



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

## **Standing Committee on International Trade**

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CIIT • NUMBER 031 • 1st SESSION • 41st PARLIAMENT

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**EVIDENCE**

**Tuesday, April 24, 2012**

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**Chair**

**The Honourable Rob Merrifield**



## Standing Committee on International Trade

Tuesday, April 24, 2012

• (1100)

[English]

**The Chair (Hon. Rob Merrifield (Yellowhead, CPC)):** I call the meeting to order.

I want to thank our witnesses for coming forward.

Before we get to our witnesses, I especially want to thank and welcome our new members to the committee. We have Don Davies, Madam Papillon, and Monsieur Morin. Congratulations on your appointments and welcome to the committee.

**Some hon. members:** Hear, hear!

**The Chair:** I know that Raymond has a new and improved team with him. It's great. I congratulate him.

We'll now go to our orders of the day, the Jordan legislation, which is Bill C-23. We're planning to do it clause-by-clause on Thursday, but prior to that we want to hear from the witnesses we have before us today.

From the Council of Canadians, we have Garry Neil, the executive director. From the United Steelworkers, we have Mark Rowlinson, a labour lawyer. Thank you both for coming in.

We have had some very interesting testimony on this piece of legislation to this point. We look forward to your presentations. Then we'll follow up with questions and answers. Thank you for being here.

We'll start with you, Mr. Neil. The floor is yours.

**Mr. Garry Neil (Executive Director, Council of Canadians):** Thank you very much, Mr. Chairman and members of the committee.

My name is Garry Neil. I am the executive director of the Council of Canadians, Canada's largest social justice organization with roughly 75,000 supporters from coast to coast to coast. Since 1985 the Council of Canadians has brought Canadians together to act for social, economic, and environmental justice here in Canada and around the world.

The council supports more balanced global trade, freer movement of people, and more robust exchanges between world cultures. But we reject the trade and investment agreements that have been negotiated by Canada, both bilaterally and multilaterally, because they create arbitrary limits on government policies designed to create jobs, protect public health, lower greenhouse gas emissions, or otherwise protect the environment.

It's pretty hard to support these agreements when we see Ontario's Green Energy Act under threat from the WTO and when we've seen Canada pay out millions of dollars to corporations under the investor-state dispute settlement provisions of investment treaties arising from challenges to legitimate Canadian public policy decisions.

We would note that just last month the United Nations Conference on Trade and Development reported that Canada has attracted the sixth-largest number of such cases of investor-state dispute settlement. UNCTAD also pointed out that governments are now wary of regulating in certain fields out of fear of lawsuits. The UNCTAD report states that "...the [investor-state dispute-settlement] regime reaches far beyond its original intention." And UNCTAD urges "policy makers around the globe...to bring the system back to its original role of promoting good governance and fostering the rule of law."

Free trade agreements and the WTO have been enormously successful at removing public policy barriers to corporate profits. They have been less successful at distributing wealth equitably, integrating poorer countries into the global economy, improving labour standards, or encouraging truly sustainable development.

In the free trade era, economic inequality has grown in Canada. Average real incomes, after inflation, have been stagnant. And we continue to shed high-wage and innovative manufacturing jobs in favour of resource extraction and export. Canada's balance of trade has worsened with four of the five countries with which we have fully implemented free trade agreements—Mexico, Chile, Israel, and Costa Rica. Our balance of trade with the fifth, the United States, has improved only because we are racing to the bottom with them, and they are winning at the moment. Their balance of trade has been steadily declining for a long time.

Let me turn now to the specifics of the Canada-Jordan free trade agreement.

First, with respect to the agreement on environmental protection, the council supports the position put forward by the Canadian Environmental Law Association that the GATT exception for measures necessary to protect human, animal, or plant life or health should be amended to expand the scope to include measures relating to environmental or health objectives. There are a whole range of public policies that have an important impact on environmental or health objectives even if they are primarily addressing other issues. These should be covered by the exception.

Thus, with respect to the Canada-Jordan environmental side agreement, we believe it should not be limited only to those laws the primary purpose of which is environmental protection, but should include other laws that also relate in part to environmental protection. We also think the exclusion from that side agreement of laws relating to public health and worker health and safety is not reasonable.

On the Canada-Jordan Agreement on Labour Cooperation, I won't make many comments here, since we have Mr. Rowlinson with us. With respect to the Agreement on Labour Cooperation, we share the concerns expressed to you by a number of other witnesses. In particular, we note that Jeff Vogt, legal adviser to the Department of Human and Trade Union Rights at the International Trade Union Confederation recently made the case to the committee that Jordan is not in compliance with the requirements of article 1 of the agreement, given its ongoing violations of core ILO conventions.

We would like to see a human rights impact assessment of this agreement. We urge you to recommend that a human rights impact assessment be undertaken before the FTA is approved and on an annual basis when it is in force. One of the conditions this committee set on the passage of the free trade agreement with Colombia was the inclusion of a mandatory annual human rights impact assessment of economic impacts of the agreement. We suggest that you go one step further: we recommend that one be undertaken before the FTA is implemented.

● (1105)

While Jordan seems to be in transition from a monarchy to a democracy, there are serious human rights concerns. According to the *Freedom in the World 2011* report, Jordan had a "not free" status. Concerns include: the limitations on the ability of citizens to change the government; inequality of women and minorities; limitations on free speech and free media; restricted labour rights; and cases of arbitrary detention, torture, and loss of life. The assessment should cover labour conditions and workers' rights as well, of course.

Over the past year, under a UN Human Rights Council mandate, the Special Rapporteur on the Right to Food has developed a set of guiding principles on human rights impact assessments of trade and investment agreements. The purpose of preparing such a document prior to signing free trade or investment deals is to ensure that they are not inconsistent with a country's pre-existing treaty obligations, including those to respect, protect, and fulfill human rights.

For example, the UN report says that certain human rights may preclude a country adopting certain measures, including lowering tariffs or strengthening intellectual property rights in a way that deprives people of their rights. Also, countries should not be blocked from controlling private actors "as a result of an excessively high level of protection of foreign investors established on their territory or because of a broad understanding of the prohibition of imposing performance requirements on such investors".

Of particular concern with respect to Jordan, of course, would be the recently implemented human right to clean water and sanitation. Jordan is one of the 10 most water-scarce countries in the world. It is dependent on the Jordan and Yarmouk Rivers for its surface water, and most of these are taken by Israel and Syria. Jordan's groundwater resources are being over-exploited. What the FTA and FIPA will do

is essentially lock in existing corporate expectations, which include water intake for mining and manufacturing.

I want to add a few words about an area that I feel particularly close to, which is culture. For close to 30 years, before I became the council's executive director, I worked as a cultural policy consultant, and I've written and spoken internationally about culture and trade issues. I want to use this opportunity to make a few comments about the cultural exception, which of course I am pleased to see in the Canada-Jordan agreement.

Unfortunately, we continue to use the definition of cultural industries as it was understood in the late 1980s, when we concluded the Canada-United States Free Trade Agreement and for the first time included the cultural exception. But as these agreements have evolved, the definition needs both to be updated—to include, for example, new media and video games—and to be expanded, to include visual arts, performing arts, and crafts.

I note that the expansion language in fact is contained in Canada's free trade agreement with Colombia, and it was introduced at the insistence of Colombia. Frankly, they're correct. It needs to be in these agreements.

It is also appropriate to adopt language for culture in the FTAs that is similar to article 1-5 of the Canada-Jordan free trade agreement, which covers the relationship of the free trade agreement to the multilateral environmental agreements. In case of inconsistencies between the FTA and the MEA, the obligations under the environmental agreement prevail. Bilateral and multilateral free trade and investment agreements should now begin to provide that obligations that parties may have to each other under multilateral cultural agreements should similarly prevail over those in the free trade and investment treaties.

Just as a brief conclusion, as I think my position is pretty clear, with all that said, Mr. Chairman, we really do not believe that it is good public policy for the government to be pursuing trade and investment agreements that are economically basically meaningless with volatile and undemocratic nations like Honduras, Colombia, and Jordan.

● (1110)

**The Chair:** Thank you very much. We look forward to the opportunity to question you on some of your remarks, but before that, we'll have Mr. Rowlinson's comments.

The floor is yours, sir.

**Mr. Mark Rowlinson (Labour Lawyer, United Steelworkers):** Thank you very much, Mr. Chairman, members of the committee. Thank you for having me.

My name is Mark Rowlinson. I'm the assistant to the Canadian national director of the United Steelworkers. I'm also a practising labour lawyer, and I'm on the International Affairs Committee of the Canadian Association of Labour Lawyers.

The United Steelworkers is an international trade union with approximately 220,000 members in Canada. Through our international work we have built strategic alliances and close working relationships with unions around the world. As a union we take a strong international perspective on the importance of workers' rights, and we are intimately familiar with the struggles of workers in the Americas and throughout the African continent. Through our ongoing work with global union federations and our own international union partnerships, we are actively involved in advancing workers' rights globally, and we are committed to ensuring that the benefits of trade are distributed to all workers. Our commitment to these issues is not merely abstract or rhetorical. Our union is involved in grassroots workers organizing around the world, and we have a deep understanding that our members' jobs here in Canada are linked to the rights and working conditions of workers outside of Canada.

Our union is also one of the few Canadian unions that has actively sought to use the labour side agreements to NAFTA to advance workers' rights. Specifically, our union was the lead petitioner in the first major case filed in Canada under the North American Agreement on Labour Cooperation in 1998, a case involving labour rights abuses in an auto parts plant in Mexico. We are also currently the lead Canadian submitter in a 2011 case under the North American Agreement on Labour Cooperation involving the plight of 44,000 members of the Mexican Electrical Workers Union. I have been involved as counsel on all those cases with which we've been involved.

We continue to be concerned that trade agreements are not written to improve labour standards, and there is little evidence that such agreements can become vehicles for the enforcement of labour rights. There is a consensus among the trade union movement in Canada that labour protections found in trade agreements thus far negotiated by the Canadian government have left a great deal to be desired. First, many of the current agreements focus exclusively on the enforcement of existing domestic labour statutes rather than on raising labour standards. Second, the enforcement mechanisms in the agreements are uniformly unsatisfactory.

The dispute resolution mechanisms are premised upon a model of political cooperation amongst the signatories, and hence the complaint process is not independent or transparent. Complaints are not investigated and evaluated by independent judicial or even quasi-judicial bodies, and further, complaints generally end with ministerial consultations. This stands, of course, in stark contrast to the investment chapters of current Canadian trade agreements, where parties are entitled to substantial, effective remedies imposed by independent quasi-judicial bodies.

As a result, the labour rights climate, for example in North America, has not improved for trade unions since the ratification of NAFTA. In Mexico in particular, where our union has been active in building relationships with our trade union colleagues, it is apparent to us that the labour rights situation is as dire as ever.

Now let me turn quickly to the labour rights situation in Jordan.

This committee has already heard from several witnesses on the labour situation in Jordan, most notably Jeff Vogt from the ITUC and Charles Kernaghan from the Institute for Global Labour and Human

Rights. There's no need for me to repeat their testimony to this committee; however, I want to make a few notes regarding the labour issues at present in Jordan.

There are substantial barriers to the formation of unions in Jordan that violate ILO core labour standards. This is particularly the case with respect to migrant workers in Jordan, who are still prohibited from forming a union of their own choice. Specifically, migrant workers are not permitted under Jordanian law to participate in the establishment of a trade union or to participate in their union as leaders. Further, Jordanian law does not establish sufficient fines with respect to violations of key provisions of their labour code. There is a great deal of evidence...and you heard chilling testimony from Charles Kernaghan regarding excessive and unregulated hours of work, forced labour, terrible working conditions, and pervasive gender discrimination, particularly for migrant workers in the Jordanian garment sector.

Substantial portions of the Jordanian economy depend on a low-wage migrant workforce that works without the benefit of adequate legal protection or adequate terms and conditions of employment. The question this committee must consider, and that I wish to address, is whether the labour provisions of the Canada-Jordan FTA are sufficiently robust to meaningfully address these issues.

The Canada-Jordan FTA labour provisions follow the pattern of the most recent generation of Canadian hemispheric trade agreements, notably Canada-Peru, Canada-Colombia, and Canada-Panama FTAs.

- (1115)

The labour provisions of the trade agreement itself, found in chapter 11, contain very general provisions in which the parties reaffirm their obligations as members of the International Labour Organization and their commitments to the ILO Declaration on Fundamental Principles and Rights at Work.

However, the body of the trade agreement, chapter 11, only sets out general affirmations and objectives. These general statements do not, of course, provide the parties with enforceable rights. Rather, as with all previous Canadian trade agreements, the substance of the labour rights and obligations are set out in a separate labour cooperation agreement, or LCA, often called a labour side agreement.

Article 1 of the LCA affirms that each party—Canada and Jordan—shall ensure that its laws provide protection for the internationally recognized labour principles contained in the 1998 ILO declaration and the ILO's decent work agenda. These rights include freedom of association and the right to collective bargaining, the right to strike, the elimination of forced or compulsory labour, and, perhaps most significantly given the situation in Jordan, non-discrimination in respect of working conditions for migrant workers.

As such, this article does contain substantially greater labour rights than those found in, for example, the NAFTA labour agreement. Unlike NAFTA, the Canada-Jordan FTA requires the signatories to ensure that its statutes comply with ILO standards. As I said, this represents a significant improvement over the NAFTA labour side agreement. However, article 2 of the Canada-Jordan labour cooperation, the so-called non-derogation clause, only prohibits the violation of ILO standards where it can be demonstrated that this violation was done “as a means to encourage trade or investment”. This is, in our view, a significant limitation on the substantive obligations found in article 1.

The remaining obligations under the Canada-Jordan labour cooperation agreement are very similar to provisions found under, for example, the current NAFTA provisions, and largely focus on the enforcement of existing laws and the protection of procedural rights.

I want to now turn to a few observations about the enforcement mechanism under the labour side agreement.

Because labour rights are again relegated to a side agreement under this trade agreement, the enforcement of those labour rights is not subject to the same enforcement mechanism applied to all other rights in the agreement. Article 9 of the labour cooperation agreement provides for the submission, acceptance, and review of public communications. This is the only mechanism in the Canada-Jordan labour side agreement by which non-state organizations, such as unions or individuals, can file complaints under the agreement.

Under the Canada-Jordan labour side agreement, the primary complaint mechanism appears to in fact commence through ministerial consultations between the parties, which is found in article 11. In other words, the party that files a public communication has no right under the agreement to push a matter to a review panel if it is not satisfied with the ministerial consultation process.

Articles 12 and 13 provide for the review panel process, which concludes with the issuance of a further report, followed by the issuance of monetary assessments if a party refuses to comply with the report of the review panel.

It should be noted that this enforcement mechanism does contain certain significant advances over the existing NAFTA process. First, the process is less cumbersome. Second, the scope of the review panel is substantially broader.

However, many flaws remain. First, the Canada-Jordan labour side agreement is dependent upon the willingness of state signatories to pursue complaints. The complainants themselves cannot advance matters to a review panel.

Given the experience under the NAALC, in which, I would note, after 18 years no case has yet gone before an arbitration panel, it seems highly unlikely that any complaint under the Canada-Jordan labour cooperation agreement will ever get beyond the level of ministerial consultations. Again, under NAFTA, no case has ever gotten beyond the level of ministerial consultations.

Second, the Canada-Jordan labour side agreement provides every opportunity for the offending nation to negotiate a resolution to the complaint.

Finally, the penalties under the agreement are limited to relatively modest fines. There is no possibility for trade sanctions, trade tariffs, or the revocation of the trade agreement itself as a penalty for the repeated and systemic violation of the labour rights set out in the agreement.

The failure of the enforcement mechanisms stands in stark contrast to the investor-state arbitration procedures—for example, found in chapter 11 of NAFTA—that have been typically found in the free trade agreements negotiated by the Canadian government.

In conclusion, it's been our experience that labour protections found in existing trade agreements negotiated by the Canadian government have not provided real, enforceable rights for workers. Our review of the labour provisions found in the Canada-Jordan agreement reveals that while improvements have been made over the existing structure of NAFTA, the essential structure of the labour clauses found in previous agreements remains unchanged.

● (1120)

Given the magnitude of the labour rights issues in Jordan, we submit that simply issuing fines against the offending government is not an acceptable sanction. Moreover, it will provide little or no incentive for the Jordanian administration to meaningfully address the current issues.

In our view, the labour provisions in the Canada-Jordan FTA are not sufficiently robust to begin to address the serious labour and human rights violations that occur regularly in Jordan.

It is sometimes alleged that unions such as ours, and the Canadian labour movement in general, uniformly oppose all free trade agreements. The reality, however, is that our union understands that trade is essential to the Canadian economy. However, our experience has been that too often these trade agreements have pernicious effects on workers. Our view is that free trade agreements must raise the living standards for all who are covered by the agreements. Too often trade agreements provide great benefits to investors and corporate elites while at the same time creating downward pressure on wages and curtailing workers' rights. As such, so-called free trade agreements often lead to greater economic inequality and increasingly precarious employment for workers.

In our view, increased trade must improve the living standards for all working people who are covered by the agreement. This can only be done if trade agreements provide real, enforceable transnational rights for workers. Thus far, Canada's trade agreements have failed to provide these protections.

Thank you very much for the opportunity to address you. I look forward to your questions.

● (1125)

**The Chair:** Thank you very much for your presentation.

We'll now move to Mr. Davies for your first round of questions at this committee.

**Mr. Don Davies (Vancouver Kingsway, NDP):** Thank you, Mr. Chairman. I want to express my thanks for your welcome and to tell you how much I look forward to working together on these important files, which are so important to our country and our future economic prospects.

I would also like to thank the two witnesses for being with us today.

I would like to direct my first question to Mr. Neil, if I could.

Mr. Neil, the council, along with many other organizations, has been critical of investor-state provisions in free trade agreements. There are no such provisions in this free trade agreement, but there is a separate, stand-alone investment agreement, the foreign investment protection and promotion agreement. I'm wondering if this changes your critique or concern with this trade agreement, and if you can give us the benefit of your opinion as to which of those two models is superior, if any.

**Mr. Garry Neil:** While I did make reference to the investor-state provisions, I'm fully aware that they're not in the free trade agreement. But we see it as a package. We see that what is happening here is a negotiation of rights for corporations, whether those be related to their investments abroad or to the export of products or the importation of products. So we see it as a package.

It's true that the issue before you is not the FIPA, it's the free trade agreement, and there are no investor-state dispute settlement provisions in it. We are very concerned, though, about the investor-state dispute settlement provisions. As they have rolled out, it has been a major problem for Canada. We've seen the Canadian government spend hundreds of millions of dollars settling cases, primarily under the North American Free Trade Agreement, and we believe that in almost every one of those cases the actions that were being disputed by the foreign investor were entirely appropriate actions on the part of governments in Canada. That's where our concern comes from.

**Mr. Don Davies:** Thank you.

Mr. Rowlinson, we've done a bit of research, and if our figures are correct, the apparel industry in Jordan accounts for some 17% of their total exports. It's our understanding that most of those exports are produced in factories in what are called "qualified industrial zones", which employ about 42,000 workers. Two-thirds of those workers are migrant workers, and 60% of those workers are women. Our research indicates that there have been three minimum wage increases in Jordan within the last five years: one in 2009, one in January of this year, and one slated to come in 2013. To give some perspective, the minimum wage was \$155 per month in 2009. It was raised to \$212 per month in that year. It was raised to \$240 per month just this year, and it's going to go to \$269 next year.

However, the legal minimum wage explicitly is excluded for people who work in the garment sector, which leads me to believe that minimum wages in the garment sector are probably below \$155 per month. We've also heard testimony at this committee that there are concerns with issues like forced labour, excessive hours of work, physical discipline in some cases, and people not being paid their promised wages.

If that is indeed a fair description of the working conditions in the qualified industrial zones, I'm wondering if you have any suggestions as to how a free trade agreement that we would sign with Jordan might properly address those concerns.

**Mr. Mark Rowlinson:** Certainly. Thanks very much for the question.

I think your description of the situation in the qualified industrial zones, from my knowledge, is entirely accurate. Again, I would refer you to the testimony and the report that I think was filed with you by Charles Kernaghan.

I think there's some reason to believe that these substantive rights that are listed in the labour cooperation agreement, the ILO code labour standards that Jeff Vogt referred to, do address some of the issues you're speaking about.

The problem, however, is again that the enforcement of those rights is entirely up to the states themselves, so it doesn't provide any vehicle or any mechanism for the workers or for their organizations or for any other organizations to try to enforce the rights, the discrimination, the unequal application of Jordanian law in those sectors under the labour cooperation agreement.

What's really needed is a more robust enforcement mechanism. Again, if we refer to the evidence of Mr. Kernaghan, his work and the work of other NGOs in bringing the working conditions in the Jordanian garment sector to light has been quite important in making limited progress in terms of addressing those issues. That could potentially take place by filing a complaint under the labour cooperation agreement. But unless the parties themselves are able to advance that case and unless the investigation and enforcement mechanism is more transparent, then again our experience is that these agreements don't provide enforceable rights for those workers.

If you look at the experience of the U.S.-Jordan FTA, which also contained labour rights provisions, the experience has been that the U.S.-Jordan FTA, which I think was passed in 2001, if memory serves, hasn't served to improve the working conditions of those zones to which you referred. That answers your question.

● (1130)

**Mr. Don Davies:** Mr. Chairman, how am I doing for time?

**The Chair:** You've got less than a minute, and that's for the answer as well.

**Mr. Don Davies:** I'll try to be quick then.

Mr. Rowlinson, do you have any information about the current status of recent labour reforms in Jordan? Is there any evidence to demonstrate that these reforms are being implemented or adequately enforced?

**Mr. Mark Rowlinson:** I must confess I'm not an expert on Jordanian labour law, but in Jordan, as with so many other countries, there's an enormous gap between the statutory protections and the enforcement of those protections. I think that often with respect to matters of discrimination, and particularly with respect to matters involving migrant workers, the enforcement of Jordanian law is flawed.

I have no evidence to suggest that the recent reforms to which you refer—for example, the 2010 reform regarding workers organizing and migrant workers organizing—have led to an enormous increase in the organization of unions in Jordan.

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

Mr. Keddy.

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

A number of points have been brought up. I'm going to try to drill down a little deeper into a couple of them. One of the problems I have with your testimony, Mr. Neil, is this. I would like to stick to our agreement with Jordan. We've had pretty good cooperation from the official opposition and from the Liberals to bring this to committee, and hopefully get it through the House, and in a cooperative nature I think we can move forward with Canada and Jordan working together.

I don't think any of us on this committee are under any illusions that there's some kind of a perfect world out there, or even everything that all governments do, including our own, is 100% correct. But if you don't proceed with trade and some type of a rules-based arrangement, then you don't have anything to work with.

So we're looking here at the basis of this agreement for Canadian companies that are already trading with Jordan. It's not as if we're not trading with Jordan today; we're going to put clear guidelines and rules in place.

I want to go back to the labour cooperation agreement, and I'll ask both of you to answer this.

Right now we have no labour cooperation agreement. We've signed one, but it has not been legislated. It has not gone through the Parliament of Canada. So the labour cooperation agreement is as basic as this: the right to the freedom of association, the right to collective bargaining, the abolition of child labour, the elimination of forced or compulsory labour, and the elimination of discrimination with respect to employment and occupation. We're not dealing with huge issues here. We're dealing with the basics that help to instill respect for humanity and respect for labour and build on that with a country that only has an emerging labour policy, if you will. How can that, under rules-based trading, be a bad thing for Jordan?

• (1135)

**Mr. Garry Neil:** Let me start and say it's a difference in approach here.

We believe that in fact before Canada agrees to free trade agreements with certain countries, we ought to be able to see real change in those countries in very important respects as a prerequisite, as it were, of enjoying the benefit of freer trade with our nation. Some others see it the other way around and believe that you need these agreements first and then change will follow. There is simply no credible evidence that this actually happens. It seems to me that we have it backwards.

I have been to Jordan several times in my role on the culture files. It's very easy when you go there to see that this is a country that's still in the process of trying to transition from being an absolute monarchy. Civil society organizations effectively require the permission of the king to operate. It doesn't have robust democracy. It seems to us that these things should happen first, and then we say, yes, we will agree to improve our trading relationship with you.

I want to make one final comment, because I agree that we're talking about the free trade agreement—trading goods here, not services. We're not talking about investment protocols. But some-

times it's difficult to unpack those. In the field I know the best, which is culture, what you have is services that are going together to produce what is effectively a good. The good can be traded, but it's containing all of these services. So these things are inextricably linked, in my view, and you can't really unpack them in many respects. Maybe it's easier if you're looking at import or export of potash and the involvement of the Potash Corporation in Jordan, but it's not easy in most sectors of our economy.

**Mr. Gerald Keddy:** Go ahead, Mr. Rowlinson.

**Mr. Mark Rowlinson:** I want to pick up on something Mr. Neil said, which is that implicit in all of the trade agreements the Canadian government has been pursuing is the notion that with increased trade and with engagement, at some point everyone, including workers in both countries, will benefit. As Mr. Neil said, the problem is that the empirical evidence of that is frankly non-existent, or at least we're not aware of it. Our question then is to go back and look at whether or not the provisions in the trade agreements themselves can be improved.

I would agree with Mr. Neil's position that the Canadian government, and this committee in particular, ought to recommend looking at a human rights impact assessment that this trade agreement and the FIPA agreement would have on both Canada and Jordan before passing and implementing the agreement.

Thanks.

**Mr. Gerald Keddy:** The difficulty I have with some of that language—and I'm not trying to be adversarial here—is that there's a certain amount of doublespeak in it. We can only put rules in place that we expect other countries to comply with, and ourselves, of course. We don't want to go back to both points. We don't want to go back to the days of the Americans in the Americas and gunboat diplomacy. We can't force, or we certainly don't want to be in the position of continually having to force, other countries to see our point of view.

I would disagree. I was in Colombia in 2007, and in 2007 you could not travel safely from Colombia. You couldn't drive from Bogota to Medellin. You can today, and the general public can today and they don't have to be in an armed convoy. There's been a greater respect and a greater encouragement. It's not perfect, but human rights, labour rights, and respect for the environment have improved in every conceivable way.

**The Chair:** I see that as more of a statement than a question.

As time has gone, go ahead, Mr. Easter.

**A voice:** Wait a minute. It was a strong statement.

**Hon. Wayne Easter (Malpeque, Lib.):** Not that it necessarily made a lot of sense, but it was strong.

Thank you both for your presentations.

Mr. Neil, we haven't talked a lot about the environmental end, and I do want to get into the labour end. You said you've been to Jordan at other times, although in relation to culture, I believe. What is the status on the ground in Jordan with respect to the environment?



We do have this side agreement going in, but as I've said, we've heard a lot about what the labour conditions are like in Jordan from people who follow it and have been there, and various labour rights groups, but we haven't heard very much on the environment. What's the status on the ground? Is the side agreement strong enough to improve environmental standards there?

We have to keep in mind that we, in opposition, firmly believe that the government in Canada is in fact weakening our own environmental standards in this country, which doesn't reflect well when you're arguing for another country to improve theirs.

• (1140)

**Mr. Garry Neil:** As I indicated briefly, the big issue with respect to environment in Jordan is the question of water, because the country is under enormous pressure with respect to water. The problem we see is that the ability of the Jordanian government in future to make determinations on how best to deal with what is effectively a serious water crisis is being restricted by the various agreements they are signing internationally.

Take, for example, potash mining. There is potash mining in Jordan, and that's very water-intensive; it requires a lot of water. So the corporation there has certain rights to water takings. It may in the end put them in violation of the new international UN declaration on access to clean water and sanitation as fundamental to human rights.

That's really the problem, if you look at the water situation and then you superimpose on that the trade and investment agreements that Jordan is negotiating around the world. The ability of the Jordanian government now to have real influence in an area that's really significant in that country is being diminished, and we are very worried about that.

**Hon. Wayne Easter:** Are you suggesting that that's a result of the trade agreements being signed, that they put pressure on there?

**Mr. Garry Neil:** Yes, because those agreements are about maintaining the rights of corporations—for example, to have access to water—and putting that in an international agreement, and then giving an opportunity to another country or to a company to take actions against a Jordanian decision that may need to be made with respect to providing water for its citizens. That's the problem.

**Hon. Wayne Easter:** Okay, thank you.

Turning to labour, both of you have mentioned the protections and the enforceability of the rules around investment and how that compares with labour and the lack of enforceability. I do think we have huge problems there. There's no question that on the investment side it's done in a way to enhance and protect the movement of capital in the interests of those who have money, and those increasingly more powerful global corporations and individuals are stacked against labour.

So we're protecting the economically powerful, but we're not protecting so much the ordinary folks who do the work to make the money but don't get the profit.

What has to be done to bring the two into balance? I think a lot of people are increasingly worried in the global arena as fewer and fewer players internationally gain more and more power. Some of these huge companies are more powerful than countries themselves.

How do we bring the two into balance, and can you actually do it through side agreements in an FTA?

**Mr. Mark Rowlinson:** I'll address that initially. I have two very straightforward suggestions in terms of how the agreements are put together themselves. First, we think labour rights should not be relegated to a side agreement. The same would apply for environmental rights. The labour rights should be built into the main body of the agreement itself. That's the first suggestion.

Second, we think that both labour and environmental rights ought to be subject to the same complaint and enforcement mechanism that investors have access to. In this particular case of the Canada-Jordan agreement, as was mentioned earlier, investor rights are actually not specifically found in the FTA itself; they're found in a separate agreement. I think—and I've taken this position before at this committee—if we are going to take seriously the idea that these agreements can be used to meaningfully enforce environmental and labour rights, instead of thinking of them as simply some sort of window dressing to try to make the passage of these agreements more palatable, then we should provide real and meaningful enforceable rights to labour and environment that are similar to the investor-state provisions. That's my position.

• (1145)

**Hon. Wayne Easter:** Mr. Rowlinson, with regard to the labour end, you mentioned as well the 2001 agreement with the United States. I think it was said before in this committee that really not a lot of improvements have been made in the labour end.

I do want to read into the record, Mr. Chair, what Mr. Kernaghan said, because I think it's important to have the same testimony as yours. He was talking about the Rich Pine Factory:

The workers have no rights whatsoever. It's a real sweatshop. Workers are housed in primitive dormitories. The Chinese workers and Bangladeshi workers have no voice.

Then he goes on from there. He concludes by saying:

I would say in that Rich Pine factory, every single labour right under Jordanian law and under the U.S. free trade agreement is being blatantly violated in broad daylight.

That's a pretty damning statement.

I would say that every one of us on this committee, when he talked about another factory—it was a Chinese factory where there was talk of rape and abuse of workers—were all shocked, because the previous testimony we'd heard from the ambassador of Jordan said this wasn't happening now.

What can we do, either before we enter or after we enter an FTA with Jordan to bring focus to that issue? Would it make sense for the Canadian government to encourage a joint meeting of Canada, the U.S., and Jordan to talk about these issues and nail them right on?

**The Chair:** I'll just allow a very quick answer on this.

**Mr. Mark Rowlinson:** Very quickly, during the process leading up to the Canada-Colombia FTA negotiations, this committee, differently constituted, issued a report. That report recommended that a human rights impact assessment be done before Canada actually entered into the Canada-Colombia FTA. Now, that impact assessment was never done, but we thought that report was at least a good first step by this committee to consider the possible impact these free trade agreements can have on the workers who are affected by them.

That's my short answer.

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

Mr. Shory.

**Mr. Devinder Shory (Calgary Northeast, CPC):** Thank you, Mr. Chair.

Thank you, witnesses, for being here today.

Everybody knows that this government has an ambitious trade agenda, because we strongly believe that trade creates jobs and it also provides opportunities for businesses, specifically for SMEs, so they can expand their business and create jobs here in Canada. We also believe our witnesses when they say that engaging developing countries through trade does assist them in improving their labour, environmental, and human rights areas. It is through engagement such as we have had with Colombia that countries are able to grow their economies, share best practices, and move forward on labour, environmental, and human standards.

Mr. Rowlinson, my question to you is, do you believe, as the NDP does, that we should not trade with developing countries that need some support in strengthening their labour, environmental, and human rights laws?

**Mr. Mark Rowlinson:** Again, as I said in my opening statement, our union and the Canadian labour movement in general recognizes the importance of trade. We are not anti-trade per se, but we say that trade ought to take place under specific terms in which, again, the terms of the trade agreements make it possible for everyone to benefit from trade, both Canadian workers and workers, in this case, in Jordan.

Our experience with the free trade agreements, by and large, negotiated by the Canadian government has been that everyone doesn't benefit from those free trade agreements, that in fact they lead to greater power for investors and corporations, they lead to greater economic inequality, and in fact they lead to a diminution of workers' rights and trade union rights.

I'm not sure if that answers your question. Again, we're not opposed to trade, but it's the terms under which trade takes place.

•(1150)

**Mr. Garry Neil:** It seems to me that there's no evidence to support your contention that trade creates jobs and that trade assists countries to improve their human rights records. There is simply no evidence.

We see the hollowing out of Canada's industrial infrastructure right now, and it's because of the trade agenda, frankly. You state it as fact, and there's no evidence.

**Mr. Devinder Shory:** It is a fact, Mr. Neil, that one job in five Canadian jobs is related to trade. Anybody can do the research on that.

What is very impressive in the comment made by Mr. Rowlinson, and of course by the NDP, is that they say they are not anti-trade but they put such strong caveats on their support that it is not basically possible for them to support, and they do not support....

Witnesses also have suggested that the free trade agreement between Jordan and the United States has not improved the situation in Jordan. However, trade between Jordan and the United States has increased dramatically, resulting in increased jobs and economic growth in Jordan. The United States also has a labour agreement with Jordan.

My question again to Mr. Rowlinson is, do you deny the link between economic growth and the standard of living?

**Mr. Mark Rowlinson:** I certainly deny the link between economic growth and the standard of living for many. The problem is that the improvements in the standard of living to which you refer are not equally distributed. As I mentioned earlier, since the U.S.-Jordan FTA was signed in 2001, there has been very limited improvement in the standard of living for many Jordanian workers, particularly migrant workers working in the garment sector, as was discussed earlier.

So, again, the notion that the benefits of trade are equally distributed is just simply not correct, in our view.

**Mr. Devinder Shory:** As a legal counsel for the union, Mr. Rowlinson, you must take the rights of labour to form unions, to actively participate in unions, and to strike very seriously.

Do you feel that Jordanian laws have come far enough, and if not, what specific concern do you have? What should be done by the Jordanians?

**Mr. Mark Rowlinson:** Reference has been made before the committee to I believe a 2010 change to the Jordanian labour law, which provided, I will concede, to some extent greater rights for migrant workers to join unions, but there continues to be substantial and discriminatory treatment against migrant workers, particularly in sort of free trade zones in Jordan, that prevent them from exercising fundamental rights, such as freedom of association, which Mr. Vogt referred to. Clearly those issues need to be addressed.

I think one principle we can probably all agree on is that labour law, and indeed all law, should apply to everyone equally. The fact is that the large migrant workforce in Jordan is not treated equally. It is openly discriminated against. As Mr. Kernaghan said, they work virtually in almost indentured conditions for very long hours. They work enormous amounts of uncompensated overtime frequently for roughly 70¢ an hour. Those issues simply need to be addressed. Labour laws should apply to everyone equally, as I said earlier. In my view, that's the key issue that should be addressed.

The other issue I wanted to note, and I mentioned it in my opening remarks, is the systemic and pervasive gender discrimination that all of the evidence points to, particularly in the Jordanian garment sector. You heard Mr. Kernaghan testify about issues of sexual assault in workplaces. Those gender discrimination issues are again pervasive and appalling, and they need to be addressed by Jordanian law.

• (1155)

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

Monsieur Côté.

[*Translation*]

**Mr. Raymond Côté (Beauport—Limoilou, NDP):** Thank you, Mr. Chairman.

I thank the witnesses for being here with us today to answer our questions.

I would like to talk about the protection of investors. Indeed I have raised several questions on this topic in the course of this committee's work. We discussed other free trade agreements and the one with Jordan. I will not hide from you, Mr. Neil, the fact that I am fiercely opposed to the setting up of this type of protection for foreign investors who would like to come and invest in Canada, because of the very grave consequences you so eloquently explained.

However, I have certain concerns with regard to bilateral free trade agreements with countries that have as little protection in place as Jordan. Do you consider that this type of investor protection could have even worse consequences in Jordan, in connection with social protection or labour law-related safeguards?

[*English*]

**Mr. Garry Neil:** I think that is fair to say.

I don't know if this committee is aware—you probably had some research on this—that the Jordanian government began to privatize heavily in about 1996. One of the companies that took advantage of that is Potash Corporation of Saskatchewan, which now owns roughly 30% of the Arab Potash Company.

There is now debate within Jordan about whether it was correct to nationalize. Of course, because of the trade agreements, and particularly the investment agreement, Jordan would have a very difficult time reversing that decision. The Potash Corporation of Saskatchewan would have the right to file an action against the Jordanian government if it chose to take that action. They'd probably get a tribunal to side with them.

I think that highlights the problem with the investment side of the agreement. It is tied to goods, because of course they are there to mine potash, which is primarily for export from Jordan, although I doubt they'll be exporting it to Canada.

So that highlights the problem in a very concrete way with respect to Canada and Jordan.

**Mr. Mark Rowlinson:** Our members work for the Potash Corporation of Saskatchewan in Saskatchewan. Premier Wall could testify firsthand to the importance of that industry to the Saskatchewan economy and to the importance of being able to maintain some sort of domestic control over that company. Indeed, it is an issue upon which he has placed a great deal of emphasis and has run publicly.

[*Translation*]

**Mr. Raymond Côté:** Thank you very much.

I would like to raise another issue.

Mr. Rowlinson, I found your answers on the separate agreement and the comparison between the protection of workers' rights and investors' rights very interesting.

In that same context, do you think that not granting exaggerated protection to investors could constitute a part of the solution to the problem of a lack of protection for workers in a country like Jordan? Earlier you talked about granting equivalent protection, but if we turn the issue around, perhaps the fact of avoiding overprotecting investors could solve certain problems related to the protection of workers. What do you think of that?

[*English*]

**Mr. Mark Rowlinson:** I think your point is very well taken. The fact is that robust investor-state provisions that we see in Canadian trade agreements and in the investor agreement with Jordan have a pernicious and dangerous effect upon the rights of workers.

The point I was making was really in answer to Mr. Easter's question about how you could improve the workers' rights provisions. I suggested that if you want to improve them you should give them a more robust enforcement mechanism. I wasn't necessarily endorsing the overarching rights of investors and corporations that are frequently found in these agreements.

What I think we need to do to, to be honest, and what I would like to see at some point, is have a more inclusive and transparent discussion among organizations such as ours, the trade union movement, NGOs, and other labour organizations about how we can have a trade regime that truly respects labour and environmental rights. We can start to rethink how we want to regulate trade so that its benefits are spread out to more people.

• (1200)

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

We'll go to Mr. Cannan.

**Mr. Ron Cannan (Kelowna—Lake Country, CPC):** Thank you, Mr. Chair, and thank you, gentlemen, for your perspectives on this very important part of our government's plans for jobs and growth and long-term prosperity for Canadians.

As my colleague alluded to, one in five jobs is related to trade. Minister Fast, in the past year, has been living out of a suitcase, travelling around the world opening new markets for Canada.

We have been at a disadvantage in Jordan for a number of years because of the United States and their agreement, so we're trying to level the playing field.

You made comments about being more inclusive and transparent. I've been on this committee for over six years. We've been studying this agreement for a number of years, and we've had numerous witnesses, so I'm not sure how much more inclusive....

At the end of the day, you have to make a decision. You either agree or you don't agree. I just want your confirmation. We're using the same framework and principles for this Jordan free trade agreement, with regard to the environment and labour, etc., as we used for Colombia and Panama. Is it fair to say that this is why you didn't support those agreements?

**Mr. Mark Rowlinson:** We did not support the free trade agreement, certainly, with Colombia. I'm not sure we took a particular position on the Panama free trade agreement. But yes, as you point out, the provisions are very similar.

**Mr. Ron Cannan:** You say that the labour movement, generally, and the United Steelworkers are not opposed to trade agreements. Could you share with us which trade agreement the United Steelworkers has supported?

**Mr. Mark Rowlinson:** Again, to pick up on your former point, because Canada has now essentially adopted a template for trade agreements—

**Mr. Ron Cannan:** Ever.

**Mr. Mark Rowlinson:** Let me finish.

It's a template to which we have never particularly subscribed. It's therefore not surprising that we haven't supported any of the template agreements the Canadian government has entered into.

If I could address your first point—

**Mr. Ron Cannan:** Do you mean any Canadian government ever, not just the last six-plus years, but any previous government?

**Mr. Mark Rowlinson:** Well, the template really started with the North American Free Trade Agreement. It's that template I'm referring to, and it's that template the Canadian government has continued to follow. We didn't support NAFTA, and therefore we haven't followed any other agreements that have followed that template.

**Mr. Ron Cannan:** But you support trade.

**Mr. Mark Rowlinson:** If I could make one other quick point, you mentioned the issue of transparency, to bring up my former point. One of the problems, of course, is that these trade agreements are presented to this committee and to Parliament and to everyone, for that matter, as a *fait accompli*. That is to say, they are signed and drafted and negotiated in secret, without broader consultation. That's the kind of transparency I was perhaps referring to. We could open up the negotiation process a little more and have further inclusion. Then we could have a real discussion about the benefits of trade.

**Mr. Ron Cannan:** So when you're negotiating with your employers, you allow all your members in the membership to be negotiating with you.

I used to belong to a union. I've been on strike. And it's not the case. The union does not include you in the negotiations. They just report back to the membership.

**Mr. Mark Rowlinson:** Let me tell you exactly how we negotiate with employers. When we negotiate with employers, we meet with all of our members. We send them surveys on their priorities in bargaining. We put together and collate those surveys. We then have meetings with all of our members, or if it's a large plant, with all of the various shifts, and talk with them about their priorities. Our bargaining committees then put together a list of priorities and proposals. They consult with the membership about those priorities and proposals, and then they enter into negotiations. That's exactly how we negotiate.

You're right. One doesn't negotiate in a public process. But in terms of the position advanced by the union on behalf of the members, it is absolutely a public, democratic, and consultative process. It's essential to our trade union.

**Mr. Ron Cannan:** We got to this point. We have the labour agreements and the environmental agreements. We've negotiated. You've seen them. We've heard, from different perspectives, that we should not proceed because of the issues of labour and the environment.

My understanding is that you wouldn't support this agreement because you believe that we need to have a human rights assessment before proceeding, and the environmental agreement isn't sufficient, and they don't allow employees to form a union.

**Mr. Mark Rowlinson:** Mr. Neil raised the question of the human rights assessment. Again, I think it is incumbent upon this committee and the Canadian government to have a full assessment done on the possible impact this trade agreement is going to have before we enter into it. To the best of my knowledge, that assessment hasn't been done.

To get back to your collective bargaining analogy, we want to know intimately from our members what their priorities are and what effect a new collective agreement will have in the workplace before we go ahead and negotiate and sign an agreement with an employer.

● (1205)

**Mr. Ron Cannan:** Thanks.

Mr. Neil, do you have any comments?

**Mr. Garry Neil:** Absolutely, the human rights impact assessment ought to be done before the agreement is concluded. That's our position.

We support a different model of how you get to true free trade agreements. For example, the model we almost can get to in the culture sector is the way you do it. You negotiate bilateral cultural cooperation agreements.

Governments ought to be making concrete commitments to each other about how to promote increasing the exchange of movies, books, magazines, and cultural products of all kinds. You do it in that way, because, of course, if you bring the cultural people around the table, the objectives are similar.

It is about creating more balanced exchanges between cultures rather than having all of our cultures dominated by only one or two. That's a model I think we would be well advised to move to.

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

Mr. Davies.

**Mr. Don Davies:** Thank you, Mr. Chairman.

I want to come back to the environment a bit. As I understand it, there is nothing in this agreement that obligates either country, Canada or Jordan, to improve environmental standards or regulations.

There are provisions that would obligate each country to comply with an enforced domestic environmental law, but of course that would depend on both countries having effective domestic environmental laws, which I'm not clear that Jordan has. It also includes a voluntary best practice for corporations with respect to meeting their obligations under the environment.

I'm wondering if you could expand a bit on the Canada-Jordan agreement and whether you see the side agreement on the environment having a positive impact in terms of not just maintaining our environment but actually improving the environmental standards in both countries.

**Mr. Garry Neil:** In fact the agreement on the environment does have a strong provision in it, which is that the parties have set out mutual obligations, including the establishment of high levels of domestic environmental protection through their environmental laws and policies. The problem, of course, is that there is no way to enforce that. There is no cooperation agreement that says how we develop such high levels of domestic environmental protection.

In fact we see in our own country, with the most recent budget, that there is erosion of environmental protection rules. We're worried about that.

The agreement as it stands has a very good provision in it, but there's no way to enforce that. There's no way to encourage both of our countries to improve our levels of environmental protection.

**Mr. Don Davies:** Could I maybe challenge you gently on that? My reading of it is a bit different. I wouldn't characterize this agreement as having any protective strength. It says that the countries won't weaken their domestic international laws in an effort to encourage trade or investment.

That's a conditional statement. It actually would permit the countries to weaken environmental laws, as long as they were not doing so explicitly to encourage trade or investment. Secondly, again, it requires the countries to enforce their domestic environmental laws. As you said, that is predicated on us finding that Jordan, for instance, has strong environmental laws.

Do you have any evidence to suggest that Jordan has strong environmental laws that this agreement would compel them to enforce?

**Mr. Garry Neil:** No.

**Mr. Don Davies:** Okay.

Mr. Rowlinson, can you draw from the NAFTA, or any other experiences, to describe how the side deals in these types of agreements have been used in the past with any effect to protect workers' rights? Do we have any experiences or real credible data on these kinds of side deals that show domestic working standards or employment standards have been raised in any country as a result of side deals?

**Mr. Mark Rowlinson:** The short answer is no.

I will speak on two levels to that question. Again, I have been involved in numerous complaints that were filed under the NAFTA labour side agreements. I have used those complaints. Without exception they have all ended with ministerial consultations that have led to no real remedies for the workers affected and, frankly, no real improvements to the labour standards that were identified in the complaints.

**Mr. Don Davies:** Because I sense there is disagreement from what you are saying and what the government is saying, have you read any material from the Government of Canada that can point to an example of a country that has seen its labour standards improve as a result of side deals? Has the Government of Canada actually produced evidence that we could look at?

• (1210)

**Mr. Mark Rowlinson:** I'm not aware of any. If you look at all the literature I have seen, and obviously NAFTA is the example that has the longest track record, economic, equality, labour, and trade union rights in all three of the NAFTA signatory countries—Canada, the United States, and Mexico—have in my view gotten worse since we signed NAFTA.

The example of Colombia has been mentioned. Obviously the Colombia agreement was only implemented, if I'm not mistaken, last summer, so we don't really have enough of a track record to connect whatever may be happening in Colombia to the implementation of that agreement.

I would challenge gently those who assert that free trade is bringing growth, prosperity, and certainly equality and justice to Colombia. I have been to Colombia on many occasions, and I have met with President Santos to discuss these issues. It is true that there has been some diminution in the level of violence in Colombia, but it is not true, in my estimation, that the situation for workers and trade unions has improved demonstrably over the last number of years.

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

Now we'll move to Mr. Shipley, but before we do, I want to welcome the new team.

**Mr. Ron Cannan:** Isn't the committee looking better over there?

**The Chair:** As I say, we've got a new, improved team as well. We're definitely better looking.

Mr. Shipley, the floor is yours.

**Mr. Bev Shipley (Lambton—Kent—Middlesex, CPC):** I hope that didn't come out of my time.

Thank you, Mr. Chair.

I do welcome the witnesses here. I actually was in Colombia just recently. It was sort of an interesting visit. It was not because of this committee. I was actually able to meet...I wasn't directed to any one in particular, but as I met with ordinary businesses, particularly those that are small and medium, and with local political people, they were very keen about the Canada-Colombia free trade agreement and what it would do to help boost them. I think that's always important to understand when you get on the ground. I didn't meet with President Santos, but I did meet with the local people, and I think that's always important for understanding.

I'm listening to the comments, and basically what I'm hearing, I think from both Mr. Rowlinson and Mr. Neil, is that somewhere out here we're looking for this perfect country. Your position, if I understand it right, is that we sit back and we wait until these countries raise the bar within themselves. At this stage, some of these countries are not wealthy countries, not like Canada. In fact I might say there are hardly any countries in the world like Canada, with the standard we have, with the economic diversity and the sustainability we have.

So I'm trying to understand. What we're trying to do...and what works is that we actually go and give countries an opportunity to increase their economic strength. Partly through that, and it witnesses in countries around the world...in fact I think in Canada—you may not agree—we have likely pretty sound labour laws.

Would you agree with that?

**Mr. Mark Rowlinson:** That's a large question.

**Mr. Bev Shipley:** Well, no, it's fairly simple. It's fairly simple. Do we have...or are your expectations toward a perfect labour law in Canada? We're not there yet, but are you looking for that same thing in Colombia or in Jordan right now? You're saying we've got to get them there first before we ever go into a trade agreement.

So it's actually a fairly straightforward question. I'm just wondering if you have a straightforward answer.

**Mr. Mark Rowlinson:** I'm not sure I understand the question, to be perfectly blunt about it. I'm not trying to be evasive, but—

**Mr. Bev Shipley:** Well, you're kind of eating up my time.

**Mr. Mark Rowlinson:** Sorry.

**Mr. Bev Shipley:** I thought it was fairly clear, actually.

**Mr. Garry Neil:** What I would argue is that there are internationally recognized norms, for example, in the field of labour and labour law, and Jordan has agreed to those and they ought to meet that standard, and if they meet that standard then they pass that bar.

In our view, they do not meet that standard.

**Mr. Bev Shipley:** So in the international standards...the laws actually say they have to meet that standard before any free trade agreement can ever come into place? You're nodding your head but you're not saying anything.

**Mr. Mark Rowlinson:** Yes, that's what I would argue. Yes.

**Mr. Bev Shipley:** You would argue it. Is that actually what it says?

**Mr. Garry Neil:** What it says where?

**Mr. Mark Rowlinson:** No. It doesn't say that, no.

● (1215)

**Mr. Garry Neil:** No.

**Mr. Bev Shipley:** No, you're saying the international labour laws...okay, then they don't have to be at that standard before a free trade agreement is in place. So actually what a free trade agreement does, folks, is allow the country to diversify and get economic strength so that it might actually get to a point where it has great labour laws, like in Canada.

I have a question, though, when you talk about the labour laws. This might be to Mr. Rowlinson. This is what I don't understand. And I know there are provincial labour laws. So when we talk about having a standard in Jordan in labour laws, does that mean it would only be that they would be for unions?

Let me give you an example. Should a company here...and I'm trying to think of the word you used, have the opportunity to have...I forget the word. I should have written it down. Here, actually, if there is a business, and a union targets that business as one where it wants to set up a union shop, it can come in and do its lobbying and do its meetings and whatever. But in the one or two cases I've been involved with, if anybody else wants to promote non-union because of maybe the benefits of it or whatever, they actually can't do that. Is that fair treatment of labour? Would they have the same opportunity to voice an opinion against a labour union as a labour union would to oppose those companies not having one?

**Mr. Mark Rowlinson:** I've been practising labour law in Canada for 17 years. The reality is that workers choose whether to have a union or not. Workers are entitled to express their opinions in the workplace or outside the workplace as to whether they want to sign a union membership card or not.

**Mr. Bev Shipley:** I guess I'm out of time. I think the chairman took some of it at the start, complimenting our team here.

**The Chair:** We'll allow a quick answer.

Do you have anything to add to that?

**Mr. Mark Rowlinson:** The fact is that Canada increasingly doesn't reflect ILO. It doesn't respect ILO core labour standards either, as far as the right to strike and freedom of association. But we like to think that in Canada workers and trade unions have at least some mechanisms by which to try to enforce those rights. In Jordan it's less clear.

**The Chair:** Fair enough.

Mr. Côté.

[Translation]

**Mr. Raymond Côté:** Thank you very much, Mr. Chairman.

Just like my esteemed colleague, Gerald Keddy, I think that nothing is perfect in this world. However, I disagree with him completely when he says that this agreement, which was negotiated with the Kingdom of Jordan, could not be improved. On the contrary, I think that that reveals the government's total absence of will in that regard.

Do you think we could find some way of improving the agreement? I don't want to make you repeat anything, but I think you mentioned several possible interesting solutions. Do you sincerely think that the agreement which was negotiated with the Kingdom of Jordan could be improved?

[*English*]

**Mr. Garry Neil:** I believe that if a human rights impact assessment were done prior to entering into the agreement, it would reveal a number of things. If you improved the environmental side agreement and the labour side agreement, it would certainly make it better. Then we would look at the outcome and balance that against the reality that still prevails that there are significant problems in Jordan.

I'm not sure if that answers the question or is as definitive as you'd like it to be, but we would urge you to make recommendations to try to improve it.

**Mr. Mark Rowlinson:** I agree with that. I could go on at length about specific clauses I would change, and so on. I'm not sure that would benefit. I think there needs to be an overall impact assessment on these kinds of agreements. Then there needs to be a more inclusive, transparent, and democratic process by which these agreements are conceived and then negotiated.

[*Translation*]

**Mr. Raymond Côté:** Thank you very much, gentlemen. I am led to conclude that had there not been a will to improve industrial workers' conditions during the Victorian era, that type of condition may have been perpetuated right up till today.

Mr. Chairman, I am going to give the rest of my time to my colleague, Marc-André Morin.

●(1220)

[*English*]

**The Chair:** I'll give you two and a half minutes.

[*Translation*]

**Mr. Marc-André Morin (Laurentides—Labelle, NDP):** My question is for Mr. Neil.

In Jordan, water is an extremely precious commodity. A truckload of water is more valuable than a truckload of oil. That water comes from the water tables. It has been in there for tens of thousands of years. In all of the countries in that region, water is wasted on all sorts of questionable projects, like intensive farming.

Local populations that have small wells and live around the water sources and oases see the water table that feeds their wells diminish every day. The day there is a confrontation between, for instance, Potash Corporation and 200 or 300 Bedouin goat farmers, the only possibility left to the Bedouin will be to sell dried goat meat. That is my concern.

[*English*]

**The Chair:** We'll allow a quick answer. Go ahead.

**Mr. Garry Neil:** Oh, I absolutely agree. I think the situation in Jordan with respect to water is very serious. It's becoming more serious. Water is becoming more scarce, and the Jordanian government absolutely needs both to take action and to have scope to take action to protect the water as far as possible for humans.

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

Mr. Easter had a final question. I'll allow a few minutes.

**Hon. Wayne Easter:** It's a short one.

In the previous exchange, on the labour side and the environmental side, Mr. Neil, you talked about making the agreement...that those particular sections, if they were improved, would make it better. But how do you gain any ground with making it enforceable? The key in these trade agreements is in enforcing them.

We have a number of cattlemen here, Mr. Chair. You know some of them. We have an agreement with the United States. The most integrated industry in North America at one time was the beef sector. The U.S. brought in country-of-origin labelling. It decimated our beef industry for a while. I forget how many years ago that was now. We won the challenge at the WTO. They've now appealed it, and we're—I don't know how many—four or five years down the road.

The problem is, if there isn't quick enforcement on some of the rules around these trade agreements, the damage is already done. In my province the beef industry is half what it was.

How do you institute in trade agreements enforceability powers that deal with actions by one side or the other that can virtually destroy industries? How do you do it in a quick way to protect the investment on either side that has been made in those industries?

**Mr. Mark Rowlinson:** I'll go briefly on that issue.

It seems to me that when you're talking about the enforceability of trade agreements you're always talking some combination of law and some combination of political will. It is not difficult. We write contracts every single day that are quickly enforceable. It shouldn't be difficult in these circumstances to conceive of and draft mechanisms that can be enforced independently, judicially, transparently, and quickly to provide meaningful rights for everyone. In order to do that you need the political will of the signatories themselves, and then you need to actually come up with the mechanisms by which to do it.

Those are my thoughts on that question.

**Mr. Garry Neil:** Of course, that's the legal answer. The political answer, as you well know, Mr. Easter, is that the United States, if it chooses not to abide by decisions taken, has the economic clout to do that. The leading example is probably the softwood lumber situation between Canada and the United States, where we won time after time after time, and the Americans simply refused and just bullied ahead in the way that they chose to.

●(1225)

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

We will now move to Mr. Keddy, to finish this round of questioning.

**Mr. Gerald Keddy:** Thank you, Mr. Chairman.

I don't know how we went from there to softwood lumber. It was a quantum leap, and I missed the booster rockets when they kicked in.

**Mr. Ron Cannon:** But we know where the beef is.

**Mr. Gerald Keddy:** I have one comment and one question. I'll pick up on Mr. Easter's comment with the cattlemen, and I appreciate their being in the room.

There's huge opportunity here for Canadian agriculture. We're signing an agreement with a country that imports 50% of its entire agriculture product. There's not just opportunity for beef, there's opportunity here for every agricultural commodity, and great potential to get into the greater Arab world through a fairly moderate Arab state.

Again, I'll go back to my original statement that there is no perfect world out there, so we have to work with what we have in front of us.

My question is quite simple. We have an agreement negotiated. There really isn't a lot of ability to amend these agreements. We've talked about labour and the environment, the importance of rules-based trading.

Would either the Council of Canadians or the labour unions support this agreement without amendments?

**Mr. Mark Rowlinson:** No.

**Mr. Garry Neil:** No.

**An hon. member:** [*Inaudible—Editor*]

**Voices:** Oh, oh!

**The Chair:** Quick question, quick answer: that's not the case all the time, in this committee.

**Mr. Gerald Keddy:** I'm shocked.

**The Chair:** We want to thank you for coming in. We appreciate the extra time. I know we were allotted one hour and we went an hour and a half. I appreciate that very much.

Thank you to the committee for the questions, and to the new members. I believe we're a very functional committee.

We'll be moving to clause-by-clause on Thursday. I would just remind committee members with regard to this that if they have any amendments, please be prepared for that. Submit them to the clerk.

With that, we'll suspend and go in camera for a quick meeting on future business.

So we'll suspend for now—

**Hon. Wayne Easter:** Mr. Chair, before you suspend, I had a motion.

**The Chair:** Yes, we'll do that in—

**Hon. Wayne Easter:** Well, I might not agree to doing that in camera.

**The Chair:** We are suspended.

Thank you.

[*Proceedings continue in camera*]

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