public services are, and therefore, there is no right to strike for them. They have compulsory arbitration in that case. Again, a minimum of 40 workers are required to form an association.

Some of the other problems with labour law have to do with organizing and collective bargaining and problems with short-term contracts and subcontracting. There were other decrees that were meant to deal with some of the most difficult areas on those issues, but we have no real way of knowing to what extent those 2009 decrees have actually been enforced.

[*Translation*]

Mr. Guy André: Thank you.

Mr. Solís.

• (1715)

[*English*]

Mr. Félix Wing Solís: As I mentioned in my presentation, I don't think this FTA promotes fair trade. We at CIAM advocate for the highest common standards possible governing environmental and

social safeguards. Therefore, we would advocate for any free trade agreement or negotiation or the like that adopts such high standards.

For example, if we compare this FTA with others in the region, such as NAFTA and CAFTA, environmental provisions are not as solid and, as I mentioned, there is no grievance mechanism provided, in specific terms, in this FTA.

Thank you.

The Chair: Thank you again, Mr. André. We're pleased to have you back with us.

That will conclude our questioning. We've gone about 15 minutes overtime, but I thought we owed it to our witnesses, who've been very patient with us, particularly with the telephone conversation. I hope that wasn't too inconvenient for you, Mr. Solís. Thank you for your participation.

Mr. Vaillancourt, as well, thank you for joining us on conference.

Again, Ms. Healy, thank you for coming back.

I'm going to take a one-minute suspension here while we bid adieu to our witnesses and switch to an in camera meeting. I want an in camera meeting for about 10 minutes on committee business.

[*Proceedings continue in camera*]

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