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## Standing Committee on Finance

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EVIDENCE

**Thursday, February 3, 2011**

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**Chair**

**Mr. James Rajotte**



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•(0845)

[English]

**The Chair (Mr. James Rajotte (Edmonton—Leduc, CPC)):** I call this meeting to order, the 56th meeting of the Standing Committee on Finance.

Colleagues, we are continuing our discussions today pursuant to Standing Order 108(2), our study of tax evasion and offshore bank accounts.

We have the pleasure this morning of having as a witness the Honourable Donald Johnston, Privy Councillor and former cabinet minister.

Mr. Johnston, thank you so much for being with us here this morning.

We did hear from someone from the OECD on Tuesday, Mr. Owens, as well as two other witnesses, academics, regarding this study. This study will continue for some time, but we are very much interested in hearing your perspective on this issue, and then we will have questions from all members.

I understand you have some introductory remarks you'd like to make to the committee prior to questions.

**Hon. Donald Johnston (As an Individual):** Thank you very much, Mr. Chairman.

It's a pleasure to be here. I can't say there are too many of my old colleagues around, but that's not surprising, since I last sat in the House in 1988.

I welcomed this opportunity because, first of all, I regard this as a very important committee, and I always have. And second, the issue of harmful tax competition and the use of offshore tax havens has grown steadily in importance over the last few decades.

I went to the OECD in 1996 as Secretary-General and it was at that time, effectively, that the G-7—I think it was still the G-7—became concerned about the illegal use of tax havens, as the OECD had been for some time. You can have legal uses of tax havens, as you all know. There is nothing wrong with having an offshore bank account, provided it's declared and transparent. But of course over the ensuing period we came to understand that there was a great deal of money that had been filtered into tax havens that were not cooperative in terms of either transparency or exchange of information and were hiding behind bank secrecy.

But really, I was surprised at how little action we were getting out of governments at that time, including the United States government,

including the IRS and the Treasury, with which I met on several occasions, because there were some opponents to the OECD.

I should tell you that the OECD began the program with a misnomer, calling it “harmful tax competition”, which, as I recall, was the language actually used in the résumé from the G-7 at the Lyon summit. They used the term “harmful tax competition”.

Well of course that opened the door to those who like to charge the OECD as being a European-controlled organization where people like to pay a lot of tax, where the social contract is financed with taxpayers' dollars at exorbitant rates. They like to charge that the OECD—when it refers to tax competition—is really saying that everybody should pay the same tax. Well of course nothing could be further from the truth. I don't know if Jeffrey Owens testified on this point or not, but the OECD, from an economic point of view, had regarded competitive tax rates as being very healthy and that they could be very efficient. So the notion of competition in tax, which backfired in terms of the initial communications on this program, was corrected in 2000 and it became essentially “harmful tax practices”.

But the opponents of the OECD work continued, of course, to harp on the theme that it was really a European-dominated organization with a totally different view of the relationship between the individual and the state and the social contract, and that the OECD was set on creating uniformity in taxation all over the world. Some of the most outspoken critics were in the United States. The Heritage Foundation—the tax part of which was led at that time by a man called Dan Mitchell—frequently published in newspapers in the United States attacks on the OECD to the point where I had to go to Washington to meet with senatorial staff and senators to explain the program. Some of them were threatening to cut off funding to the OECD, which of course would have buried the OECD, since the United States contributes 25% of the budget. That's changed somewhat, but not very much. But at that time it was a statutory obligation that in the OECD they paid 25%. Even under the formula of contributions it would have been much more because of the size of the economy.

On the other hand, we had strong support from some senators, such as Senator John McCain and others, who realized how important this work was. And similarly, in most of the treasuries around the world they realized how important this work was.

In the last few years, in fact almost since my departure, there has been an acceleration of activity in the area. And I expect—since you heard from Jeffrey Owens—that he explained to you how the global tax forum, which we created in the year 2000, has grown in significance and grown in structure, if you like. At that time it was more of an informal gathering. We had numerous meetings, some of which I attended, but since then, as I understand it, it's become much more effective.

● (0850)

It has many more members, and the OECD, with pressure from the G-20, has been successful in bringing more and more countries into the transparency and exchange of information orbit. Now there are actually no blacklists. We had blacklists at that time of uncooperative jurisdictions, but my understanding is that those blacklists have now been eliminated. That does not mean that all countries are conforming to the tax information exchange agreements they've signed or committed to, but they've made the commitments. Now it's up to peer pressure and review by the committees that have been set up under the auspices of the OECD to ensure that there is compliance and that ultimately they adhere to these obligations they've undertaken.

I can't help but believe that whistleblowing has played a rather significant role in this. As you know, there have been at least three instances of whistleblowing. There has also been evidence of some major Swiss banks that have been involved with tax evasion exercises in the United States, and I suppose in Canada and other countries. Most recently, there was a chap from HSBC Private Bank in Geneva, where it takes \$500,000 just to open an account, who went to France. You probably know this. He gave the French authorities the information he had on his computer, which involved some of 15,000 accounts, a fair number of which, about 10%, as I recall, were Canadian. A very large number were French. I think the number was about 7,000 or something in that neighbourhood. Of course when you take out your pencil and do a bit of multiplication, you're beginning to realize that you're talking about big money. And this is only one bank. We're not talking about the other issues with respect to the UBS, which you've read about, and other jurisdictions.

So suddenly governments said that in this period, when we're all running deficits and fighting for every tax dollar, we have to basically come to grips with this problem. For me it's so fundamental, because what's happening is that you and I around this table are paying those people's taxes, which should be paid here in Canada.

Those are the few introductory remarks, Mr. Chairman, I'd like to make. I'm very pleased with the way this program has evolved. I'm very pleased that the OECD has continued to play such a significant role. And in fact I think this is why the OECD is at the G-20 meetings, because suddenly this has become a major issue for all of our treasuries.

Thank you.

● (0855)

**The Chair:** Thank you very much, Mr. Johnston, for your opening statement.

We'll start members' questions with Mr. Szabo, for seven minutes, please.

**Mr. Paul Szabo (Mississauga South, Lib.):** Thank you.

Welcome, Mr. Johnston.

Your experience in the OECD is very useful. I'd like to start off by asking you an open question about whether you believe the OECD has the will and has in fact taken necessary steps to determine what some would call best practices to deal with this kind of problem.

**Hon. Donald Johnston:** Are you asking me if the OECD has done that?

**Mr. Paul Szabo:** In your experience, is this the body that has the best international interests?

**Hon. Donald Johnston:** Absolutely. My experience with the OECD, not just on tax issues—as you know, we cover the full range of public policy outside of defence and maybe culture.... We have 150 committees and working groups. They all, of course, are usually manned with delegates from capitals, and they're supported also by business, the business industry advisory council, and the trade union council. All of them are engaged, so when there is an OECD proposal, it is usually non-partisan and objective. And it has, I think, made huge progress on many structural issues, in particular, throughout the membership and beyond. There are many countries that are also now much engaged with the OECD. When I was there, we got up to about 70 non-OECD members, including China, India, Russia, and Brazil. And all of them draw upon the best practices of the OECD, because these are really the world standards.

**Mr. Paul Szabo:** Having listened to the witness from the OECD, I was a little concerned that there seemed to be a gap in terms of the completion of the commitment to deal with the problem by virtue of the fact that so many agreements, tax information sharing agreements and other agreements, have never been ratified or are at various stages of ratification. There doesn't seem to be an aggressive commitment to dealing with what you call big bucks.

**Hon. Donald Johnston:** That's a challenge for any OECD instrument that requires ratification. If you're just dealing with conventions and best practices you don't need ratification. You don't have to come before these committees and so on. Where you do, the parliamentary procedures in all jurisdictions will slow down that process, because it becomes not just soft laws, and most of the OECD's work is.

You're quite right. For example, the convention that we adopted to fight corruption back in 1997, the bribery of foreign public officials, actually came into being when Canada ratified it, because Canada took a certain critical mass. I can't remember the number, 14 or 15, whatever. Then it continued over the years to be ratified at different times by different countries, because that, unfortunately, is the nature of our processes. Here, I think the pressure will come from the G-20 and the review mechanisms that are in place. The compliance with the undertakings will be audited regardless of whether the agreements have been ratified by Parliament. I could be wrong on that, but I think that would be the case. When the government has signed a taxation and information exchange agreement—called the TIEAs, or whatever they are—when that happens they will then go on the list. That list is usually published when those particular countries will be examined by an independent team.

• (0900)

**Mr. Paul Szabo:** There was an example given of the U.K.'s efforts to address this in part. I stand to be corrected on the numbers, but it was something like 4 billion euros invested yielded 100 billion euros in return and recovery. Given the magnitude of that example or our general knowledge of the magnitude of the problem, how does that stack up against other significant priorities of OECD countries?

**Hon. Donald Johnston:** That's difficult for me to judge. It's going to be different from country to country. When I was President of the Treasury Board here, we always had that argument with the tax department. If we had more inspectors it would increase exponentially the amount of revenue that could be recovered. That's always an argument of the revenue officials, and there's obviously some truth in it. But there's also a point of diminishing returns.

In the case of what we're looking at here, I don't have the numbers, but I think you'll find that the voluntary disclosure mechanisms that countries have introduced have been quite effective. I was looking at some of the numbers in the United States and I've heard some in Canada and I expect it's true right around the system. That's where most of the money will be recouped, even in the absence of signing agreements.

**Mr. Paul Szabo:** Canada has international trade agreements with 80 to 90 countries around the world. We don't seem to have tax information sharing agreements attached to those so we can cooperate on the trade and economic activities side. Those kinds of things, in terms of tax information sharing or other agreements to cooperate on tax evasion, don't seem to be linked to those trade deals directly. They may be side deals in some cases, but normally it would be a separate deal totally.

In your experience, would good faith between countries mean that tax information sharing agreements should be part of them?

**Hon. Donald Johnston:** If we had that good faith historically we wouldn't be having the debates we're having today and the activity within the OECD. There have been many countries that have not been cooperative. Now with the double taxation conventions, DTC, and I think it's article 26 or whatever it is that incorporates these obligations of exchange of information, if they're complied with then I think we've come a long way to solving that problem, independent of the fact that there's nothing in the trade agreements or the investments agreements per se. The double taxation and convention

agreements, which are probably in effect with most of the countries you refer to, would have that mechanism.

**The Chair:** Okay.

Thank you, Mr. Szabo.

Monsieur Paillé, *s'il vous plaît*.

[*Translation*]

**Mr. Daniel Paillé (Hochelaga, BQ):** Thank you. Welcome back to your Parliament, Mr. Johnston.

You said that tax information agreements exist between countries, tax agreements, and that they are based on good faith. Yet someone who wishes to engage in tax evasion has all sorts of characteristics, except good faith. At the end of the day, what we have here is a global situation where companies are using legal, albeit increasingly unethical and illegitimate, means to access tax havens and avoid taxes, is it not? But if it's legal, it's legal.

You also have individuals and companies that practise this kind of tax and bank secrecy illegally elsewhere in the world. These are not everyday people with limited means. They are usually the people and companies with the deepest pockets, those that have tax experts, accountants and lawyers at their disposal and can afford such services. Your average small or medium-size business, whether it be in Hochelaga or some other riding, does not have the means to access a tax haven. Only very large companies can do that.

You are no longer at the OECD, so you have the perspective necessary to answer our questions and the opportunity—I was going to mention your wisdom—to do so. Governments talk about relying on these people's good faith, but would you not agree that these companies have everything but good faith? The U.S. situation you mentioned earlier happened in the late 1990s, but the fact remains that the Americans, who are responsible for 25% of the budget, are saying don't move too quickly. Who would suffer, other than those companies lobbying internally?

Is there not, on one hand, a group of good Samaritans involved in international talks on best practices, and on the other, a bunch of corporate bums, to use a political term from your day?

• (0905)

**Hon. Donald Johnston:** Corporate welfare bums was the term used.

To some extent, you are right. Otherwise, as I explained, we would not be taking an in-depth look at how to solve the problem right now. That does not mean we should do away with all the activities that these corporations engage in, especially insurance corporations. The real issue is transparency and bank secrecy, which you mentioned. If this information were available to authorities in Canada, the United States and elsewhere, it would be possible to amend the legislation so as to change the rules of the game. That is what we have always done.

I used to be a tax expert. Back then, we would use countries such as Bermuda, but it was always done in a transparent manner. Then the government decided that it was going to apply rules governing foreign accrual property income, so as to prevent Canadians—both individuals and corporations—from accumulating income abroad without paying taxes in Canada. It was not so much a matter of activities at that time, just investments, dividends, interest and so forth. Things need to be transparent. The members of this committee will make recommendations to the government, which, in turn, will have to make some decisions. It is important to consider ways of maximizing the benefits for these corporations while doing away with abuses. So finding a balance is key.

You mentioned good faith, but we have more than that. We are now conducting audits. We are going to put pressure on corporations that do not comply with Canadian laws. We are always dealing with Canadian laws, given that no international laws govern this type of activity. So it is Canada's laws that must be enforced. And it is up to you and to federal tax authorities to enforce them appropriately.

**Mr. Daniel Paillé:** There are a given number of inspectors and employees. By using a cost-benefit analysis to establish that one employee brings in \$150 million, for example, we could justify the cost of hiring more staff to conduct investigations at the Canada Revenue Agency; it would be cost-effective.

As far as voluntary disclosure goes, if someone makes an investment but fails to pay the applicable taxes, that person may not be subject to any penalties or legal action if they report the violation. Do you not think that makes things too easy for the tax evader?

**Hon. Donald Johnston:** Good question.

**Mr. Daniel Paillé:** It is the answer that interests me.

**Hon. Donald Johnston:** It seems to me that is for parliamentarians to decide. The flip side of that argument is that voluntary disclosures result in more income more quickly. Then you have what they call “naming and shaming”, which could be useful, but we are talking about confidential information. You discussed that with Mr. Owens. One of the provisions of this entire procedure is to view this information as confidential. There are tax evaders, but I am not quite sure what Canadian authorities say to them. I believe they are required to pay fines and perhaps the taxes on the interest that has accrued over the years, as well. I do not believe they get off the hook simply because they report that they should have paid a given amount but did not do so. Nevertheless, I am not an expert in the procedure that applies in Canada.

● (0910)

**The Chair:** Thank you.

Thank you, Mr. Paillé.

Mr. Wallace, the floor is yours.

[English]

**Mr. Mike Wallace (Burlington, CPC):** Thank you, Mr. Chair.

I want to thank our guest for being here today.

At the beginning of the meeting I mentioned to Mr. Johnston, who has written a book entitled *Up the Hill*, that I had read his book a number of years ago. It talks about life on the Hill, and it's a very

good read; I would recommend it to anyone. You can compare it with what is happening today.

What are you doing now, Mr. Johnston? When did you leave the OECD, and what are you doing now?

**Hon. Donald Johnston:** I'm doing several NGO-type activities. But professionally I'm a consultant to a foundation in Geneva, which is focused on education, health, and the environment, with the primary focus on Africa at the moment—Liberia in particular. That's about half of my time. The other half of my time I'm back as counsel to the law firm of which I was a founder in 1973. It was called Johnston Heenan Blaikie but is now Heenan Blaikie. I'm back there, and it has offices across Canada.

**Mr. Mike Wallace:** Thank you.

In your previous experience at the OECD, I believe, and I think in your opening statement today, you were trying to differentiate between tax evasion and tax avoidance, such that tax evasion would be illegally not paying taxes you're required to and tax avoidance would be proper tax planning to take advantage of the tax system to pay as little tax as possible without breaking the law.

Is that your view now? Was that the view at the OECD? Did that evolve while you were there? What's your position on the statement you've made in the past?

**Hon. Donald Johnston:** The attitude of the legislatures and the courts has evolved somewhat from the days of the Duke of Westminster case, which you may recall. That was an example, which was the classic case, of tax avoidance. I don't know whether any of you are tax specialists here. Then we began the role of asking what the intention was, and we know there's much more discretion given to tax authorities than in the past.

But tax avoidance.... If you contribute to an RRSP, that's a form of tax avoidance. Had you not done it, you'd pay tax on that money. When you rearrange your investments so that you can deduct your interest, that's tax avoidance. All of these issues are tax avoidance and are quite legitimate. Some, in fact, like RRSPs, are encouraged by the legislation. Others, when they become too abusive.... For example, I started the film tax shelters in Canada back in the late 1960s, and we produced some very good pictures, but that became.... Some of them were bothered by authorities, so they kept narrowing, changing, and so on to make sure that there was not tax abuse in that sector. And that's the way the law should operate, basically.

So the distinction is still, I think, quite legitimate between avoidance and evasion—evasion being fraud, really.

**Mr. Mike Wallace:** Another topic you've been quoted as speaking on is transparency. I believe your view—and you can tell me whether I'm wrong or not—is that what's important for governments around the world is that we communicate with other governments and that concerning information about individuals or corporations who happen to be doing business or having accounts in that area, transparency is the key to success in being able to track down the money of someone who is using those systems for tax evasion. We've been active in signing TIEAs or information exchanges. We have 11 signed and 14 on the go, or something like that or in that range.

What's your view of the role of the TIEAs that now exist? From your experience, do you see anything that we should be doing to either improve that system or be more active? Do you have any opinion on TIEAs?

**Hon. Donald Johnston:** I think you should be active on it. The important thing is to bring that process to a satisfactory conclusion. There will always be tax evasion; there's no question about that. There will always be fraud; there will always be bank robbers. The fact is that the progress that has been made, I would say over the last five years, from what I read and in my discussions with OECD officials, is really quite remarkable. I think it's been inspired by the fact that suddenly people realize we're talking not just about money at the margins but about billions and billions of taxpayers' dollars. Some of it, of course, also plays into corruption. We have another organization we created, the financial action task force, which has basically tried to identify money laundering, which could be from the drug trade, could be from gambling, trading in humans, counterfeit goods, all sorts of illegal activities.

All of this is getting, I think, better and better, but we still have a long way to go. I think the role for Canada is to continue to be very active at the OECD and in other fora, although I have a bias towards the work at the OECD, and especially the committee supported by Jeffrey Owens, and I'll tell you why. I mentioned all the committees we have, but the committee on fiscal affairs was manned by decision-makers at the bureaucratic level, people who could actually go back and make the difference. We had William McCloskey, who was head of the CRA—he actually chaired it. We had Joe Guttentag, who was one of the most senior in the Treasury of the United States; Gabs Makhoul, from the Treasury in the U.K.

These people were basically operating back in capitals at the decision-making level, making recommendations directly to the ministers, and to the Secretary of the Treasury in the case of the United States. In fact, you would meet them all together. Rubin and Guttentag and others would be there. These were the meetings you would have. It was the same thing in the U.K.

That's why that committee is so important. That committee is important because it will get things done. It won't just be somebody going back and making a report that gradually filters up through the bureaucracy on a particular subject.

So I lay great emphasis on the role that committee is playing and the role it has played. I think the results have been very effective.

• (0915)

**Mr. Mike Wallace:** Thank you.

Thank you, Mr. Chair.

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

We'll go to Ms. Hughes for seven minutes, please.

**Mrs. Carol Hughes (Algoma—Manitoulin—Kapusking, NDP):** Thank you.

I'd like to give the regrets of my colleague, Thomas Mulcair. He was really hoping to be here today, and unfortunately he wasn't able to be.

There's been a lot of hype on this, and rightly so. Basically, we've seen Canadians and corporations invest over \$80 billion just in the Cayman Islands, Barbados, and Bermuda. This government has been pushing through a lot of free trade agreements. There's some confusion or there are some questions about whether we should be signing trade agreements with countries who have turned a blind eye to this type of tax evasion. I'm wondering what your comments are on whether we should be. I think that when we are looking at trade agreements, we should not only be ensuring that they are fair, but secondly, we shouldn't be signing something with a country that is not going to abide by the rules we want to put in place to make Canada a better place in which to live.

I'm wondering what your comments are on that.

**Hon. Donald Johnston:** The question is a bit difficult, because you have to have trade agreements. I'm a great believer in multilateral trade agreements, as opposed to RTAs, as they're called, bilateral trade agreements. But the latter have become necessary because of the failure or slow-down in completing the Doha round of negotiations on trade.

Still, if you have a major trading partner and that major trading partner is encouraged to make its best efforts, for example, to clean up its corruption, tax, human rights, or labour laws, you can incorporate these conditions into the trade agreements.

We're venturing a bit afield here. We have the multinational enterprise guidelines at the OECD, and these are being more and more incorporated into trade agreements. The guidelines essentially require corporations to behave as good citizens of whatever country they are operating in. That's whether it's a Canadian company or an American company or whatever, and there's a system of sanctions and reporting. You're looking for transparency in their activities in these countries. But I think you have to be cautious about mixing the two.

We know there's a lot of corruption in some of the major economies of the world. Now, are you going to not sign a trade agreement with them because of that? That's a judgment the government has to make. I would not be in a position to second-guess what the government would do, but you have to be realistic about these issues.

That's why I'm so keen on the OECD's getting Russia at the table. Russia has a lot of internal problems. I tried to get Russia into the OECD, because when Russia's at the OECD, sitting at the table like this with other countries and people are pointing their fingers at them, they are much more apt to be moved to make some changes. You get things changed by engaging them rather than isolating them.

I'm not very enthusiastic about isolating countries or saying that we're not going to trade with them. I'd rather have them at the table and be able to constructively criticize their domestic policies. And that's what the OECD is very good at.

• (0920)

**Mrs. Carol Hughes:** I appreciate your frankness on this.

I think I still have some concerns. For example, a trade agreement is being signed with Colombia, and it is one of the many countries in which human rights abuses are known to take place. Yet so far nothing has been done to ensure that this won't happen. That's where my concerns lie with respect to that.

Moreover, the corruption within some of these governments is very difficult to swallow.

Could you elaborate a little more about what we should be doing to address tax evasion? I think that you touched on a few things. Right now, reductions are being planned in the CRA, and tax evasion is one of the areas where they do investigations. I know you're not the government of the day, but I'm wondering if you think it makes sense to cut back where we're looking to find dollars that are being hidden.

**Hon. Donald Johnston:** Those are probably questions for the Treasury Board to address, as I did when I was there. In other words, what is the optimum number of employees you need in a particular area of activity without prejudicing that activity? Perhaps there are other ways of addressing the same problem with less human power.

It's very difficult to judge. With the communication technology and ITC we have today—which didn't exist in my day—I would have thought that one could look to a lot of reductions and efficiencies and exchange of information with fewer people. But I don't know what the CRA is proposing to reduce. I just have no idea.

**Mrs. Carol Hughes:** But normally when you are investigating, especially when we're looking at this amount of money.... I mean, we're talking billions of dollars here.

**The Chair:** Just a brief response, Mr. Johnston.

**Hon. Donald Johnston:** We don't know how much money. That's one of the big questions, isn't it? I don't think anybody knows how much money we're talking about, but we're beginning to suspect that it's very substantial. And how much is being recovered out of the total mass through voluntary disclosure? I don't know if anybody has a handle on that either. You may have asked Jeffrey Owens that question, but from what I know, I don't think anybody can really tell. But most of us have been surprised at the amounts we've seen so far.

**The Chair:** Thank you.

Thank you, Ms. Hughes.

We'll go to Mr. Brison, please, for five minutes.

**Hon. Scott Brison (Kings—Hants, Lib.):** Thank you very much.

It's a pleasure to see you here today, Mr. Johnston, and welcome back.

Your work at the OECD was very important in terms of shaping the agenda and important to the OECD, and the OECD continues to provide a lot of good public policy ideas and input and guidance to public policy makers in governments here and around the world.

A question: during your time, the international mechanism that would have most likely looked at this kind of issue would have been the G-7. It would have been one of the bodies at the time. Today, with the G-20 having emerged as probably the most powerful forum for economic and financial reform post-crisis, do you believe the G-20 could play an important role in terms of this issue on international tax measures and governance?

• (0925)

**Hon. Donald Johnston:** I think on the G-20, judgment is still out in a sense. It has obviously a very significant role, because it brings all the big players together, but whether it can effectively play the role has yet to be seen. The G-7, in my experience, actually didn't really do much. It basically mandated others to do things, like the OECD. That's what the G-20 is saying. They're saying “we want you to go further with your work on harmful tax practices”, or “we want you to set up this financial action task force at the OECD to cover money laundering”, or “we want to change some of the procedures with respect to foreign aid”, and so on and so forth.

You don't expect the G-7, nor do I expect the G-20, actually, to have a very active kind of secretariat like the OECD, which is kind of becoming a secretariat in a lot of these issues. So the actual mechanisms of getting it done should come from there, but the political will has to come from the G-20.

**Hon. Scott Brison:** With the G-20 finance ministers, does the G-20 not represent a more binding authority in some ways than the OECD on this kind of matter?

**Hon. Donald Johnston:** When you say binding, in what sense?

**Hon. Scott Brison:** The capacity to actually bring in a protocol and enforce it in each country. The OECD has developed more into a public policy generator and advocate in some ways in recent years. Is the G-20 not more of a practical binding authority in terms of imposing on governments a common approach on issues like this?

**Hon. Donald Johnston:** I haven't been at any of the G-20 finance.... Probably I was at some of the earlier ones, but I haven't been at the G-20 summits. I don't know how that could be the case. At the G-7 it was not the case. What additional mechanisms have been introduced to the G-20 that would differentiate it from the G-8, for example? I am not aware of that. In other words, they—

**Hon. Scott Brison:** I think the crisis has created a bit of a role for the G-20 that wasn't probably as strong in the past. I think we've seen during the financial crisis a greater commonality of purpose. My understanding is, and in fact realistically, the G-20 has played a greater role post-crisis than the G-7 played during its period.

**The Chair:** You have one minute.

**Hon. Donald Johnston:** Well, I just don't know. Remember, we have bodies that execute. For example, at the G-20 meeting you have the OECD, the Royal Bank, and the IMF. You have the financial stability forums that—



**Hon. Scott Brison:** But there's a difference between bodies that can advocate policy and ones where finance ministers sit down, make accords, and say they're going to do this together. I think there would be a general consensus that the G-20 has emerged as a powerful vehicle in order to actually effect legislative change in individual countries that would create a consistent approach to issues like this, in terms of international tax protocol, for instance.

**Hon. Donald Johnston:** It would be good if that were the case, but I haven't seen it yet. For example, with the financial crisis countries have taken quite different views about stimulus programs, as opposed to tax cuts—

• (0930)

**Hon. Scott Brison:** But I would argue that there has probably never been a more coordinated approach to a national challenge.

**The Chair:** Thank you. We'll come back to that in the next Liberal round.

**Hon. Scott Brison:** We could follow...Geneva or something.

**The Chair:** Okay. We look forward to that.

Monsieur Carrier, *vous avez cinq minutes, s'il vous plaît.*

[Translation]

**Mr. Robert Carrier (Alfred-Pellan, BQ):** Thank you.

Good morning, Mr. Johnston. I am not an expert in finance. I am a member of Parliament, and my focus is my constituents. I would like you to give me some insight into a few things. Alain Deneault, a researcher who appeared before the committee on Tuesday, told us that Canada was considered an ally of tax havens. That impression comes from outside the parliamentary realm.

**Hon. Donald Johnston:** How is Canada perceived?

**Mr. Robert Carrier:** It is perceived to be an ally.

**Hon. Donald Johnston:** An ally?

**Mr. Robert Carrier:** It is seen as an ally of tax havens or a collaborator, if you will, with these countries in encouraging tax evasion. He also told the committee that the Quebec government alone was losing 5% of its income as a result of tax evasion.

We also heard from Brigitte Alepin, a chartered accountant specializing in taxation. She said that Canadians had invested an estimated \$146 billion in tax havens in 2009.

I find that very discouraging. I want to know whether you share the view that Canada is an ally of tax havens, or whether you see that as a false impression of us. I would like to hear some of your thoughts on that.

**Hon. Donald Johnston:** As a Canadian taxpayer, I am not under the impression that I live in a tax haven.

**Mr. Robert Carrier:** I said ally.

**Hon. Donald Johnston:** You said we were an ally.

I have a number of thoughts on that. I would like to know how she came up with that figure of \$146 billion invested in tax havens. And where does the estimate that Quebec lost 5% or 4% in income come from?

People who present those kinds of figures have to back them up. That is impossible. How could she know how many Canadian dollars are invested in Andorra, for instance?

I cannot comment on those figures. I do not feel that Canada encourages tax havens. Period.

**Mr. Robert Carrier:** Just as an example, given that we are short on time, as you well know, Canada's five largest chartered banks state in their reports how much money is invested in tax havens. And that total is \$1.3 billion. That is the estimated amount of tax income that the country has lost. So that is a known figure. There are many others we do not know, as you said. We do not know the whole story, but the banks themselves estimate the figure to be \$1.3 billion, according to their reports. That is how much companies have saved by using tax havens, by using the subsidiaries of Canadian banks. So that is a known direct incentive being used by financial institutions to encourage investment in tax havens.

On Tuesday, Ms. Alepin told us that international agreements are necessary in order to do anything about tax evasion and that it is difficult to take a unilateral approach.

I want to know whether our hands are tied. Why is it that Canada cannot take action to improve the situation and reduce investments in tax havens?

[English]

**The Chair:** Mr. Johnston.

[Translation]

**Hon. Donald Johnston:** I would imagine that the investments you are referring to—lost income, as you put it—likely come from sources outside the country, for the most part. The banks have subsidiaries in the islands of Jersey, Guernsey and so on. That money is derived from activities that are not Canadian, activities that take place outside Canada.

So, if Canada were to change the law to create a tax with what I mentioned, income that was not generated through a business activity would be taxable here in Canada. But when you have a bank operating in Africa and making profits in Africa, should those profits be subject to Canadian taxes? I think not, but that could change.

It is up to you to decide and to make recommendations.

• (0935)

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

Ms. McLeod.

[English]

**Mrs. Cathy McLeod (Kamloops—Thompson—Cariboo, CPC):** Thank you, Chair.

I appreciate your presentation today. It certainly brings much expertise to the table.

First of all, I want to pick up on two comments, and perhaps this is as much a comment as a question. We talked about the capacity of CRA. I think Ms. Hughes indicated that we had fewer people on the job. You talked about there certainly being money out there. There are diminishing returns as you increase, and there are opportunities with new technology. I think, for the record, that the CRA's aggressive tax-planning program has doubled. The number of full-time employees working on international audits is up 44%, and an additional \$30 million has been allotted to combat international tax planning. Last year we actually retrieved \$1 billion in unpaid taxes.

I really appreciated when you commented that we need to achieve that balance in terms of, yes, perhaps more resources. But where is that right balance? Hopefully we are working towards making sure that we achieve that. I don't know if you have any comments.

The other comment I really want to pick up on also is that Mr. Owens said that we know that the number is big, and we know that we just need to deal with it and go after it rather than focus on a lot of quantification. Our colleague from the Bloc suggested that it's quantified. Could you talk again about the challenges of quantifying? Do you perhaps share that perspective of Mr. Owens that it's out there, it's big, and we need to proceed?

**Hon. Donald Johnston:** I can't really add much to what Mr. Owens said, because I don't have any personal knowledge of it.

I've actually followed the activities of this particular debate quite closely. I have felt that taxation is so fundamental in so many areas that I've engaged in it myself, historically. How can we tell how much money, such as these numbers we're hearing here, are out of those tax havens? We don't know.

The whole purpose of Jeffrey Owens' work is to create these taxation information and exchange agreements that the G-20, which Mr. Brisson has told us are significant.... I think the pressure from the G-20 is very significant in ensuring that these other jurisdictions that are so dependent upon the G-20....

I mean, Switzerland was very difficult, for example. Switzerland has moved a long way in the last few years. Now, why is that? Well, it's because Switzerland has a lot of interests other than just the banking sector and other than just bank secrecy, and so on. It's because of the pressure from European countries, the United States, Canada, and others that these countries will come around. That's what has to happen. The pressure must come from outside, and it is. It's happening. But as Mr. Owens probably told you, it's not complete yet. Everyone is off the blacklist, but that doesn't mean that everybody is conforming to the tax information exchange agreements. That's why there's an audit that goes on. There's a whole series of criteria that are applied to determine whether they are conforming.

I would say to give it a couple of years and see how much progress we make. If you collected a billion dollars last year, maybe you'll collect another billion this year. I mean, I don't know. But we're talking serious money. We do know that.

**Mrs. Cathy McLeod:** You have indicated that every country now is off the blacklist. It sounds as if there are a few countries that, perhaps through lack of monitoring or through lack of will, have not

passed some of the phase one and phase two audits. But there is certainly pressure on them to up their standards.

• (0940)

**Hon. Donald Johnston:** That's my understanding. Again, I'm four years out of the OECD, so I've basically just been following the traffic on this, as you and others have. I have seen the blacklist has now gone, but that doesn't mean there are no deficiencies. I think there are a lot of deficiencies in the report that was put forward two years ago. There were still a lot of.... They all were off the blacklist, but a lot of countries were still having difficulty conforming to some requirements. For example, in some jurisdictions it's very hard to tell who the beneficiaries are of certain bank accounts, trusts, and other arrangements of that kind, and that work must continue.

**The Chair:** Okay, thank you.

We will have time for another round, Ms. McLeod.

We'll go to Mr. Pacetti, please.

**Mr. Massimo Pacetti (Saint-Léonard—Saint-Michel, Lib.):** Thank you, Mr. Chairman.

Thank you, Mr. Johnston, for coming forward.

We had Mr. Owens from the OECD, and I think Ms. McLeod was asking the question.... Correct me if I'm wrong, but when you were part of the OECD it was more of an exclusive club where you said you were not going to do business with those who didn't have the same regulations or rules as we do. What I'm understanding from Mr. Owens is it's more inclusive now: if you want to do business with us you have to conform to us. Am I understanding that correctly? Has the attitude changed?

**Hon. Donald Johnston:** I don't know. I think this goes back to a question that Ms. Hughes raised about not doing business or trading with a country because it's not meeting your standards in taxation. The OECD used to be called the rich man's club when I joined it, which was a bit of an exaggeration, since Turkey had been a member from the outset in 1960, and of course we had other countries coming on.

The OECD's reach has extended enormously in the last 10 to 15 years. When I was there, there used to be 28 countries, then I received Poland and Korea and Slovakia, I guess; that meant three, 27 up to 30. Now more have been added. But apart from the ones that were added, this global forum that I expect Jeffrey Owens spoke about, which we created in 2000, something like 95 countries are involved in this global forum. So we're talking now about the bulk of the world's GDP that's represented at the forum.

Those countries are the ones that are taking on these understandings, these obligations, these agreements, and these tax information exchange agreements. The impression he might have left is it was a small club initially that was mostly trading among themselves. Among the OECD members they were about 60% or 70% of GDP, but then of course that all changed with China, India, and others coming on. Now, of course, it's a much broader base, and that means many more countries—

**Mr. Massimo Pacetti:** In your opinion, global uniformity is better than exclusivity?

**Hon. Donald Johnston:** Global uniformity in terms of transparency, yes, not in terms of tax rates, but in terms of—

**Mr. Massimo Pacetti:** Why not in terms of tax rates?

**Hon. Donald Johnston:** Why not?

**Mr. Massimo Pacetti:** Yes.

**Hon. Donald Johnston:** Because that goes right to the fundamentals of what each government sees as best for its people and keeping its country in balance. For example, you take a country like Denmark—very high personal tax rates, but not high corporate tax rates, so it does get a considerable amount of foreign investment.

The other side of that coin is the Danish minister came to me and said their tax rates were the same as the United States. I had the sheet in front of me that showed they were only second to Sweden. I asked how he established that. He said if you live in the United States and you're a middle-income earner who wants to send your kids to university, you have to pay for it; you want to have health care, you pay for it. He said you add up all of that and in Denmark we pay for it, so at the end of the day the amount of disposable income left over for other purposes is the same; and he had a chart to show this. I thought that was very interesting, but I pointed out to him that the American did have a choice.

That's why I say you can't have uniform tax rates. Every country will have its own particular approach.

**Mr. Massimo Pacetti:** Just in terms of your experience and with technology, I asked the panel this week, are the ever-changing technologies helping government or are they helping the rule-breaker?

● (0945)

**Hon. Donald Johnston:** I don't know. I certainly think it's making government more efficient. Here in Canada you can file your tax returns online. I think it's made a huge difference in terms of cost.

**Mr. Massimo Pacetti:** I have another quick question in terms of voluntary disclosure. You mentioned that it would be quicker if we allowed tax evaders to declare their income, but was there ever any analysis made in the past to determine if it's a worthwhile exercise? There are some countries in Europe that have charged a flat rate, whether that be 10%, 15%, 20%, or 25%, and they have gotten good results, but it's been, as you said, a temporary spike in revenues for the government.

**Hon. Donald Johnston:** I don't have the answer to that question either. I think we could all hope that this period we're going through is a transitional period to a point where the amount of funds in these tax havens will be virtually eliminated.

The Italians did it, I think, first. Italians were invited to repatriate capital, with a very favourable tax rate, from Switzerland, which they did, and it worked. Now, how many didn't and still have it there? Who knows? That's the point. I don't think we really know, but if you take a picture in time, we're a lot better off today than we were 20 years ago.

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

We'll go to Ms. Glover, please.

**Mrs. Shelly Glover (Saint Boniface, CPC):** Thank you, Mr. Chair.

I do want to welcome you and state that it is an honour to meet you. We truly appreciate everything you've done in your various roles.

Today, in particular, you've made some comments that have really made us think about what we're doing in investigating the tax haven issue. One of the comments you made was about whistleblowers. I'd like to share with you a few of the things that CRA has done to work on this issue and then get your comment about whistleblowers and about the voluntary disclosure program.

If you would allow me, one of the things that Canada has done extensive work on is these tax treaties that have been mentioned before, and of course it was our Minister of Finance who announced in 2007, during the budget, that these treaties would now have revisions that must include the new OECD standard for exchange of information, which is important and reiterates some of the comments you have made.

Another thing the CRA has done is that they now have centres of expertise across Canada with senior audit professionals and specialists in international tax and tax avoidance. Last year, as Ms. McLeod mentioned, the CRA was able to uncover over \$1 billion in unpaid federal tax from Canadian taxpayers involved in aggressive international transactions.

The last thing, which you also touched upon, was that the voluntary disclosure program leads to disclosures. The CRA received almost 3,000 international voluntary disclosures last year, and it steadily increased over the past five years.

Going back to the whistleblowing and the voluntary disclosure program, can you tell me what your opinion is of the voluntary disclosure program? Can you just clarify how that works?

**Hon. Donald Johnston:** I can only give you my opinion. The OECD would know. I don't know that every country is dealing with it in exactly the same manner, but I'm told there's an effort at that committee, at the OECD, the committee on fiscal affairs, to establish approaches they all agree upon.

I think the whistleblower is important for psychological reasons, even though the governments in question.... The Swiss authorities are trying to prosecute because he broke bank secrecy rules in Switzerland. I think many people who might have funds in these offshore jurisdictions, who have always thought they were safe and that bank secrecy would protect them, woke up one morning to find that they might be subject to exposure through a whistleblower. This is in Switzerland, in this case, which is a place of high repute, very high banking standards and so on. This is only my opinion, but I think the fallout from that has probably been very positive in pushing people to make voluntary disclosures, because they say, "If I don't make a voluntary disclosure, maybe a whistleblower will nail me. Maybe I'm on that list. Maybe the authorities already know about me." That is the kind of thing that I think has been important.

I don't know how all the countries are dealing with it. On the last one I read, the one about HSBC, there were something like 7,000 French names on that list, and I don't know how the French authorities are dealing with it, but I do know, from the reports, that very few of those names have actually disclosed their holdings or this income to the French authorities.

Some people are anti-whistleblowing. Some are in favour of it. If you ask my opinion, I think it's had that effect in this instance.

● (0950)

**Mrs. Shelly Glover:** Very good. Thank you.

I appreciate that. I read the article on the same incident and found it very interesting how it progressed and how the whistleblower was dealt with at the end. I appreciate your comments on that.

You've indicated that over the last five years there's been remarkable progress. Can you tell me what you feel is Canada's most significant action during those five years?

**Hon. Donald Johnston:** Well, I don't look at Canada as being the problem. I think Canada has been part of the solution by being active on the dossier internationally.

This supports Mr. Brison's point that Minister Flaherty has said these rules are now going to be incorporated in all these agreements. Maybe that flows out of his discussions at the G-20, which is a good thing.

That would be positive, but I think Canada has continued to play a very significant role at the OECD and in other fora. That's basically the best thing Canada can do.

[Translation]

Canada is not the problem.

[English]

in this area.

**The Chair:** Thank you.

Thank you, Ms. Glover.

We'll go to Mr. Szabo again, please.

**Mr. Paul Szabo:** Thank you.

I'm reading here about the UBS situation and Igor Olenicoff. In 2006 tax investigators found that he had 11,000 houses and a large collection of high-grade offices, but they gave him less than 30 seconds to make his mind up about whether or not he'd become a whistleblower and let the cards come down.

It strikes me as a case where it's in front of your face, and a lot of people are involved, and a lot of people know, yet it took literally years to make even the progress they have made.

I wonder why it is that within our culture, where it's in the best public interest to reasonably address the tax evasion issue, we cannot see what's in front of our face. I'm wondering whether or not the jurisdictions.... For instance the Canada Revenue Agency has estimates on the underground economy and other things, but we very rarely see any progress in terms of breaking down some of

these. We cannot be isolated and immune from participating in this stuff.

The example of UBS is an extraordinary one, but there are a lot of people who are culpable and complicit in what's going on, and that includes people within banks, within law firms, within accounting firms, within consulting firms. Yet there seems to be acquiescence on the part of government and on the part of OECD not to be aggressive. It seems this is why we haven't dealt with the problem.

What's wrong with my hypothesis?

**Hon. Donald Johnston:** I don't know what's wrong with your hypothesis.

Basically, what you're saying, I think, is that there are a lot of tax fraudsters out there, and there's a lot of assistance from professionals and banks and so on. That takes us back to the issue of evasion and avoidance to some degree. In my experience as a practitioner, I did not see a lot of evasion. In fact, I think lawyers, accountants, and others in large, respectable firms will be the first to tell their clients that they'd better make a voluntary disclosure, for example. I've seen a lot of that, recently, that the client has confessed to having these assets offshore.

I don't know if they bear discussion here, but I think we have to recognize that there are many countries in the world—especially eastern Europe, Russia, and so on—that, when the Iron Curtain dropped, had no tradition of paying taxes on a voluntary basis. I've spoken to the Russian tax authorities. Here, we grow up with a culture that if you have income, the onus is on you to declare it. The onus is not on the government to discover it. If they discover you haven't declared it, then you have a problem. But basically, our system operates on the basis that we around this table declare what our income is. There was no tradition of that in the old Soviet Union or in the eastern European countries under communist rule. Those people had a totally different attitude towards it. Then all of a sudden it was “what is this business of taxation?”

In fact the Russian authorities told me they didn't even know who the taxpayers could be. It's an extraordinary situation. We have to rebuild from that base.

Of course that lends itself to probably an enormous amount of tax evasion in those countries. Much of that money might have found its way into jurisdictions like Switzerland, Cypress, and elsewhere.

Canada's in a bit of a different situation. Sure, there are bound to be levels of tax evasion and an underground economy. We all do estimates on that. But by and large, I think our system functions pretty well.

● (0955)

**The Chair:** You have 30 seconds.

**Mr. Paul Szabo:** So Canada's good old boys.... But the fact remains that with the challenges we face and the demands for resources for health care, pensions, and helping those in most need we continue to fall short, but we're not prepared to go after what we know intuitively must be an extraordinary amount of money. I'm concerned that what you've basically said now is that we're self-assessing as individuals—it's the honour system, as it were—and Canada Revenue Agency is just there to check off what we're prepared to declare but not prepared to invest in investigation. Why is that?

**Hon. Donald Johnston:** They do. They put you subject to audit occasionally; you'll find companies that are subject to audit. But I think those questions are best addressed to the CRA. I'm sure they would be likely to disagree with you. They probably would say no, they follow pretty closely these issues. I don't know what they're doing.... I presume the committee would like to hear from them about the Canadians on the list, for example, that came out of HSBC. What actions have they taken? Initially I read that they weren't doing anything, but I don't think that's the case. I can't imagine that being the case in any of the countries. Those would be good questions to put to them.

**The Chair:** Thank you.

Ms. Block, please.

**Mrs. Kelly Block (Saskatoon—Rosetown—Biggar, CPC):** Thank you very much, Mr. Chair.

I would like to welcome you, Mr. Johnston, to our committee this morning.

I have really appreciated the testimony you've given, and I do want to thank Mr. Paillé for recommending this study to our committee. I think it's been a very interesting study for us to pursue as it is a very important issue and one that I believe our government takes quite seriously, as demonstrated by the leadership of Minister Flaherty and the leadership he has shown in getting G-20 members to crack down on tax havens.

My colleagues mentioned that Canada has an extensive network of tax treaties, one of the largest in the world, with 87 treaties in force. It was also mentioned that currently there are 11 signed TIEA agreements, with 14 under negotiation. I just want to follow up on a couple of comments made by my colleagues across the way. These are the comments by Mr. Szabo, when he talked about if you have a tax treaty does it follow that you would have a TIEA in place, and then the comments Ms. Hughes made in regard to free trade agreements and whether we should be signing free trade agreements.

I'm wondering if you would comment on the relationship, if any, there is between a free trade agreement, a tax treaty, and what might fall into a TIEA.

• (1000)

**Hon. Donald Johnston:** That's a fairly searching question. I can imagine some relationships between trade and tax treaties because of the double taxation mechanisms that exist and also the very important issue that we didn't talk about, transfer pricing. Transfer pricing is another critical contribution of the OECD to basically the revenues of various countries, because if you're a manufacturer.... As you know, for any major manufacturer today the finished product is

probably sourced with materials from any number of countries. So the corporation in business obviously has a motive to maximize the profit in that transaction realized in the country of lowest tax. That's why the transfer pricing mechanisms are so critical today, and because most international trade is intra-corporation, as well. So when you put those two things together, you do see a relationship between, for example, the treatment under taxation treaties, double taxation conventions, the use of transfer pricing mechanisms and trade.

I think that Ms. Hughes' question was a bit different. It was should we have a trade agreement with a country with whom we have fundamental disagreements on human rights or the drug trade or whatever else? That's a question that has bedeviled us for years in Canada, whether it's China or Cuba or whatever. One of the questions I always asked myself when I was in politics is will it make a difference if we don't? In other words, are we better to have it, or if we just say we're not going to deal with you, is that going to change their domestic politics? That is something you have to reflect upon. I know there have been two points of view expressed on that within our various parties in Canada. I think it's a cross-party issue. I don't think you could say that this is something that any party has a firm view on. But it's a very interesting and tough question to answer.

On the other, I agree. I think there is a relationship that one can draw to the extent that if you have a trading agreement it means you've got trade both ways, hopefully, and therefore you have to ensure that each country receives its fair share of the tax dollars that should be generated by the profits from that trade.

**Mrs. Kelly Block:** Thank you.

I do have another question.

**The Chair:** Very short.

**Mrs. Kelly Block:** At the beginning you talked about bank secrecy. You stated that what we need is transparency. I'm wondering if you could comment quickly on, in your opinion, how effective the tax information exchange agreements are in increasing tax transparency and decreasing bank secrecy in tax havens and offshore financial centres.

**Hon. Donald Johnston:** For that, you're going to have to wait for the review process. There's a review process under way. We all know that you can sign any number of agreements. The real issue is compliance. Are the countries living up to obligations they undertake?

This is going to be done through audits, and those audits will probably draw upon contributions from NGOs and others that are watching what's going on in these various countries. So I think it's difficult to say. The groundwork is there, but you all know that an agreement of any kind, legislation of any kind, is really meaningless until you see how well it's being applied.

**Mrs. Kelly Block:** Thank you.

**The Chair:** Thank you Ms. Block.

We'll go to Ms. Hughes again, please.

**Mrs. Carol Hughes:** Thank you.

I certainly appreciate the comments from my colleagues across the way. Ms. McLeod indicated that it's important to find a balance, and I think this is exactly the point I was actually making a while ago. It was about finding a balance on whether you should be removing investigators that are actually making a difference.

Let's just look. In 2008-2009 there was \$7.4 billion that was actually recovered. I think this is an excellent return for the investment we have in having investigators there. So it's evident that investigations so far indicate that.

As you've mentioned as well, the loss of taxes to Canada is extremely substantial. That's what you've indicated, that you can only estimate that it's actually extremely substantial. Based on the amount of money that these investigators did find in 2008-2009, it's very evident. At the end of the day, it's really the honest taxpayers who are being shortchanged.

This loss of revenue impacts on the government's ability to provide public services such as health care, education, and job creation. For every dollar not collected, it actually means a dollar that someone else has to pay or a dollar that has to come out of the programming of the public services.

In the United States, they actually publish where the revenues are lost each year. They've indicated at one point that there was \$100 billion in revenues lost, and this is to tax havens. So do you think this is a good practice, an effective way to ensure that government is actually transparent?

• (1005)

**Hon. Donald Johnston:** I'm sorry, which part of that...? Do you mean the publication?

**Mrs. Carol Hughes:** Yes.

**Hon. Donald Johnston:** Well, they just published a gross number that they thought was lost in tax havens. I don't know how that contributes to government transparency. Transparency may sound like a well-worn phrase, but I happen to believe that it's the most important single thing in government—in fact in everything, and certainly in tax matters.

The more information that's out there for the public, the better. You made a point that I think is a very important one. Those people who are basically shortchanging the revenue authorities here—illegally, in other words, fraudulent dollars—are basically taking money out of your pocket. It's either coming out of the programs you said... The programs that you want to finance are either short-changed or the taxes are too high to finance the programs because they'd be supplemented by this income. In the past, and that's what I said earlier, everyone thought it was so marginal that it didn't really matter very much, but maybe it matters a lot when you start looking at these numbers. These are substantial numbers we're talking about.

To me, it's reprehensible that I should be paying their taxes, basically, or that you should be paying their taxes. We're all paying their taxes.

**Mrs. Carol Hughes:** I think the impact is even greater when it comes to the dollars that are actually being taken out of the services that are being provided. We know that this actually affects the most marginalized people in society. Our point of view is certainly that we need to ensure that there is a better process put in place, that there's

transparency, and that we look at enforcement and tougher regulations.

I just want to go back to a couple of comments you've made with respect to.... You've talked about a review process, you've talked about a financial task force. I'm just wondering if you can elaborate basically on the review process, the terms of that in the timelines, and then on the financial task force. If you could elaborate as well on their mandate and basically the entity of it, I just want a little more information on that.

Thanks.

**Hon. Donald Johnston:** Well, on the latter part, I can't really comment on the audit process, except that it exists. I mean, the OECD has probably published the reviews that are going to take place. They have, I think, a 30-man committee, which is broken down into various groups that are responsible for conducting these reviews of the TIs, or the taxation information exchange agreements. Are they being adopted? Are they being enforced? There will be a report made to the G-20 on that.

So that's the first part of the question. On the financial task force, I mentioned in passing the financial action task force—if that's what you were referring to—which was created also, I think, at the Lyon summit. It was tabled at the OECD. It was like CSIS, kind of a black box, because it was essentially working with the police authorities and others on money laundering. The whole idea was to try to get banks and others...because they also do audits. They go in and say, "Do you know your customers? Where did that money come from?" They try to work their way back up the chain to find out whether it was illegal money that was being transferred into some of our financial institutions, or whether fences were being used to get it out in public. We never really had any detailed information from them, because they regarded their work as very secret.

**The Chair:** Thank you.

Thank you, Ms. Hughes.

We'll go to Mr. Brison again, please.

• (1010)

**Hon. Scott Brison:** Thank you again, Mr. Johnston.

Our trade agreements today include strong provisions on labour rights and environmental responsibility. Should we be fortifying areas around transparency, either in the main bodies or through side agreements, and are there examples of trade agreements that have included these measures that you can point to?

**Hon. Donald Johnston:** I really can't respond to that in terms of transparency. I'm not sure how you would work that into the trade agreements.

**Hon. Scott Brison:** Well, if you could work...and currently countries do include chapters on labour rights and chapters on environmental responsibility that are actually quite robust in terms of punitive measures if either of the two countries fail to meet the agreed-upon standards. If countries can include in their trade agreements measures on the environment or on labour rights, I would posit that they ought to be able to do the same with measures on transparency, particularly transparency around tax measures, as an example.

**Hon. Donald Johnston:** I would imagine, though, Mr. Brison—I don't know, because I don't purport to have expertise in this area, but I would imagine that nearly all the countries with whom you negotiate trade agreements you also have taxation conventions with.

So that is the complementarity. I mentioned earlier the issue of, for example, transfer pricing and exchange of information. That exchange of information, in article 26 of your conventions, should cover that point—I think; it would be best to have someone in here from trade or from revenue to talk to that.

That said, I would have thought that they would regard those two as being complementary packages.

**Hon. Scott Brison:** I believe when you were at the OECD, the OECD led the charge with the MAI, the multilateral agreement on investments. Could a vehicle like the multilateral agreement on investments help achieve greater transparency and help provide additional tools to fight, for instance, inappropriate tax measures or actions or evasion?

It strikes me that the New Democrats, I believe, and perhaps some of their sister parties in other countries, played a role in opposing the MAI, but would the MAI have potentially helped strengthen governments' multilateral capacities to act on this issue?

**Hon. Donald Johnston:** I think so.

The work done leading up to the failure of the MAI became a very substantial and important piece of work in terms of the investment provisions that have been introduced elsewhere and have been working through the WTO and so on. All of these are very important instruments. You have investment provisions in the FTAs, NAFTA, and so on.

I don't know the individual agreements sufficiently well, plus it's not something I spend a lot of time looking at. But as you know, there's been a huge proliferation of what they call RTAs, regional trade agreements, which are bilateral trade agreements. That's because, as I mentioned earlier, of the slowdown of the Doha round. I think all of those will have investment provisions.

**Hon. Scott Brison:** And all of those agreements have more robust provisions on areas outside of the traditional realm of trade than was the case in the past. The recent free trade agreement between Canada and Colombia had the most robust provisions on both labour and environment of any trade agreements Canada has ever signed, and any trade agreements signed between two countries. There's an evolution toward including more in the trade agreements.

It strikes me that's one of the areas the committee could look at; that is, whether tax protocols and transparency could be important ways to ensure that economic engagements can actually facilitate greater governance.

●(1015)

**The Chair:** Very good. Thank you for that.

[*Translation*]

Mr. Paillé, you have one minute to ask your question.

**Mr. Daniel Paillé:** I quite like Ms. Block, but I am leery when she expresses appreciation.

You said you were leery of the total amount. Tax evasion activities were said to represent  $x$  billion dollars. I agree with you, because if we knew the exact amount, we could go after it.

You brought up political will. You mentioned organizations such as the G20. Does it not depend on the leadership of the current G20 chair?

For instance, Mr. Sarkozy showed a great deal of leadership when it came to cracking down on tax evasion, while others spent more time planning lakeside parties.

**Hon. Donald Johnston:** Absolutely. President Sarkozy will likely push through many reforms in all these areas, as I was reading today. I think he and Angela Merkel will, to some extent, solve these issues, which have both tax and monetary implications, within the European Union.

I am impressed by Mr. Sarkozy's enthusiasm and creativity.

**Mr. Daniel Paillé:** But when Canada is in command, we plan parties.

**Hon. Donald Johnston:** Canada's commander-in-chief? Are you referring to the Governor General?

**Mr. Daniel Paillé:** No, I am not referring to your namesake, the Governor General.

Thank you very much, Mr. Johnston.

[*English*]

**The Chair:** Mr. Johnston, thank you very much for being with us here this morning. We appreciate your comments and your responses to our questions, and for the very informed discussion.

Colleagues, we will suspend for a minute or two and then we will return with committee business.

●(1015)

\_\_\_\_\_ (Pause) \_\_\_\_\_

●(1020)

**The Chair:** Colleagues, we are continuing our discussions with respect to committee business. We have a motion from Mr. Brison.

Just before I go to that, I think I have consent from all four parties.... The Parliamentary Budget Officer, Mr. Page, cannot appear on February 10, so I think I have agreement that he will appear on February 15. He will appear for one and a half hours, and then we will have the economists for one and a half hours. So we will have a three-hour meeting on Tuesday, February 15.

On February 10 I would like to have a subcommittee meeting instead at that time. It will probably take only one hour.

Is that agreed? I take that as consent. Thank you all.

We now have a motion by Mr. Brison. We all have your motion.

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

I will just speak briefly to the motion.

We all recognize that we have a constitutional responsibility as members of Parliament to scrutinize the estimates. The cost estimates for the justice legislation obviously must have been prepared before the legislation went to cabinet. Cabinet has made a public decision to support that legislation, but we are denied as legislators the opportunity to determine our support with that information.

The cost estimates are not covered by cabinet confidence because at the end of the day probably the greatest responsibility of Parliament is to scrutinize and oversee the public purse and ensure that tax dollars are spent wisely. Cost estimates are used by each department in ways that are not directly related to cabinet, and as such are not covered under cabinet confidence.

As another example, the projections of corporate profits before taxes and effective corporate income tax rates are used by the department in ways that are not directly related to cabinet and are not covered by cabinet confidence. I have a precedent on this, and not only one precedent. There are innumerable precedents on this.

If you go to November of 2005, the economic and fiscal update, the last one during the good old days, on page 83 of the economic—

**Mr. Mike Wallace:** When you were a Conservative? I can't remember. Were you a Conservative in the "good old days"? I can't remember.

**The Chair:** Order. Mr. Brison has the floor.

**Mr. Mike Wallace:** Sorry, Mr. Chair.

**Hon. Scott Brison:** I think we should contact Public Works. There seems to be a loose shingle on the roof or something, Mr. Chair.

On page 83 of that document, we have in fact a table with, quite clearly in that document, corporate profits before tax, which is the same figure we're seeking now. The previous government, before given our sabbatical, felt free to provide that information to the public. In fact it was the appropriate measure, and in fact there was not cabinet confidence.

So previous governments provided the exact information that this committee has sought in this case and that in fact has been requested by the Parliamentary Budget Officer. The government has had two and a half months to provide to the committee a reasonable response, and it has not done that. It's time that it go to the Speaker, to the House, for its determination.

We had a further response. We've had some dialogue with Finance Canada on this. On December 10 we had another response, and again the Department of Finance said that to the best of its knowledge, the Department of Finance had determined that projections of corporate tax rates before taxes have not been previously disclosed.

As I just demonstrated, in fact that's not the case. That has been done by previous governments, and I suspect under both Progressive Conservative governments in the distant past and Liberal governments. Both felt compelled to provide this information and did not

use the foil of cabinet confidence as a means to deny parliamentarians the opportunity to do our work.

My motion, other than that, is self-explanatory.

● (1025)

**The Chair:** Thank you for that information. I didn't know a sabbatical could be five years, but I did learn that today.

I have Ms. Glover and then Monsieur Paillé.

**Mrs. Shelly Glover:** I want to comment briefly on a statement that was made by Mr. Brison, who said that there are a number of other precedents. First of all, I'd like him to share those precedents with us. Page 83 is perhaps the closest, but it is not at all the same request that's being made. That is the only one I could come across. As I'm new to this committee, perhaps he could enlighten me on others that have been provided. I'd be glad to look at them.

However, what Mr. Brison is suggesting is that he wants some information that could easily be provided by the officials. And in discussions with Mr. Brison's office, we have arranged that the officials could be available Tuesday morning to appear before the committee for half an hour. I think the most prudent way we could proceed—I would suggest this, and perhaps Mr. Brison could consider it and get back to us—would be to meet with the officials, ask them the questions that are relevant, and then proceed with the motion vote.

Frankly, I think much of this could be cleared up if we had the officials here. And that was what was discussed between Mr. Brison's office and mine. I would suggest that this is the more prudent way to go. I'm going to repeat that the page 83 that was referred to is not at all, in my view, what Mr. Brison was asked for, and it is the only example that he has provided. If he has others, I'm happy to hear them.

**The Chair:** I'm going to go to Monsieur Paillé first, and then I'll come back to you.

Monsieur Paillé.

[*Translation*]

**Mr. Daniel Paillé:** Ms. Glover, I must say I am glad you consulted Mr. Brison's office. However, your predecessor would also consult the Bloc Québécois and the NDP, and we were not consulted on this.

Next Tuesday, we will be up to our eyeballs in work. Witnesses will be appearing, and I do not think it is a good idea to disrupt our agenda simply because they think they know the truth. We have a schedule, and we will follow it.

Mr. Chair, I agree with you about the length of the sabbatical. Normally, a sabbatical happens once every seven days. I am afraid it will last seven years, in the case of this government. We will see.

**An hon. member:** Oh, oh!



Mr. Chair, the Speaker of the House made a clear decision that when it involves documents related to Afghanistan, Parliament was more powerful than the government, which is how it should be in a democracy. It is easy to see what happens in other parts of the world when a government decides it is more powerful than Parliament.

Here, we believe that Parliament is always more powerful than the government, and so we have adopted this resolution to obtain this kind of information. With the communication technologies we have today, the issue has nothing to do with the ability to provide the information, but has to do with the government's desire not to. So the political will is not to provide the information.

We are opposed to that kind of an approach. And that will always be our position regardless of the party in power. I hope that Mr. Brison will also take that position when he is a member of the government, should he live long enough to see that day. We will see.

But, as for today, we support the motion put forward by Mr. Brison and believe it should be adopted immediately.

[*English*]

**The Chair:** Merci.

I have Mr. Brison and then Mr. Wallace.

**Hon. Scott Brison:** I'm fine with hearing Mr. Wallace.

**The Chair:** Okay, we'll go to Mr. Wallace.

**Mr. Mike Wallace:** Do not confuse me with Mr. Brison. He's a nice guy, but don't confuse me with him. I'm not crossing any floor.

**Hon. Scott Brison:** That's a big distinction: I'm a nice guy. You'd never confuse—

**Mr. Mike Wallace:** I know where I stand.

I'm prepared to vote against Mr. Brison's motion. We've made a commitment. The parliamentary secretary made a commitment to bring officials here.

We have an answer back that these are cabinet confidences. That was the response we got based on the motions that were passed. He doesn't like it, he doesn't approve of it. He was the minister at one time himself. I'm sure there were times when there were things discussed in his cabinet that were confidential. He would not have wanted those expressed at committee. We have offered to bring staff here to explain why they are cabinet confidences and what the ramifications would be. They're not interested in that. The story we hear is that they want Parliament to work and work together, but they don't want to hear arguments. If they don't like the answers, they don't want to know why those answers are there.

I think we should just vote on this. Our side will likely be voting this down, and not supporting his motion, and that will be the end of the day.

Thank you.

• (1030)

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

I have Ms. Hughes, and then I, as a chair, have one question.

[*Translation*]

**Mrs. Carol Hughes:** I think it is clear that the government does not seem interested in being transparent or ensuring Canadians know what is going on. I was not consulted regarding the government's position or the suggestion that we invite government officials to appear, and I am certain Mr. Mulcair was not either. I find that odd, given that during a certain period, the government wanted only ministers to appear before the committee. At the end of the day, the government does what suits it best at the time. I understand why Mr. Brison crossed the floor. It has to do with the fact that this government is more reformist than conservative.

We have an obligation to support this motion. Clearly, Parliament should be sovereign, and I support this motion.

[*English*]

**The Chair:** Merci.

I just have a question for Mr. Brison with respect especially to the justice bills. What level of detail are you looking for? Obviously the cost would differ, depending upon how many people are actually prosecuted and convicted of these various offences.

**Hon. Scott Brison:** The range of estimates provided by the government, both to ourselves and to the PBO, has been so dramatic that we feel it has not been credible, and when a macro figure is provided, we want to be provided with details on the methodology—

**The Chair:** The projection as to the number of convictions—

**Hon. Scott Brison:** —that resulted in that figure, and we have not been provided with that, nor has the PBO.

In terms of the issue around consulting with the department, I find it curious, in a sense, that the department or officials who have been told that this is a cabinet confidence are going to now appear before committee to divulge what they've been told by the political end is a cabinet confidence.

I share the views of my other colleagues in the Bloc and the NDP that this has gone far enough and we can move forward.

**The Chair:** Okay, colleagues, we will have the question, then.

(Motion agreed to) [See *Minutes of Proceedings*]

**The Chair:** This motion is carried, six to five.

I have no other future business, and we have set a subcommittee for February 10, so unless someone has any other pressing business, we can adjourn the meeting.

The meeting is adjourned.





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