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# Standing Committee on Foreign Affairs and International Development

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Chair: Mr. Ali Ehsassi





# Standing Committee on Foreign Affairs and International Development

Monday, September 25, 2023

• (1110)

[English]

**The Chair (Mr. Ali Ehsassi (Willowdale, Lib.)):** I'd like to call this meeting to order.

Welcome to meeting number 73 of the House of Commons Standing Committee on Foreign Affairs and International Development.

Before I make a few points, I would like to welcome some new members we have this session. I want to welcome the Honourable Omar Alghabra to the committee. I want to welcome Ms. Sophie Chatel to our committee. Ms. Élisabeth Brière is here on behalf of another member, but welcome nonetheless. It's great to have you today. We have one new member, as I understand, who is someone we've previously had the privilege of working with in this committee. He is now back. That is Mr. Ziad Aboultaif. Welcome, Mr. Aboultaif. I think that takes care of the members.

In addition to that, I'm sure you have all noticed that we do have a new clerk. We're very grateful to have Ms. Danielle Widmer with us for this session. She is a grizzled veteran, if I may say so. It's great to have you here.

In terms of analysts, we are very fortunate that we have the same analysts we've previously had. Mr. Siekierski, B.J., is here today. Ms. Allison Goody remains with our committee. Unfortunately, today she isn't feeling well.

I just thought I would provide those preliminary remarks.

Today's meeting is taking place in a hybrid format, pursuant to the House order of June 23, 2022. Members are attending in person in the room and remotely using the Zoom application.

I would like to make a few comments for the benefit of our witnesses as well as the members.

Before speaking, please wait until I recognize you by name. For those participating by video conference, click on the microphone icon to activate your mike. Please mute yourself when you are not speaking. For those in the room, your mike will be controlled as normal by the proceedings and verification officer. You may speak in the official language of your choice. Interpretation services are available for this meeting.

Although this room is equipped with a powerful audio system, feedback events can occur. These can be extremely harmful to the interpreters and can cause serious injuries. I would ask all members to be mindful of that. The most common cause of sound feedback is

an earpiece being worn too close to a microphone. Please do pay attention to that.

I remind everyone that all comments should be addressed through the chair.

For members in the room, if you wish to speak, please raise your hand. For those participating by video conference, please use the "raise hand" function. The clerk and I will manage the speaking order.

In accordance with the committee's routine motion concerning connection tests for witnesses, I have been informed by the clerk that all witnesses appearing virtually have completed the required connection tests in advance of the meeting.

I understand that, as a procedural matter, the first order of business is the election of vice-chairs. I will turn to the clerk to kindly take care of that issue.

**The Clerk of the Committee (Ms. Danielle Widmer):** Pursuant to Standing Order 106(2), the first vice-chair must be a member of the official opposition. I am now prepared to receive motions for the first vice-chair.

**Mr. Ziad Aboultaif (Edmonton Manning, CPC):** I nominate MP Chong for the position of vice-chair.

**The Clerk:** It has been moved by Mr. Aboultaif that Mr. Chong be elected as first vice-chair of the committee.

Are there any further motions? I see none.

Is it the pleasure of the committee to adopt the motion?

**Some hon. members:** Agreed.

**The Clerk:** I declare the motion carried and Mr. Chong duly elected the first vice-chair of the committee. Congratulations.

**The Chair:** We're good to go on that.

Now we will revert back to our study of the sanctions regime in Canada.

Yes, Mr. Bergeron.

[Translation]

**Mr. Stéphane Bergeron (Montarville, BQ):** Mr. Chair, events have taken place in Nagorno-Karabakh in recent days and weeks, and, since we've already begun to study the current situation in that region, I would like us to schedule a minimum of two meetings in the coming weeks, if not days, to study what's going on there.

I also have another request. I know we submitted a request to travel to Yerevan and Baku, and, for reasons that escape me still, the official opposition denied that request. I know that the Organization for Security and Co-operation in Europe Parliamentary Assembly is meeting in Yerevan and that the House authorized travel to that gathering. I also know that the Subcommittee on Committee Budgets of the Liaison Committee sent us a notice indicating that we had to submit our travel requests by a certain date. As such, I'd like us to take a very quick look at the status of this travel request and determine whether it would be appropriate to resubmit it, which would be my preference.

• (1115)

[English]

**The Chair:** Thank you very much, Mr. Bergeron.

Mr. Oliphant, go ahead.

**Hon. Robert Oliphant (Don Valley West, Lib.):** I was going to suggest—partly because of my need to get caught up on where we are with the sanctions regime study, but also to look at other work—that we have some time for business, either today...because I think, appropriately, Mr. Bergeron's comments would go into a business meeting, as opposed to in this meeting. It's not on the agenda, and I don't believe there's a motion on the floor.

I'm totally in support of a discussion about future work and travel, but I think we need to have it in a business meeting. I don't know whether we have time. Is it respectful to our witnesses today to take 10 minutes out of that, or do we put that first in our next meeting?

I'm happy to take some time out of today's meeting, at the end, to do some business, but I'm also willing to listen to the committee and do it first in the next meeting.

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

I will remind the members that we have meetings scheduled for today and for Wednesday, and we have witnesses. The preliminary calendar has been distributed to all the members. Should everyone agree, we can set aside time on Wednesday after hearing from the witnesses to sort through what the priorities of the members are in terms of studies going forward.

Is it agreeable to all the members to set time aside on Wednesday?

**Some hon. members:** Agreed.

**The Chair:** Okay.

There's one last thing, and I don't know how everyone feels about this. You will all recall that we have an ongoing study on the situation in Ukraine. It's been a while since we have looked into that study. For the purposes of instructing the clerk, would everyone want us to schedule next Monday—one session—on the situation in Ukraine, or is it the opinion of the members that...?

Go ahead, Mr. Hoback.

**Mr. Randy Hoback (Prince Albert, CPC):** I'm curious, Chair. What were you thinking about witnesses for that meeting? Would we just bring in department officials for a briefing?

**The Chair:** As you know, we now have a new ambassador who has been appointed to Ukraine. If we could hear from the ambassador, that would be very helpful, but in the event the ambassador is not available, for whatever reason, perhaps we'll ask officials to provide us with an update, unless someone has a better suggestion.

Go ahead, Ms. McPherson.

**Ms. Heather McPherson (Edmonton Strathcona, NDP):** Thank you.

I have just a couple of things. First of all, we have not received a calendar. I don't know if that's just my team, but I have not received a calendar.

**The Chair:** I was under the impression.... I misspoke. I apologize. The clerk says it has not been sent out.

Next, for this coming Wednesday, three witnesses are appearing. Should all the members agree, the second hour would be devoted entirely to committee business.

Does that accord with everyone's plans?

• (1120)

**Ms. Heather McPherson:** I'm sorry. I just want to finish my thoughts.

First of all, I think it would be important to have that. We do have a subcommittee, and I do think there is a role for the subcommittee here that is supposed to be helping us as we set our calendar. We do have four studies that we are supposed to be undertaking, including Iran, as well as Israel and Palestine.

More importantly, from my perspective, today we started 15 minutes late. I think we have too much work to do for that to become a habit. We could probably make an effort to start on time. I know that many folks maybe didn't make it in on time, and today is a Monday and a busy day, but when we start 20 minutes late, it's not fair to our witnesses and it's not fair to those of us who are on time.

**The Chair:** Absolutely. Perhaps I could caution all the members to be here on time. That would be very much appreciated. We certainly do so out of respect for the witnesses, who take the time to share their expertise with us.

Thank you for pointing that out, Ms. McPherson.

So it's agreed that an hour will be set aside on Wednesday for committee business. Is that correct? I understand that the clerk will be sending a schedule for Wednesday.

The clerk has also brought to my attention....

Yes, Mr. Oliphant.

**Hon. Robert Oliphant:** I just wanted to clarify about the meetings. You mentioned next Monday.

**The Chair:** That's what I was about to get to.

**Hon. Robert Oliphant:** Okay. So we're missing two Mondays in a row.

**The Chair:** This Monday is not a holiday, but we don't have a session. Should everyone agree, for the purposes of an update on the situation in Ukraine, that would fall to next Wednesday.

Is that agreeable to everyone?

**Some hon. members:** Agreed.

**The Chair:** Yes, Mr. Hoback.

**Mr. Randy Hoback:** I'm just curious, Mr. Chair. You're going to run into a deadline here, with the break week the week after, in getting in a proper submission for travel. When do you need to have that submission in place?

**The Chair:** The submission is not due until late October. November 10 is the deadline. We will have ample opportunity to discuss that on Wednesday as well.

With all the housekeeping issues out of the way, it is now my great privilege to welcome before our committee two very distinguished witnesses.

First, we have Mr. Lawrence Herman here virtually. He is counsel at Herman & Associates and is likely well known to the members of this committee. Welcome, Mr. Herman.

We also have Ms. Katpana Nagendra, who is here in person on behalf of the Tamil Rights Group.

You will each be provided five minutes for your opening remarks, after which we will open it up to questions from the members. We usually go first to the witness who is present, so we will begin with Ms. Nagendra.

The floor is yours, Ms. Nagendra. You have five minutes.

**Ms. Katpana Nagendra (General Secretary, Tamil Rights Group):** Thank you.

Mr. Chair and honourable members of the committee, thank you for the opportunity to testify as part of a panel of witnesses in this study of Canada's sanctions regime.

Tamil Rights Group is a not-for-profit human rights organization acting globally to support Eelam Tamils. We relentlessly pursue means to uphold human rights through global diplomacy, together with legal avenues under international law and human rights principles. In November 2021, TRG submitted a major communication under article 15 of the Rome Statute to the International Criminal Court requesting a preliminary examination into crimes against humanity committed against Eelam Tamils within territories of states parties to the ICC.

Canada recently imposed sanctions related to Sri Lanka under the Special Economic Measures Act "in response to the gross and systematic violations of human rights occurring in the country." Sanctioned under SEMA were four Sri Lankan state officials who were responsible for gross human rights violations that occurred from 1983 to 2009 and afterwards. This was a great step in exposing the atrocity crimes, including genocide, that Tamils have been facing at least since 1948, including the anti-Tamil pogrom of 1983 and, most recently, the 2009 Mullivaikaal massacre. Numerous

Tamils, including women, children and surrendered and unarmed militants, were brutally murdered in the massacre. Death toll estimates range anywhere from 40,000 to 150,000. I am here today not only as a representative of Tamil Rights Group but also as a victim of the 1983 riots, which forced my family to migrate to Canada in 1985.

Today I would like to highlight TRG's view on Canada's sanctions regime and provide recommendations on how Canada can further strengthen the current regime. These recommendations are made in consultation with our legal advisers David Matas and Sarah Teich.

Our first recommendation centres around greater transparency and more involvement from civil society and NGOs. We feel that there should be a clear and formalized pathway for NGOs to communicate requests to implement sanctions. NGOs can also access a wide variety of evidence that can help outline chain of command and identify perpetrators of gross human rights violations. Global Affairs should be working more closely with our group and others in the identification of evidence and perpetrators to be sanctioned.

Second, more needs to be done to support justice efforts of Tamils, both in the form of additional sanctions and additional accountability efforts through various international justice mechanisms. This need is evident from realities on the ground. Sri Lankan officials continue to arbitrarily detain individuals under the draconian Prevention of Terrorism Act. There is a continued military presence in the north and east of Sri Lanka. Individuals are prevented from participating in peaceful demonstrations and acts of memorialization. Most recently, in the wake of alarming discoveries of multiple mass graves, the Sri Lankan government refuses to allow independent and international investigations and is wilfully destroying evidence.

These continued abuses highlight the need to expand the current sanctions. The vast majority of Sri Lankan officials with responsibility for gross human rights violations are still not held to account. Pervasive impunity encourages continued abuses. To combat this, sanctions must be extended to numerous additional personnel with responsibility for human rights violations.

Any assets held by sanctioned individuals in Canada should be repurposed to compensate victims. Canada should also engage multilaterally to press for sanctions to be implemented in further jurisdictions. Canada should be investigating how it may be inadvertently undermining its own sanctions regime by still providing funds to the Sri Lankan military through agencies like the IMF and World Bank.

Further, targeted sanctions on their own are not enough. The utilization of the Magnitsky act or SEMA is one tool among many that, when used in concert, may provide meaningful measures of justice and accountability.

The utilization of international justice mechanisms is important. Sri Lanka and Canada are both state parties to numerous treaties, including the genocide convention and the Convention against Torture, which enable the International Court of Justice to settle disputes. The International Criminal Court may open a preliminary examination into crimes against humanity committed against Tamils on the territories of state parties. Canada should work to support these and other initiatives.

• (1125)

We look forward to building on these engagements with this committee. We would like to emphasize that the sanctions regime should be the first step in holding individuals accountable for gross violations. Canada needs to explore and implement additional measures, as this was also the recommendation of the United Nations high commissioner's comprehensive report in 2022, which cited TRG's ICC submission.

On behalf of Tamil Rights Group, thank you. I look forward to your questions.

**The Chair:** Thank you very much, Ms. Nagendra.

We will now go to Mr. Herman.

Mr. Herman, you have five minutes for your opening remarks. Please proceed.

**Mr. Lawrence Herman (Counsel, Herman & Associates, Cassidy Levy Kent, As an Individual):** Thank you very much, Mr. Chair.

[*Translation*]

I'm very pleased to be with you today to comment on the study you are conducting.

[*English*]

First of all, Mr. Chairman, I want to say that it's a pleasure to be appearing before you. Members may not know this, but before Chairman Ehsassi entered the world of politics, he was a well-known trade lawyer himself. He and I had a lot to do in the old days, when we were dealing with various trade law matters, so it's a double pleasure for me to be appearing today.

I'm going to address one issue. We can discuss it further during the question period. My understanding is that the committee is looking at the government's implementation of the 2017 recommendations by this committee regarding Canada's sanctions regime. The standing order talks about the committee reviewing the government's implementation of the recommendations in the 2017 report.

There's one recommendation that I want to address, because I don't think the government has done anything in implementing that recommendation. That recommendation in the 2017 report, recommendation 4, states that the government "should provide comprehensive, publically available, written guidance to the public and private sectors regarding the interpretation of sanctions regulations in order to maximize compliance".

If you stand back and think about sanctions, they have emerged, in the last number of years, as a major element in our international relations, affecting business relations and commercial transactions in a major way. The private sector, the business community, is in

need of greater transparency and greater guidance from the government itself.

In the comments that I've provided to the committee—I believe they've been translated and circulated—I've made a number of recommendations. Those are, I might say, very close to the recommendations I made to the Senate committee when it was looking at this very issue earlier in the year. I set out a number of points that the government could address in making the sanctions regime more transparent and more understandable and in providing some necessary guidance to the business community, who are often dealing with this very tricky and increasingly complex area of sanctions. I won't read them, because they're before the committee, but there is a need for a follow-up to the 2017 report. The same recommendations were made in the Senate committee report in May of this year.

As far as I can tell through my own research, nothing has been done to improve or enhance guidance and transparency on how the government implements the sanctions regime. That includes sanctions of the Magnitsky act as well as the United Nations Act, and of course the Special Economic Measures Act, which is the principal vehicle for Canada's sanctions regime.

Let me leave it at that. We can come back during the questions from committee members.

• (1130)

[*Translation*]

I would also like to say that I'm prepared to answer questions about the recommendations I made in my brief, which has already been submitted to the committee.

Thank you.

[*English*]

**The Chair:** Thank you very much, Mr. Herman.

We will now go to questions from the members. Each member will be provided five minutes in this round.

Mr. Chong, you have five minutes.

**Hon. Michael Chong (Wellington—Halton Hills, CPC):** Thank you, Mr. Chair.

I'd like to direct my questions to Mr. Herman.

Mr. Herman, it's nice to finally meet you, albeit virtually and not in person. I have your brief in front of me.

I'd like to focus on what you talked about, which is enforcement. We can enact all the sanctions we want, but if they're not being enforced, they are of little effect. As you pointed out, the 2017 report of this committee provided a recommendation to the government.

When I look at the Canada Revenue Agency, they have a whole directorate set up for tax rulings and technical interpretations that you can access in order to get complex questions answered that will help guide your tax planning, whether it's for individuals or corporations or trusts. I think something like that needs to be set up within Global Affairs Canada to do exactly the same thing. Do you agree?

• (1135)

**Mr. Lawrence Herman:** I certainly do agree. I think to some extent it's a question of resources, but within the existing resources in the department, much more could be done to do the same kinds of things that, as you mentioned, Mr. Chong, are done by the CRA.

I should also say that the Canada Border Services Agency, in terms of enforcing customs laws and regulations, provides detailed guidance. They don't provide legal interpretations, because the government doesn't provide legal advice, and shouldn't.

**Hon. Michael Chong:** Right.

**Mr. Lawrence Herman:** Certainly, Global Affairs could do much more to approximate the same sorts of things done by the Canada Border Services Agency or Finance Canada in terms of some policy guidance. I have to emphasize that these are matters of Canada's interests in international business. If the business community has problems in finding its way through these very tricky sanctions issues, it behooves the government to provide some policy guidance, as the U.S. administration, the British administration and the Australian government do. They provide the kind of guidance I'm talking about, which, regrettably, Canada does not.

**Hon. Michael Chong:** You mentioned that the Canada Border Services Agency is closely related to sanctions or our obligations under domestic and international law when it comes to preventing the importation of goods that are produced using forced labour. I'm wondering if you, being a trade expert, could comment on why CBSA, the Canada Border Services Agency, has been unable to interdict and seize and block shipments that are produced using Uyghur forced labour.

As you know, article 23.6 of CUSMA, which came into force in the summer of 2020, bans under Canadian law the importation of those goods, but to date only one shipment has been seized, and it was later released to go into Canada. The Department of U.S. Customs and Border Protection has interdicted and seized and blocked some 2,500 shipments since the USMCA came into force in that country. Why are we unable to match their enforcement levels?

**Mr. Lawrence Herman:** You know, Mr. Chong, ultimately it comes down to money and resources. I think the CBSA does a very good job within their existing resources of trying to look at, examine, interdict and capture goods coming into the country, but hundreds of thousands of containers land in Vancouver. It is very difficult, even physically very difficult, for the Canada Border Services Agency to check all those and to look at all the documentation related to those importations.

Look, it's a question of resources. What do we want to do? How much is the government prepared to allocate to ensure that we can enforce those kinds of sanctions? I agree with you that it is somewhat embarrassing to see how aggressively the United States—they're the most aggressive when it comes to border matters—man-

ages to enforce sanctions and to see how rather tepid our apparent enforcement is.

I think it's a question of resources.

**Hon. Michael Chong:** Thank you, Mr. Chair.

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

Mr. Zuberi, you have five minutes.

**Mr. Sameer Zuberi (Pierrefonds—Dollard, Lib.):** Thank you, Mr. Chair.

Welcome to all the new committee members.

I'd like to thank the witnesses for being here today and for taking the time to do so.

I'd like to reset what we're talking about with respect to sanctions regimes. It's been a long time, a whole summer, since we actually discussed this issue. I'm happy we're coming to a conclusion with respect to this study.

When it comes to SEMA, it is a sanctions regime that applies to individuals, entities and states. It includes an asset freeze. Imports and exports are also implicated. They can be seized and stopped. Also, Magnitsky is essentially a kind of layer on top of that. It applies to individuals who have committed gross and serious human rights abuses. It is basically SEMA but with a specific application through a human rights lens to really target individuals.

That was just to reset the room and frame what we're talking about with respect to the study.

I'd like to focus my questions to your organization. I'm happy that we as a government have actually imposed four important sanctions on prominent individuals who were involved in the Tamil genocide, including two previous leaders of Sri Lanka. That was a very important moment for Canada but also for justice, human rights, dignity and respect for the Tamil people.

What are your thoughts on focusing, in addition to sanctions, on moving beyond that? Some organizations, such as the People for Equality and Relief in Lanka, or PEARL, have said that beyond or in addition to sanctions, we should move to supporting victim-centric international justice mechanisms.

Do you have any thoughts on that?

• (1140)

**Ms. Katpana Nagendra:** We share that same thought as well. As I mentioned in my remarks, sanctions are only the beginning in that process for victims and for justice and accountability. I believe it is important that the sanctions help strengthen these international justice mechanisms for victims to receive justice and accountability.

When the Tamil Rights Group is filing a case under universal jurisdiction, and the particular individual has already been sanctioned in Canada in regard to the Trincomalee 11 murders, it really helps us in our case to say that Canada has already sanctioned this individual and we'd like to bring him to a criminal proceeding under universal jurisdiction in another case. This is why we feel that sanctions go hand in hand with international justice mechanisms.

Yes, we can't have everybody on that sanctions list. It's not a reasonable request. I understand that. But there are other individuals, significant individuals, who should be on that list. That's the role that NGOs and civil society play, to help identify who those individuals are.

**Mr. Sameer Zuberi:** We've heard at this committee already on this study that civil society organizations play an important role in terms of helping us as a government and as a country identify potential names to be sanctioned. Your point echoes what we've already heard in testimony thus far.

You touched on a crime in your testimony just now. Can you elaborate upon that a bit more?

**Ms. Katpana Nagendra:** Was that in regard to the individual?

**Mr. Sameer Zuberi:** I forget the term you used. You talked about a particular crime a moment ago with respect to the Tamil people.

**Ms. Katpana Nagendra:** There are four people currently sanctioned under SEMA. One of the individuals was an army general who was involved in the murder of 11 individuals in a town called Trincomalee. That's what I was referring to in that particular situation.

**Mr. Sameer Zuberi:** Thank you.

I'd like to touch on field research. Can you shed any light on what has been shown thus far on the crimes toward the Tamil people? What has the field research shown thus far from all the information you have?

**Ms. Katpana Nagendra:** Our field research and our connections with civil society on the ground in Sri Lanka have shown that since the sanctions were placed in January, the culture of impunity has not changed in Sri Lanka. As I mentioned, as recently as last week there was a memorialization event of an individual who died in a hunger strike 36 years ago. That memorial event was attacked with rocks. The actual member of Parliament in Sri Lanka was also attacked. The police and army officials were just standing around watching. There's continuous land grabbing that's happening. Traditional Tamil homeland and Hindu temples are being erased with Buddhist temples.

This is a structural genocide that's continuing to occur. It hasn't helped the situation, and it's continuing to grow. There is concern from civil society on the ground that this could continue to escalate further.

**Mr. Sameer Zuberi:** That's a very important point. I would just like to—

• (1145)

**The Chair:** Thank you, Mr. Zuberi. You're considerably over time—40 seconds.

We now go to Mr. Bergeron.

Mr. Bergeron, you have five minutes.

[*Translation*]

**Mr. Stéphane Bergeron:** Thank you, Mr. Chair.

Mr. Herman, I would like to pick up on the questions put to you by my colleague, Michael Chong.

One of the difficulties we've had so far with sanctions against Ukraine and Belarus is that it's hard for us to get a clear picture of what has been sanctioned, what assets have been frozen and what can be seized. We don't even know if the federal government itself has a clear and accurate understanding. What's clear is that the federal government still doesn't know how to go about seizing assets in a way that would contribute to the reconstruction of Ukraine. It looks like a total mess.

I think a big part of the problem is that the federal government is literally delegating its responsibility to enforce sanctions to the banking sector and private companies. However, what we learned from the 2017 study and from what you presented to the Senate committee is that companies don't know exactly what they're supposed to do. When they ask Global Affairs Canada, they don't get answers.

In your opinion, does this situation exacerbate uncertainty around the effectiveness of Canadian sanctions?

Why is Global Affairs Canada stubbornly refusing to provide instructions and answer questions when we know that, on the one hand, this seems to have an impact on the effectiveness of the sanctions regime and, on the other hand, as you pointed out in your brief to the Senate committee, many of Canada's allies, including the United States, European Union countries, Australia and the United Kingdom, are providing these kinds of instructions?

**Mr. Lawrence Herman:** Mr. Bergeron, those are complex questions that I would be hard-pressed to answer in a few minutes.

First of all, imposing sanctions to freeze assets, whether real or financial, is one thing, but using those assets to compensate others is another. That's the hard part. In my opinion, we need to coordinate with our allies because Canada can't jump ahead of what its allies have agreed to. It's a very complicated question. I think the best course of action is to keep working with our allies to reach an agreement. It's very complicated, though. It's one thing to freeze assets, but it's another to use them for other purposes.

I agree with you that the burden is currently on private companies, bankers, airports, and so on. We have to keep working with our allies to find a joint solution.

I don't know if I answered all the questions you raised, but that's my general answer.

**Mr. Stéphane Bergeron:** Yes, you answered in part—



• (1150)

[English]

**The Chair:** You have 15 seconds remaining.

[Translation]

**Mr. Stéphane Bergeron:** Then I'll come back to it later.

[English]

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

We will now go to Ms. McPherson.

You have five minutes.

**Ms. Heather McPherson:** Thank you very much, Mr. Chair.

Thank you to the witnesses for being here today. It's a very interesting conversation and I'm glad we're all back to look at this.

I have a question for you, Mr. Herman, if I may. One of the things we heard previously is that there were some deep concerns with how the implementation was happening with regard to CBSA, RCMP and Global Affairs Canada: that there was no coordinated effort and there was no understanding of who was the lead in these situations.

I'm hearing from you that we don't have the resources. We don't have the transparency. The government has not allocated what is necessary to make the sanctions regime work adequately. We've seen other countries doing a much better job of that.

I'm just wondering, from your perspective, what would it look like if we did have sufficient resources? Who should be the lead in this? What lessons can we learn from other countries with regard to how this could be implemented? Right now, I think, we've heard from all of our colleagues that there's a real problem with how this is being implemented.

**Mr. Lawrence Herman:** Well, Ms. McPherson, again, you've raised a number of issues.

Look, the government is doing a reasonable job in attempting to coordinate the application of sanctions. It's not perfect, but I think there's a sensitivity within government to the need for a more comprehensive approach.

The resources issue is a little different. I was really addressing the resources that CBSA has to deal with imports of, say, goods from regimes like China in the Xinjiang area. That's a little different. That concerns CBSA.

I don't know what the answer is in terms of a much more comprehensive approach. In the U.S., for example, they have extensive inter-agency arrangements so that OFAC, the Office of Foreign Assets Control, which enforces sanctions in the United States and is part of the treasury department, coordinates with the commerce department and the State Department in a better way than we do in Canada.

One of the problems—and it's a practical problem—is that sanctions have really emerged as a major factor in our international business relations within the last number of years. The war in Ukraine has brought out all of these things. In recent years, China as well has been the focus of Canadian sanctions. My sense is that

government is a bit behind the curve in bringing up to date its system for the enforcement of sanctions, export controls and all of those things that affect the business community in a major way.

In my view, that's why this committee is vital in terms of addressing those aspects of the 2017 report, such as providing guidance, more transparency and better coordination than we have. I see this committee as performing a very important job. As well, again, I have to emphasize that the Senate report addresses a lot of these points as well. It was issued in May and details how the government could do a better job.

My approach is that those in the private sector are the ones who bear the burden of these sanctions, and they need to be better informed—not in terms of legal advice, because you can't do that in government, but in policy advice, how the government approaches its sanctions regime. That would be my answer. I'm hoping the committee can address some of these points in its report.

**Ms. Heather McPherson:** I expect that many of the recommendations that come forward from this study will echo the recommendations we saw in 2017 and again from the Senate committee.

One of the things you also spoke about is that Canada can't take the lead and that we actually have to work with our allies, but in fact, in terms of the seizing of assets and reusing them for those harmed, Canada has taken the lead or has said that it has taken the lead. One of our challenges, of course, is that what the government is saying with regard to who is being sanctioned and what's being seized doesn't actually result in those actions.

When we were in Europe, this committee visited with others. We were in Belgium, and folks were talking about how they were watching Canada to see how Canada was doing this. From my perspective, we haven't done a very good job of that. Is that because we have stepped out or is that because we just haven't set up the systems in place to make that an effective program?

• (1155)

**The Chair:** Could I ask for a very brief response? I'd be very grateful. We're over the time.

**Mr. Lawrence Herman:** Yes. I'm sorry, Mr. Chairman.

I think it's a question of coordinating with our allies and, frankly, the United States is the critical ally when it comes to sanctions.

**Ms. Heather McPherson:** Thank you.

**The Chair:** Thank you.

We now go to Mr. Aboultaif.

For this round, you will each have three minutes, with the exception of the Bloc member and the NDP.

**Mr. Ziad Aboultaif:** Thank you, Chair.

Thanks to the witnesses.

I have a quick question. Mr. Herman, you mentioned a “system”. Do we have a system for sanctions in Canada? If so, how do you understand it? Can you explain to us the system we have? Sanctions can be on an economics base, a financial base, a security base and a diplomatic base. I think it would be beneficial to understand if we really have a system in place on sanctions.

**Mr. Lawrence Herman:** Absolutely, we have a system in place. The legislation you're looking at is our sanctions regime.

Our sanctions policy, including our export controls policy, is pretty sound. It's consistent with what our allies are doing. What we need to do a better job of is providing clarification, in my view—clarification from government on some of the elements of sanctions that may not be clearly understood by the general public and by the business community.

It's not that we don't have the systems in place. We have systems. They're good. They're robust. They're strong. They implement Canada's international obligations, as I said in my paper, but there's a weak spot, and the weak spot, in my view, is the failure of the government to fully implement the recommendations in your committee's report six years ago on guidance, and in the Senate committee's report a few months ago on the need for greater transparency and greater policy guidance to the benefit of the business community and to the benefit of Canada's foreign trade.

**Mr. Ziad Aboultaif:** Sanctions have become a very important tool and have been widely used for the last two decades at least. How can we make the best of that to make sure they are effective, since the legislation and the system are in place?

**Mr. Lawrence Herman:** Again, I think transparency and policy guidance are important. I think the government is doing a pretty good job in many respects, but I come back to the major point I'm making. I think a better job could be done in providing guidance to the business community, the stakeholders, the people who are directly involved in sanctions internationally.

The point that the committee must understand is that sanctions are now a major factor in international trade relations. They weren't 10 or 15 or 20 years ago, but going forward I think we're going to be increasingly involved in a complex world of economic sanctions, and it behooves the government to help the business community understand all of this. You can't just say, “Run to your lawyer if you have a problem.” That's not good enough.

**The Chair:** Thank you.

We now go to Mr. Oliphant.

You have three minutes, Mr. Oliphant.

**Hon. Robert Oliphant:** Thank you, Chair. I want to ask a quick question of both witnesses.

Thank you for your presentation and for the work the group did leading to those first sanctions that happened. It was important and I think effective. Can you tell me the state of sanctions against those individuals or others from other jurisdictions, other countries? Have they matched ours? Were we behind or ahead?

**Ms. Katpana Nagendra:** In some jurisdictions, they match, but in others there are other individuals who have been identified—for example, in the United States. That's why we're saying that there

needs to be a coordinated effort, because in the case of these economic sanctions, if those individuals are sanctioned in Canada but they're not sanctioned in Germany, they can easily just transfer their assets to another country. They're not mirrored in all—

• (1200)

**Hon. Robert Oliphant:** Are they sanctioned?

**Ms. Katpana Nagendra:** They are not. Canada—

**Hon. Robert Oliphant:** We led the way on that.

**Ms. Katpana Nagendra:** Yes, we did.

**Hon. Robert Oliphant:** I wanted to get that into the record. I believe we were way out in front, and now our job is to pull our allies to catch up to Canada.

**Ms. Katpana Nagendra:** Exactly.

**Hon. Robert Oliphant:** Mr. Herman, thank you. Your paper was helpful. I've read it.

Mr. Chong referred to it as “enforcement”. I read it differently. I read it as “compliance” and the desire of companies and organizations to comply, and you are advocating for help for well-meaning companies and organizations that want to fall in line. Am I getting that correct?

**Mr. Lawrence Herman:** Absolutely. That's my point. For example, if there isn't clarity and general guidance on what sorts of things a company can do to ensure that they've done their diligence, then it's a problem. I don't think it's enough for the government to say that if you do thus and so, you run afoul of Canadian sanctions. What kinds of things can a company do to ensure it meets the conditions set out in the legislation? I'm not suggesting legal advice. I'm talking about policy guidance.

**Hon. Robert Oliphant:** Yes, I think that's very important. I think enforcement is an issue, and that comes down to the way CBSA works, the way FINTRAC is working, etc. Your paper looked particularly at how the government can help sanctions be more effective by ensuring that companies and organizations know their responsibilities and can follow them. I think those are points well taken.

I want to move out of anecdotal evidence on that towards real evidence, because anecdotally from my side I'm aware of many companies that have approached me to ask if they can get advice. They have had advice. They've had directives from the government about what they can and can't do, usually reactive as opposed to proactive.

It seems to me that what you are suggesting is that the government move out of a reactive mode into a proactive mode to make sure we do that. Is that a correct understanding of what you're saying?

**The Chair:** Please give a very brief response. You have 15 seconds remaining.

**Mr. Lawrence Herman:** Absolutely.

**Hon. Robert Oliphant:** Thank you.

He was fast.

**The Chair:** Thank you.

We now go to Mr. Bergeron.

Mr. Bergeron, you have a minute and a half.

[*Translation*]

**Mr. Stéphane Bergeron:** Thank you, Mr. Chair.

Mr. Herman, you answered another of my questions when you answered a question from my colleague Ms. McPherson, so I'll be very brief, since I have very little time.

Why do you think the Canadian government is so reluctant to issue directives, when several of its allies do so on a regular basis?

**Mr. Lawrence Herman:** I think it's a matter of bureaucracy. Without direction from the government, bureaucrats are very reluctant to give what could be described as legal opinions. They have a certain reticence to go too far when they answer specific questions from private companies.

I think the solution isn't difficult: We could put forward a much more proactive approach on the part of bureaucrats or public servants if there were directives sent by the ministers responsible.

**Mr. Stéphane Bergeron:** Thank you very much, Mr. Herman.

[*English*]

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

The last question goes to Ms. McPherson.

You have a minute and a half.

**Ms. Heather McPherson:** Thank you.

Thank you very much for your testimony today. I'll be very brief, because I have only a minute and a half.

When you spoke a little bit about what more Canada can do, one of the things I was interested in was the role civil society plays—NGOs and CSOs. In terms of the Tamil diaspora community, how can the government do a better job of listening to the community and responding to the requests, needs and information the diaspora community can bring to us?

**Ms. Katpana Nagendra:** I think one of the main ways to do that is to open the door to more organizations or to give them a seat at the table to provide more feedback on what's happening on the ground. However, I think what's even more important is what happens afterwards, giving us the opportunity to understand why a particular individual is not being sanctioned. I think that information is very critical to the work our team and our organizations do to say that there are maybe some gaps in the evidence in this particular crime, so we, as NGOs, and our legal team need to work a little bit harder to provide that evidence. Feedback is really important to making this a successful sanctions regime.

• (1205)

**Ms. Heather McPherson:** We have heard that from a number of different groups. The Iranian community is a perfect example. They have said that there are folks who should be on the sanctions list who are not. Therefore, getting that mechanism for diaspora groups to interact with the government on who is missing from those sanction lists is a key piece of work for the government to undertake.

**Ms. Katpana Nagendra:** That's correct.

**Ms. Heather McPherson:** Thank you.

**The Chair:** Thank you, Ms. McPherson.

At this point, I will thank the two witnesses for their time and their wealth of experience and expertise. Thank you very much, Mr. Herman, and thank you very much, Ms. Nagendra. We're very grateful. You will be receiving a copy of the report when it is ultimately ready.

To the members, we have a second panel of witnesses who will be appearing before us. I will suspend the meeting for five minutes.

• (1205)

(Pause)

• (1210)

**The Chair:** I call the meeting back to order.

We will now resume our study of Canada's sanctions regime. Allow me to welcome the witnesses who are appearing before us.

First, in person, we have here with us Professor Thomas Juneau from the University of Ottawa. He is a witness who has appeared before us previously and is well known as a media commentator, as well.

From the Canadian Red Cross, we have Ms. Catherine Gribbin, who is a senior legal adviser. Welcome, Ms. Gribbin.

From the International Committee of the Red Cross, we have two witnesses, Alain Dondainaz and Austin Shangraw, who serve as head of mission and legal adviser.

Finally, from People for Equality and Relief in Lanka, we have Archana Ravichandradeva.

Each witness will be provided five minutes. I understand that the Canadian Red Cross and the International Committee of the Red Cross want to do one five-minute opening remark, which is perfectly fine.

We will first go to Professor Juneau for his opening remarks for five minutes.

I would ask that all witnesses look over every once in a while. I will give you a sign when your five minutes are up.

Professor Juneau, the floor is yours.

**Dr. Thomas Juneau (Associate Professor, Public and International Affairs, University of Ottawa, As an Individual):** Thank you very much.

Thank you very much for the chance to speak with you today.

To begin, I want to specify that I'm not an expert on sanctions in the technical sense, but what I will do is share with you six lessons I've drawn from watching sanctions on Iran from Canada, from the U.S. and from allies for more than 15 years, first at the Department of National Defence and now at the University of Ottawa.

Lesson number one is that sanctions are easy to announce but hard to implement. I see that's an issue that was discussed before. Monitoring and enforcing sanctions is very labour-intensive, and Canada has a reputation among our friends, but also among rivals, for not enforcing sanctions well. Part of the reason is a lack of resources; part of the reason is a lack of political will.

While in many cases I share the intent of the government or opposition parties to impose more sanctions on Iran, Russia or others, whether through SEMA, Magnitsky or other tools, I do invite the committee to reflect on the reality that we already cannot fulfill our current commitments, let alone new ones. This irritates our allies, a point that I think we vastly underestimate, and it sends a message to the bad actors that we are not serious about penalizing them. This is a message they hear loud and clear.

The bottom line is that we need resources. There is just no way around that. The \$76 million that was announced last fall as part of the package of sanctions on Iran was a positive first step, but keep in mind that it takes years to generate the necessary capabilities. You need to hire people; you need to give them security clearances in a context in which we already have massive backlogs; you need to train them for highly specialized positions and so on.

Lesson number two is that sanctions are easy to announce, again, but hard to stop. They take on a life of their own bureaucratically, politically, legally and socially. Sometimes the day comes when the cost on us—not on the target but on us—exceeds the benefits, but removing the sanctions can be very difficult. So as you reflect on the future of sanctions, I also urge you to think about processes to remove sanctions, when doing so is in our interest, to avoid tying the hands of future governments, even though sometimes that may be tempting.

Lesson number three is that sanctions, especially the sweeping kind, often have negative unintended consequences. In particular, as in the Iranian case, they can entrench authoritarianism and corruption. In Iran, the IRGC has been able to build a massive economic empire and therefore become more powerful as part of the regime's efforts to evade sanctions. So, yes, as intended, sanctions have hurt the regime, but they have also come with a major cost. At the very least, we need to think about this more transparently when we design sanctions.

Lesson number four is that for these first three reasons, in many cases I find that targeted sanctions can be much more effective than the sweeping or blunt kind. They are less resource-intensive—keep in mind point number one about our overstretched capacity—and they're also more surgical in their impact—keep in mind point number two about the blunt impact they may have. They can minimize broader unintended negative costs, including humanitarian suffering. That is why, in the case of Iran again, the idea of listing the IRGC as a terrorist entity under the Criminal Code—something that a number of people in opposition and civil society support—is appealing in principle and it's an idea that I don't disagree with in theory, but in practice it is not practical, for the first three reasons I have given.

Lesson number five is that public discourse on sanctions in Canada tends to focus very much on the foreign policy angle. In a way that's normal, and that's the focus of your work, but usually

Canadian sanctions have little or no direct impact from a foreign policy perspective. Where sanctions do serve our interests much more and can actually have a positive outcome for us is more on the national security side. Again, in the case of Iran, we are not going to change Iranian foreign policy with our sanctions. Where we can make a difference is in the case of Iranian regime officials and their families, for example, parking financial assets in Canada or Iranian regime officials and affiliated thugs intimidating the Iranian-Canadian diaspora. That's a problem, but it is a national security problem, not a foreign policy problem. Here again, targeted sanctions, not the sweeping kind, can actually have a chance of success—full success probably not, but some success, yes.

My concluding point—and I will finish on this—is a plea for more transparency, something I also heard a bit about in the previous session. It is transparency regarding the objectives of sanctions, “What are we actually trying to do?”, but also their successes and failures: “What are they doing?” There is very little publicly available information in Canada on these questions, and that's a problem. This lack of transparency prevents a more informed public debate, which is a problem on its own, but it also makes the work of civil society, the media and academia more difficult as they try to hold the government to account on what sanctions are achieving and not achieving.

• (1215)

Thank you.

• (1220)

**The Chair:** Thank you, Professor Juneau.

We will now go to the International Committee of the Red Cross and the Canadian Red Cross.

You have five minutes for your remarks.

**Mr. Alain Dondainaz (Head of Mission to Canada, International Committee of the Red Cross):** Thank you, Mr. Chair.

Thank you to the committee for the invitation to the International Committee of the Red Cross to share our views and experiences in relation to the intersection of sanctions and humanitarian action.

The ICRC is part of the broader Red Cross and Red Crescent Movement, comprising the ICRC, the International Federation of Red Cross and Red Crescent Societies, and national societies such as the Canadian Red Cross. Both the ICRC and the Canadian Red Cross provided written submissions to the committee for its study.

As mentioned before, I am joined today by my colleagues Austin Shangraw and Catherine Gribbin from the Canadian Red Cross. We appreciate the opportunity to appear today before the committee in representing the Red Cross and Red Crescent Movement.

As a neutral, independent and impartial humanitarian organization, the ICRC carries out humanitarian activities throughout the world to reach vulnerable populations affected by armed conflict and other situations of violence, including in contexts where sanctions apply.

Over the past years, the ICRC has noted an increase in sanctions and counterterrorism-related regulations in contexts where we operate. While we do not question the legitimacy of states and international organizations to employ such measures, we believe they must include safeguards to minimize any adverse impacts on the ability of impartial humanitarian organizations to respond to the needs of persons affected by armed conflict and other situations of violence, in accordance with humanitarian principles.

The ICRC has been engaging with states at the national, regional and multilateral level in an effort to ensure that sanctions are developed in line with their obligations under international humanitarian law and in a manner that does not impede principled humanitarian action. The ICRC believes that well-framed and standing humanitarian carve-outs for exclusively humanitarian activities undertaken by impartial humanitarian organizations in line with international law, including IHL, are the most appropriate way to comply with international law and facilitate humanitarian activities without undermining the objectives of sanctions regimes.

The adoption, at the end of last year, of the standing humanitarian carve-out across all UN sanctions regimes in United Nations Security Council Resolution 2664 demonstrates the acceptance of this approach for facilitating humanitarian activities. Since its adoption, the ICRC has been urging all states to fully implement UN Security Council Resolution 2664 and adopt appropriate domestic measures to give it full legal effect. The ICRC welcomes Canada's implementation a few months ago of the humanitarian carve-outs in Resolution 2664, along with the humanitarian carve-out in UN Security Council Resolution 2615 in the United Nations Act sanctions.

Sanctions can impact humanitarian organizations in various ways, often leading to operational delays or limitations on humanitarian activities. The ICRC has faced the following impacts from sanctions.

The first one is private sector de-risking and overcompliance. Humanitarian organizations rely upon private sector actors, such as suppliers and financial institutions, to carry out humanitarian activities. However, private sector actors have become increasingly hesitant to support humanitarian activities in certain contexts because of sanction risks, particularly in contexts where there are overlapping sanctions regimes. Even where there may be humanitarian carve-outs in sanctions in place, many private [*Technical difficulty—Editor*].

The second point is about the reduced number of suppliers. The ICRC has found that there is a decreasing number of suppliers willing to support humanitarian activities in contexts perceived to be a

high sanctions risk. This de-risking from suppliers means that suppliers refuse to work in certain contexts.

The third point is that increased risks hinder impartial humanitarian action and funding. Impartial humanitarian organizations must engage with governmental entities and non-state armed groups to negotiate access and carry out their work providing aid based upon needs. When these entities are designated under sanctions, there are increased risks, whether legal, operational or duty of care to staff. Humanitarian personnel also risk possible prosecution for carrying out humanitarian activities. Relatedly, the increased risks may also restrict the ability of donors to fund impartial humanitarian organizations in certain contexts.

The ICRC has various recommendations to mitigate the impact of sanctions on humanitarian action and address the challenges I have highlighted. My colleagues and I look forward to discussing this in more detail in the Q and A. Humanitarian carve-outs are successful when there is clarity and certainty for humanitarian organizations, private sector actors, suppliers and banks and donors who want to support humanitarian action.

Thank you very much. We look forward to your questions.

● (1225)

**The Chair:** Thank you very much, Mr. Dondainaz.

Now we go to our final witness, who is here on behalf of the People for Equality and Relief in Lanka.

Ms. Ravichandradeva, welcome. You have five minutes for your opening remarks.

**Ms. Archana Ravichandradeva (Executive Director, People for Equality and Relief in Lanka):** Thank you, Mr. Chair.

Thank you, esteemed committee members, for this opportunity to address the issue of sanctions in Sri Lanka specifically. I would first like to begin by expressing the gratitude of PEARL for Canada's ongoing support and commitment to human rights and justice, and for its continued leadership in the fight for accountability in Sri Lanka.

My name is Archana Ravichandradeva, and I am the executive director of People for Equality and Relief in Lanka, PEARL. We are a non-profit organization led by human rights activists concerned about the situation in Sri Lanka. We bring together research, advocacy and activism to promote and protect the human rights of Tamil people in the northeast of the island.

Despite overwhelming evidence of the Sri Lankan government's committing war crimes, crimes against humanity and genocide of the Tamil people, especially in the final stages of the 26-year-long armed conflict, Sri Lanka has yet to deliver any justice or accountability. Today the human rights situation in Sri Lanka continues to worsen. Sinhalese-Buddhist nationalism, which we consider to be a root cause of the conflict, continues to drive irrational policies that cause harm to the Tamil community. Issues of militarization remain high in Tamil areas in the northeast, and Tamil politicians, activists and civil society advocating for justice and accountability continue to experience significant constraints on their advocacy.

The few domestic mechanisms that Sri Lanka has—for example, the Office on Missing Persons is often seen as one of its flagship mechanisms—lack independence and impartiality and have lost the trust of victim-survivors. It is in this context that international actions such as sanctions can have a profound impact, especially against bad actors who continue to hold deeply entrenched positions of power and authority within the Sri Lankan government.

Canada has been a strong advocate for the Tamil community by, for example, recognizing the Tamil genocide last year. Canadian sanctions that were implemented in January 2023 on former president Gotabaya Rajapaksa, former prime minister Mahinda Rajapaksa, Staff Sergeant Sunil Ratnayake and Lieutenant-Commander Chandana Prasad Hettiarachchi are some of the few, if not the only, individual actions of accountability against Sri Lankan leaders, which is of symbolic importance in a war that was supposed to be a war without witnesses. The sanctions are the only international individual accountability measures against the Rajapaksa brothers specifically, who orchestrated the violence. Many of the victim-survivors whom PEARL connects to in Sri Lanka almost regularly mention the sanctions as one of the few positive developments in an accountability landscape that often feels bleak and impossible.

However, we must recognize that current sanctions are just a starting point, and it's crucial to expand the list of individuals and entities subject to sanctions, including Magnitsky-style sanctions, to those responsible for the war crimes, crimes against humanity, genocide and other human rights abuses committed during the armed conflict. We also have to acknowledge that sanctions are not the be-all and end-all, and that they are likely to be unsuccessful in the absence of other measures. PEARL robustly advocates for sanctions to be supported by Canadian engagement in other areas, such as international justice efforts through universal jurisdiction, international courts, etc., to develop a multilateral approach to justice.

I'd also like to speak briefly about the process in which PEARL engages in advocacy in Canada and about how the system can be made better for other advocacy organizations as it relates to sanctions. We began connecting with representatives and having meetings with Global Affairs Canada several years before the sanctions were confirmed—along with many other Tamil organizations. For example, there's often a lack of clarity about whether we focus sanctions advocacy under the Special Economic Measures Act or the Magnitsky act; about whether our advocacy with Global Affairs has been translated across other departments, including, for example, the Department of Justice; and about what kinds of information needs to be shared or gathered by advocacy organizations to support the efforts.

There is also a greater need to understand the difference between the sanctions regime on one side and the IRPA—which has its own internal mechanisms against allowing individuals accused of human rights violations into the country—on the other. During the process of our advocacy, there was also sometimes a lack of information about what the impact and implementation of these sanctions would be once they were implemented.

● (1230)

I want to take some time to talk, from the perspective of an advocacy organization, about the importance of greater cohesion and consistency in terms of applying the existing sanctions regime and how to work together, with more guidance and a policy framework. I think a witness before spoke about policy information for organizations and activists to engage in advocacy around sanctions and about how to make sanctions more effective in their implementation after the initial proclamation.

Thank you, Mr. Chair and committee members. I'm happy to answer any questions on this.

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

We now go to the members. For the first round, each member will be provided four minutes.

We start off with MP Epp.

**Mr. Dave Epp (Chatham-Kent—Leamington, CPC):** Thank you, Mr. Chair.

Thank you to the witnesses for their excellent testimony.

I'm going to begin with Dr. Juneau. Your testimony outlined a number of very specific recommendations. I appreciate that.

I'm going to get to an overarching question. We heard from the previous panel, and from you as well, the call for more resources. That's understandable. I'll admit that I'm somewhat hesitant to join that call until I have confidence that there is proper accountability and coordination within our own government regarding the effectiveness of a sanctions regime.

My basic question is, who is ultimately responsible? We hear calls for the CBSA to do this, or for Global Affairs, through their different channels, or for an OFAC-like organization within CRA. Who is ultimately responsible for the overall effectiveness of our sanctions regime? I hear “political will”; you mentioned that is also lacking. In order to bring that about, where do we point?

**Dr. Thomas Juneau:** That is a very good question. I think it touches on a lot of the points that I and other speakers mentioned today, as well as what I heard in the previous session.

I think it notably touches on the issue of transparency, because based on public information it's actually a bit difficult to answer your question specifically. There's a lot we don't know publicly in order to provide a specific answer. My first point, to answer your question, would be that I would be equally curious to hear somebody from the government answer that question. I wouldn't know how to fully answer it.

The second point I would mention is specifically on the role of GAC. This touches on a lot of other issues too. I would support formally giving Global Affairs a stronger role in coordinating sanctions. The OFAC model you mentioned is a model, but the American system is so different from ours, not just because of its sheer size but because it's a different system of government. It's not a complete analogy. There remains the idea that OFAC plays a very strong coordinating role that GAC cannot play because of silos within our system and because of the difficulties in sharing information with CBSA, RCMP and others involved in monitoring and enforcing sanctions.

I think part of the answer would be to give GAC greater tools to be able to do exactly what you suggested.

**Mr. Dave Epp:** As a follow-up, the U.S. did respond to 9/11 with the creation of Homeland Security. If I can paraphrase what I'm hearing, you're saying to make GAC somewhat more Homeland Security-like across agencies. Am I understanding correctly?

**Dr. Thomas Juneau:** Well, the Homeland Security analogy is a bit different.

• (1235)

**Mr. Dave Epp:** It's a different situation, but it's the model I'm after.

**Dr. Thomas Juneau:** The model, in a way.... Regarding the package of \$76 million that was announced last fall, which I referred to, we know very little publicly about what the plan to spend that money is. That being said, there were little bits of information about a sanctions bureau being created within GAC. The term “bureau” implies a certain bureaucratic standing within the department. I think that's a first step.

Exactly how much coordinating power, how much gathering power, how much authority to bang heads and cajole and coerce departments to share information and work together is not clear to me, but I hope it's more than right now.

**Mr. Dave Epp:** I won't have time to get into the unintended consequences. I'll leave that point for others.

You also mentioned the unwinding of sanctions. Would a more centralized or more powerful entity that has responsibility also help

with the potential unwinding of sanctions once their cost has exceeded their benefit?

**Dr. Thomas Juneau:** It would, potentially, yes.

**The Chair:** You have eight seconds left.

**Mr. Dave Epp:** I'll concede, Mr. Chair.

**The Chair:** Thank you, MP Epp.

We now go to MP Oliphant.

You have four minutes.

**Hon. Robert Oliphant:** Thanks, Mr. Chair.

Thanks to all of the witnesses. It's all helpful.

I'm going to focus a bit on Professor Juneau as well.

I feel like I want three hours with you. I did read your testimony before the Senate committee that was studying the same issue a few months ago, and you echoed it today again. I have two questions.

The first is about the power of sanctions or the possibility of sanctions entrenching authoritarian power. I want you to dig into that a bit to help me understand what you really mean there. You used the example of how we have sanctioned the IRGC. We have listed the Quds group. How is this...? It ties in as well, I believe, to broadcast untargeted sanctions as well as targeted individuals. Can you comment a bit more on that? In fact, I'm going to give you the time to do that for me.

**Dr. Thomas Juneau:** Okay. That's a good question.

There's a lot of literature on the intended and unintended consequences of sanctions, the intended ones being to weaken the adversary and, hopefully, change its behaviour. In many cases, the behaviour doesn't change, but at least you weaken it by strangulating it commercially, financially, politically, militarily and so on. That's true, and in the case of Iran, Russia and others, that's an important aspect of it.

There's also huge literature on the unintended consequences of sanctions. One side is the humanitarian side, which was discussed previously. I'll put that one aside. It matters a lot, but it's not my expertise. The other one is on the economic side. What Iran has done over the years is develop tremendous skill at evading sanctions.

By the way, one of the really interesting but poorly understood consequences of this is a sharing of lessons learned among authoritarian states on how to better evade sanctions—for example, Iran and North Korea, and now Russia, since Ukraine. There are a lot of lessons learned being shared between these states on how to evade sanctions. That's a big problem, and I don't know what we can do about it.

What the IRGC has done is build a clandestine economic empire that allows it to control illegal—from our perspective—trade in sanctioned goods with countries in Asia. There is a lot through Dubai. That has made the IRGC extremely rich economically—not only its individual commanders but the organization itself—and therefore much more powerful politically within the country.

To be clear, the rise of the IRGC in Iran is not only because of sanctions. There are other reasons for that. That being said, an unintended consequence of sanctions on Iran undoubtedly has been to strengthen the IRGC. There is a tension here that we haven't fully figured out how to resolve. We want to sanction it—

**Hon. Robert Oliphant:** How contextual is it? The reality is that we have that issue in Iran, but that may not be the case in another country, so we have to be pretty nimble, I would think, on that.

**Dr. Thomas Juneau:** That's a very good question. I'm reluctant to go beyond the case of Iran, because it goes beyond my expertise. What I would say is that experts on other countries have discussed similar dynamics.

**Hon. Robert Oliphant:** Okay, very good.

On successes and failures, if the impact of sanctions is greater with respect to national security than foreign policy, how do we measure success and failure on that?

**Dr. Thomas Juneau:** Do you mean on the foreign policy side or the national security side?

**Hon. Robert Oliphant:** Both.

**Dr. Thomas Juneau:** On the foreign policy side, that is also a long-standing debate in academic circles: How do you measure success on sanctions? Part of the difficulty in answering that question is that in many cases the stated object of sanctions is not the same as the de facto objective. In many cases—Cuba, Iran, or even Russia, for that matter—the stated objective is to change the regime's behaviour. It's not happening. The de facto objective becomes to weaken the adversary, because it won't change its behaviour. That can be measured, but it's very difficult.

In the case of Iran, one of the never-ending debates is this. Iran's economy is struggling in many ways: negative economic growth, double-digit inflation and very high unemployment. How much of that is because of sanctions, and how much is because of mismanagement? It's very hard to say.

• (1240)

**Hon. Robert Oliphant:** That's the end of my time.

If there are any—not too many—relevant articles that you could send to us, that would be helpful.

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

We now go to Mr. Bergeron.

You have four minutes, Mr. Bergeron.

[*Translation*]

**Mr. Stéphane Bergeron:** Thank you, Mr. Chair.

In our committee, we have so few opportunities to hear the language of Molière, Dr. Juneau, that I would really have liked to hear you speak to us in French, or at least hear you say a few words in French. That said, I fully recognize your right to use the official language of your choice.

In response to a question from my colleague Mr. Epp, you mentioned the office that Global Affairs Canada was to create. In fact, that announcement was made almost a year ago, last October. Don't you find it strange, even symptomatic, that, almost a year later, we still have no details about the creation of this famous sanctions office at the Department of Foreign Affairs, Trade and Development?

**Dr. Thomas Juneau:** Yes, absolutely. That's why the last point I made in concluding my remarks was a call for greater transparency on sanctions. That's a problem. As you said, there is very little information on how the \$76 million will be spent. We don't know what the office's mandate will be, whether it will have additional powers or what its objectives will be, for example.

By the way, the lack of transparency is a problem across the board in terms of foreign policy, defence, and national security. It's not just a problem for academics who would like to have more information to write their papers. This is a problem for accountability. A lack of information makes the work of civil society and the media much more difficult to hold the government to account. At the moment, it is very difficult to do so.

**Mr. Stéphane Bergeron:** Moreover, according to a suggestion made by the Raoul Wallenberg Centre for Human Rights in its brief to this committee, Canada's sanctions laws should enshrine the essential oversight role of the public and Parliament.

I understand from your comments that you think this would probably be a desirable thing, but how do you think civil society and parliamentarians could better oversee the application of the sanctions regime and, furthermore, take part in the process of designating sanctions and reviewing their effectiveness once they are in place?

**Dr. Thomas Juneau:** Those are really good questions. I'm glad you asked them.



First of all, one of the roles of civil society, Parliament—I could very well include it in the list as well—media, academia, and the private sector is to hold the government to account, and that's just difficult to do when you have very little information about what works and what doesn't. We have access to the lists of sanctioned entities and individuals, but that's about it. We don't have much more information even on the basic objectives and the role of the office. So the problem in terms of accountability is major. It goes well beyond the issue of sanctions; that is something we could talk about for a long time as well.

With regard to the designation of sanctions, I am a little reluctant to venture an opinion on that, because we are getting into a more technical aspect that is outside my area of expertise. However, I would say that, in general, the Department of Foreign Affairs, Trade and Development, the government and the national security community do not have a solid tradition of involving the outside world, civil society and others, of consulting and listening to people and of gathering ideas, whether for the designation of sanctions or other aspects in general. It's just not something that we do well here in Ottawa.

**Mr. Stéphane Bergeron:** I'd like to come back to the issue of effectiveness.

At the Senate committee, you mentioned that there was some question as to whether sanctions had led Iran to negotiate the 2015 joint comprehensive plan of action.

My question is very simple: To answer that fundamental question you asked, can we draw any conclusions from Iran's attitude following the United States' withdrawal from the joint comprehensive action plan in 2018 and the United States' reinstatement of sanctions?

**Dr. Thomas Juneau:** It's complicated to answer that quickly.

• (1245)

**Mr. Stéphane Bergeron:** That's more in your area of expertise, isn't it?

**Dr. Thomas Juneau:** Yes, yes.

There's no question that sanctions have hurt Iran very badly, despite the benefits to the Revolutionary Guards, which we talked about in the context of the previous question. I don't think there's any question that this has pushed Iran into negotiations.

The problem is that today the situation has changed. Iran has been able to develop what they call a resistance economy that allows them to avoid sanctions. Iran trades with Asian countries, not only with China, but also with semi-allies like Malaysia, for example. Iran has diversified its trade considerably and is much more resistant to sanctions than it was in the past. This limits the effectiveness of sanctions.

**Mr. Stéphane Bergeron:** Thank you very much.

[*English*]

**The Chair:** Thank you.

We now go to Ms. McPherson. You have four minutes.

**Ms. Heather McPherson:** Thank you very much, Mr. Chair.

Thank you very much for the testimony today.

Mr. Juneau, everybody has asked you many questions, so I want to just echo the testimony you've given us that we don't have the resources and the transparency is not there. I, in fact, have asked Order Paper questions and have brought it up as a point of privilege because I can't get information, as a parliamentarian, on our sanctions regime. Obviously, I'm terrified to hear you so clearly state not only that our allies are disappointed in Canada's enforcement, but that those being sanctioned don't see it as an impediment.

What I'd like to do today is ask some questions of our colleagues from the Red Cross and the ICRC.

If possible, could you give us a little more information about the impacts of sanctions on humanitarian access in Syria? We've seen calls to lift sanctions in order to reach more people with life-saving assistance, but that feels wrong, considering that we know the al-Assad regime is continuing to perpetrate crimes against the Syrian people.

How do we find ways to reconcile our sanctions obligations and our enforcement of sanctions with our humanitarian law obligations?

**Ms. Catherine Gribbin (Senior Legal Advisor, International Humanitarian Law, Canadian Red Cross):** Thank you very much.

My colleague Alain will take the lead on that.

**Mr. Alain Dondainaz:** Thank you so much for the question.

Syria is a very complex situation. It's a very difficult situation to work in, notwithstanding the sanctions regimes around it. From an ICRC perspective and for the humanitarian response, it's a very challenging area. On top of that, we have now had this natural disaster, the earthquake, which is adding another layer to it.

I will let my colleague Austin start answering those questions. Maybe at the end, Catherine, you can jump in and speak to the implications that you face responding to the earthquake in Syria as well.

It's over to you, Austin, and then we can continue from there.

Thank you.

**Mr. Austin Shangraw (Legal Advisor, International Committee of the Red Cross):** Thank you for the question.

Complementing what Alain said, I think Syria is a good example of where we see the challenges that come up with private sector de-risking and those issues we mentioned in our opening statement with banks, suppliers and logistics companies that we rely upon to carry out our work. That's because in Syria, you have a situation where you have numerous overlapping sanctions regimes and counterterrorism regulations for many countries that are in place, and that leads to a lot of confusion about what's allowed and what's not allowed and, if there are humanitarian carve-outs in place, what can be supported and when. What we see is that this results in delays for humanitarian organizations like the ICRC in being able to procure items that are desperately needed for a humanitarian response, and to have funding sent to the country and our offices to be able to facilitate our activities.

Second, this also brings up the point that we're in a dynamic situation of a protracted conflict that can have various emergency situations also arise, and it shows that conflicts can evolve and change. When it comes to humanitarian carve-outs, it really represents the need to ensure that carve-outs capture the breadth of humanitarian activities that can take place in such situations, responding to both protracted conflicts and those emergency situations.

**Ms. Heather McPherson:** Thank you.

Ms. Gribbin, when you respond, could you also talk a bit about Bill C-41? You know the challenges that the New Democratic Party had with Bill C-41. It's a bad law, from my perspective. We got that humanitarian carve-out included, but it is still incredibly onerous.

Could you talk about your experience with that as you answer?

**Ms. Catherine Gribbin:** Absolutely. Thank you very much.

Echoing the comments of my colleagues, I will build on what Austin said. Where we have experienced the impact of sanctions is that the very people we're concerned about protecting... It's the civilian population that is really at the hands of those individuals—the designated groups, the designated individuals and the governments themselves. The civilian population is greatly impacted by those same people. What we are speaking about when it comes to that notion of a carve-out is not to run interference at all with the sanctions, working toward the end they are aspiring to, but rather to create a space for humanitarian organizations and, exactly as my colleague Austin said, to be able to do so in a timely manner.

I can give an example. We've had colleagues go to work in the response to Syria and, as Austin mentioned, in addition to the already very difficult task of figuring out who needs what and organizing all of the goods, they had to put aside time in order to navigate every regime internationally that applied to that particular situation.

When there is a clear carve-out—

• (1250)

**The Chair:** I'll ask you to conclude, because we're considerably over time.

**Ms. Catherine Gribbin:** Pardon me.

If there's a clear carve-out, it delineates and cuts off that work, and it means that our work and efforts can be spent more on the response.

Thank you.

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

For the second round, the first two members are provided three minutes, and the second two members have a minute and a half.

We'll start off with Mr. Hoback.

You have three minutes.

**Mr. Randy Hoback:** Mr. Juneau, I'm curious. You talked about Canada's reputation abroad because of our inability to enforce sanctions. Is there any way to simplify the sanctions so that we can make them simpler to enforce? Are there things we could be doing or things we should be looking at that would simplify the whole process?

**Dr. Thomas Juneau:** Thank you.

One way to answer that question would be to distinguish between sweeping and targeted sanctions. Sweeping sanctions are sanctions that target a government as a whole, a country as a whole or the economy as a whole. Targeted sanctions target individuals or entities one by one, and you list them.

Sweeping sanctions are, as a rule of thumb—and I'm simplifying it here—extremely labour-intensive. The demand on the intelligence community, law enforcement, the CBSA and so on is huge, because the number of individuals and entities they have to monitor and then potentially enforce sanctions on is huge. We simply don't have the resources for that in a context where, to deal even with non-sanctions issues, we are already overstretched—CSIS, the RCMP and so on.

As a general rule, I would be very reluctant—it's not a blanket “no”—to impose additional sweeping sanctions. I very much support the targeted type.

**Mr. Randy Hoback:** Ms. Gribbin, in that light, when the Red Cross is dealing with different countries and there are both targeted and sweeping sanctions in place, how do you administer that? How do you administer sanctions that Canada puts on a country, versus the U.S., the U.K. or other places? How do you differentiate? Do you make substitutions when one country says you can't ship something there? If you can't get it from Canada, do you get it from the U.S. or somewhere else?

**Ms. Catherine Gribbin:** That's an interesting point. I'll turn to my colleagues from the International Committee of the Red Cross as well. We work as part of a federation and as part of a global movement. We are always working with our partner national society and all the local law that applies in that particular jurisdiction. We're subject to that.

Obviously, we're also responsible for and subject to Canadian law. We have the in-house expertise. We have the auditing, the planning, the monitoring, the evaluation and the oversight in order to ensure that our programming and our financial responsibilities, etc., are in compliance with Canadian law.

As I just mentioned, Syria was a perfect example where we had goods coming in from all around the world. We worked with our movement partners in order to navigate that. We had the staff, including lawyers, in order to do that very analysis you're speaking about.

**Mr. Randy Hoback:** Do you think food and medical aid should ever be part of sanctions?

**Ms. Catherine Gribbin:** Are you asking if they should be subject to the exemption?

**Mr. Randy Hoback:** Do you think they should always be exempted and never included in a sanction?

**Ms. Catherine Gribbin:** As a lawyer, I never want to say “always”—we like the phrase “it depends”—but at an initial point, yes, absolutely. When you're talking about the delivery of food and medical assistance to the civilian population, those who shouldn't be impacted by the sanctions in the first place, they should absolutely be included.

**Mr. Randy Hoback:** Mr. Juneau, would you agree?

**Dr. Thomas Juneau:** I agree as a matter of principle, but again, the devil is often in the details.

Another country that I look to is Yemen. The Houthis, the rebel group that controls northwest Yemen, have been massively manipulating humanitarian assistance, sending it to their own soldiers, so it does raise really tricky questions.

**The Chair:** Next we go to MP Zuberi.

You have three minutes.

[*Translation*]

**Mr. Sameer Zuberi:** Thank you for being here today, Dr. Juneau. I found your testimony so interesting.

[*English*]

I've read about you over the years and I'm happy to see you in front of the committee now. I want to give you about a minute or so if you want to add anything that you haven't said thus far, anything that you think is new and would help us in our report.

**Dr. Thomas Juneau:** Anything new...

**Mr. Sameer Zuberi:** Yes, is there anything different that you want to add? You don't have to. If you don't have anything, that's fine.

I want to ask about unintended consequences. We focus a lot on Iran and how we want to engender positive behaviour from all states, including Iran and the leadership there. That's why we've applied important sanctions in different ways, and we want to get a positive result. You spoke about unintended consequences, which I think is really interesting. It takes us away from talking points, catchy headlines, clickbait and slogans, which we so often gravitate towards but can't get away from.

We have no form of diplomatic relations with Iran. At one point in time there were some. There was a point in time when Canadians were asking for some level, some type of conversation, or a diplomatic mission, a diplomatic presence. Without taking away from the crimes the Iranian government is committing against its own people, do you want to add anything on this point at all?

• (1255)

**Dr. Thomas Juneau:** Over the years, I've been on the record a lot as supporting the idea of reopening embassies in Iran and having Iran reopen its embassy here. I'm firmly of the view that you have to talk to the bad guys. I've written about that a lot.

I haven't changed my view, in theory. The difference is that now, as of 2023, it is simply not going to happen in practice. There was an opening after 2015. The government tried. It didn't succeed, for reasons we could get into in a separate conversation. Basically, that ship has sailed. It is not going to happen for the foreseeable future.

**Mr. Sameer Zuberi:** I asked that question in the interest of getting to what is best and helpful for the people of Iran and all those fighting for freedom, justice and equity.

I'll cede my time to the committee.

**The Chair:** We now go to MP Bergeron.

MP Bergeron, you have a minute and a half.

[*Translation*]

**Mr. Stéphane Bergeron:** Thank you, Mr. Chair.

Last June, the Government of Canada amended 14 sets of regulations under the United Nations Act to provide an exemption for humanitarian assistance in accordance with UN Security Council resolutions 2615 and 2664. The International Committee of the Red Cross has called on the Government of Canada to standardize humanitarian exemptions in all of its sanctions regimes.

For the benefit of the members of our committee, can you tell us what the standardization of exemptions would be in all the sanctions regimes?

[*English*]

**Mr. Austin Shangraw:** Thank you for raising UN Security Council Resolution 2664, which we see as a very important step globally. As you mentioned, it adopts a standardized humanitarian carve-out across all UN sanctions regimes, and it was also subsequently implemented in the United Nations Act in Canada.

We see this as a very important measure to emphasize the importance of standardized humanitarian carve-outs. It provides the clarity needed for humanitarian organizations and private sector actors, as we mentioned previously as well, to carry out and facilitate our work in those places where there might be sanctions in place. We see Resolution 2664 as an important model that can influence countries as they're looking to incorporate humanitarian carve-outs in their domestic autonomous sanctions as well.

**The Chair:** For the final question, we go to MP McPherson.

You have a minute and a half.

**Ms. Heather McPherson:** I want to dive a bit more into this humanitarian carve-out piece. I recognize the need for standardized humanitarian carve-outs, which we just heard about. Obviously, that's not the case in Canada right now, with Bill C-41.

To my understanding, no money has actually gone to Afghanistan to date, even though that carve-out has already been put into place, because it is so onerous and difficult to navigate.

I'd like to know what the Red Cross's experience has been with the process so far and what Canada should have done differently. Knowing that there is a one-year review that was put into that legislation, what are the lessons that the government needs to learn to fix this legislation going forward?

**Ms. Catherine Gribbin:** I can connect some of the dots there. One, I can confirm that the Canadian Red Cross has been asked to participate in the government process in order to develop the legislative guidance—that's not the technical term, but it's the instruction to civil society. Because of the confidential nature of that engagement, I can't speak to anything further beyond that, to the specifics, but we also look forward to the clarity that hopefully will flow from that.

One of the recommendations we have for the committee, coming from this, is for consistency among the various pieces of legisla-

tion. We have the sanctions. We have SEMA, the UN Act, the Criminal Code provisions. We also have all the laws on charities. We're asking the committee for that consistency in the exemptions. That way, there is clarity and consistency so we can speak to each other clearly, and there are clear indications to civil society that it can be subject to the exemption. That way, civil society is able to operate with confidence, which it struggles with at the moment.

• (1300)

**The Chair:** That concludes the questions from the members.

At this juncture, I'd like to thank all of our witnesses for their time and their invaluable expertise. We're very grateful you could appear before us.

Before I adjourn, I want to remind everyone that next week we will continue with the study on sanctions. For committee business, we're going to have 45 minutes as opposed to an hour, as it just came to my attention that four witnesses will be appearing. For the first hour and 15 minutes, we'll hear from those witnesses, and then we'll go to committee business.

If everyone agrees, this meeting stands adjourned.

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