



Second Session
Fortieth Parliament, 2009

SENATE OF CANADA

*Proceedings of the Standing
Senate Committee on*

**Foreign Affairs
and International
Trade**

Chair:

The Honourable CONSIGLIO DI NINO

Wednesday, June 10, 2009
Tuesday, June 16, 2009 (in camera)

Issue No. 12

First and second (final) meetings on:

Bill C-24, An Act to implement the Free Trade Agreement between Canada and the Republic of Peru, the Agreement on the Environment between Canada and the Republic of Peru and the Agreement on Labour Cooperation between Canada and the Republic of Peru

INCLUDING:

THE NINTH REPORT OF THE COMMITTEE
(Study on the 2008 Legislative Review of Export
Development Canada)

THE TENTH REPORT OF THE COMMITTEE
(Bill C-24)

APPEARING:

The Honourable Stockwell Day, P.C., M.P.,
Minister of International Trade

WITNESSES:

(See back cover)

Deuxième session de la
quarantième législature, 2009

SÉNAT DU CANADA

*Délibérations du Comité
sénatorial permanent des*

**Affaires étrangères
et du commerce
international**

Président :

L'honorable CONSIGLIO DI NINO

Le mercredi 10 juin 2009
Le mardi 16 juin 2009 (à huis clos)

Fascicule n° 12

Première et deuxième (dernière) réunions concernant :

Le projet de loi C-24, Loi portant mise en œuvre de l'Accord de libre-échange entre le Canada et la République du Pérou, de l'Accord sur l'environnement entre le Canada et la République du Pérou et de l'Accord de coopération dans le domaine du travail entre le Canada et la République du Pérou

Y COMPRIS :

LE NEUVIÈME RAPPORT DU COMITÉ
(Étude sur le Rapport de l'examen législatif d'Exportation
et développement Canada — 2008)

LE DIXIÈME RAPPORT DU COMITÉ
(Projet de loi C-24)

COMPARAÎT :

L'honorable Stockwell Day, C.P., député,
ministre du Commerce international

TÉMOINS :

(Voir à l'endos)

THE STANDING SENATE COMMITTEE ON
FOREIGN AFFAIRS AND INTERNATIONAL TRADE

The Honourable Consiglio Di Nino, *Chair*
The Honourable Peter A. Stollery, *Deputy Chair*
and

The Honourable Senators:

Corbin	Lang
* Cowan	* LeBreton, P.C.
(or Tardif)	(or Comeau)
Dawson	MacDonald
Downe	Mahovlich
Fortin-Duplessis	Oliver
Grafstein	Zimmer

*Ex officio members

(Quorum 4)

Changes in membership of the committee:

Pursuant to rule 85(4), membership of the committee was amended as follows:

The Honourable Senator Oliver replaced the Honourable Senator Segal (*June 16, 2009*).

The Honourable Senator Lang replaced the Honourable Senator Wallin (*June 16, 2009*).

The Honourable Senator MacDonald replaced the Honourable Senator Andreychuk (*June 16, 2009*).

The Honourable Senator Zimmer replaced the Honourable Senator De Bané, P.C. (*June 16, 2009*).

The Honourable Senator Dawson replaced the Honourable Senator Zimmer (*June 4, 2009*).

LE COMITÉ SÉNATORIAL PERMANENT DES
AFFAIRES ÉTRANGÈRES ET DU COMMERCE
INTERNATIONAL

Président : L'honorable Consiglio Di Nino
Vice-président : L'honorable Peter A. Stollery
et

Les honorables sénateurs :

Corbin	Lang
* Cowan	* LeBreton, C.P.
(ou Tardif)	(ou Comeau)
Dawson	MacDonald
Downe	Mahovlich
Fortin-Duplessis	Oliver
Grafstein	Zimmer

* Membres d'office

(Quorum 4)

Modifications de la composition du comité :

Conformément à l'article 85(4) du Règlement, la liste des membres du comité est modifiée, ainsi qu'il suit :

L'honorable sénateur Oliver a remplacé l'honorable sénateur Segal (*le 16 juin 2009*).

L'honorable sénateur Lang a remplacé l'honorable sénateur Wallin (*le 16 juin 2009*).

L'honorable sénateur MacDonald a remplacé l'honorable sénateur Andreychuk (*le 16 juin 2009*).

L'honorable sénateur Zimmer a remplacé l'honorable sénateur De Bané, C.P. (*le 16 juin 2009*).

L'honorable sénateur Dawson a remplacé l'honorable sénateur Zimmer (*le 4 juin 2009*).

ORDER OF REFERENCE

Extract from the *Journals of the Senate*, Tuesday, June 9, 2009:

Second reading of Bill C-24, An Act to implement the Free Trade Agreement between Canada and the Republic of Peru, the Agreement on the Environment between Canada and the Republic of Peru and the Agreement on Labour Cooperation between Canada and the Republic of Peru.

The Honourable Senator Andreychuk moved, seconded by the Honourable Senator Keon, that the bill be read the second time.

After debate,

The question being put on the motion, it was adopted.

The bill was then read the second time.

The Honourable Senator Andreychuk moved, seconded by the Honourable Senator Di Nino, that the bill be referred to the Standing Senate Committee on Foreign Affairs and International Trade.

The question being put on the motion, it was adopted.

ORDRE DE RENVOI

Extrait des *Journaux du Sénat* du mardi 9 juin 2009 :

Deuxième lecture du projet de loi C-24, Loi portant mise en oeuvre de l'Accord de libre-échange entre le Canada et la République du Pérou, de l'Accord sur l'environnement entre le Canada et la République du Pérou et de l'Accord de coopération dans le domaine du travail entre le Canada et la République du Pérou.

L'honorable sénateur Andreychuk propose, appuyée par l'honorable sénateur Keon, que le projet de loi soit lu pour la deuxième fois.

Après débat,

La motion, mise aux voix, est adoptée.

Le projet de loi est alors lu pour la deuxième fois.

L'honorable sénateur Andreychuk propose, appuyée par l'honorable sénateur Di Nino, que le projet de loi soit renvoyé au Comité sénatorial permanent des affaires étrangères et du commerce international.

La motion, mise aux voix, est adoptée.

Le greffier du Sénat,

Paul C. Bélisle

Clerk of the Senate

MINUTES OF PROCEEDINGS

OTTAWA, Wednesday, June 10, 2009
(20)

[*English*]

The Standing Senate Committee on Foreign Affairs and International Trade met this day at 4:27 p.m., in room 257, East Block, the chair, the Honourable Consiglio Di Nino, presiding.

Members of the committee present: The Honourable Senators Andreychuk, Dawson, Di Nino, Downe, Fortin-Duplessis, Mahovlich and Segal (7).

In attendance: Natalie Mychajlyszyn and Jennifer Paul, Analysts, Parliamentary Information and Research Service, Library of Parliament.

Also in attendance: The official reporters of the Senate.

Pursuant to the order of reference adopted by the Senate on Tuesday, June 9, 2009, the committee began its consideration of Bill C-24, An Act to implement the Free Trade Agreement between Canada and the Republic of Peru, the Agreement on the Environment between Canada and the Republic of Peru and the Agreement on Labour Cooperation between Canada and the Republic of Peru.

APPEARING:

The Honourable Stockwell Day, P.C., M.P., Minister of International Trade.

WITNESSES:*Department of Foreign Affairs and International Trade:*

Matthew Kronby, Director General, Trade Law Bureau;

Heidi Kutz, Director, Inter-American Relations and Regional Policy.

Department of Finance Canada:

Carol Nelder-Corvari, Director, International Trade Policy and Chief Negotiator (Peru and Colombia FTAs);

Dean Beyea, Senior Chief, International Trade Policy.

The Honourable Stockwell Day made a statement and, together with Ms. Nelder-Corvari, answered questions.

At 5:07, Ms. Nelder-Corvari, with the assistance of Mr. Beyea, Mr. Kronby and Ms. Kutz, continued to answer questions.

It was agreed that the committee proceed to clause-by-clause consideration of Bill C-24, An Act to implement the Free Trade Agreement between Canada and the Republic of Peru, the Agreement on the Environment between Canada and the Republic of Peru and the Agreement on Labour Cooperation between Canada and the Republic of Peru.

It was agreed that observation be appended to the report on Bill C-24; the text of which will be subject to the approval of the Subcommittee on Agenda and Procedure.

PROCÈS-VERBAUX

OTTAWA, le mercredi 10 juin 2009
(20)

[*Traduction*]

Le Comité sénatorial permanent des affaires étrangères et du commerce international se réunit aujourd'hui, à 16 h 27, dans la salle 257 de l'édifice de l'Est, sous la présidence de l'honorable Consiglio Di Nino (*président*).

Membres du comité présents : Les honorables sénateurs Andreychuk, Dawson, Di Nino, Downe, Fortin-Duplessis, Mahovlich et Segal (7).

Également présentes : Natalie Mychajlyszyn et Jennifer Paul, analystes, Service d'information et de recherche parlementaires, Bibliothèque du Parlement.

Aussi présents : Les sténographes officiels du Sénat.

Conformément à l'ordre de renvoi adopté par le Sénat le mardi 9 juin 2009, le comité entreprend son examen du projet de loi C-24, Loi portant mise en œuvre de l'Accord de libre-échange entre le Canada et la République du Pérou, de l'Accord sur l'environnement entre le Canada et la République du Pérou et de l'Accord de coopération dans le domaine du travail entre le Canada et la République du Pérou.

COMPARAÎT :

L'honorable Stockwell Day, C.P., député, ministre du Commerce international.

TÉMOINS :*Ministère des Affaires étrangères et du Commerce international :*

Matthew Kronby, directeur général, Droit commercial international;

Heidi Kutz, directrice, Relations interaméricaines et politique régionale.

Ministère des Finances Canada :

Carol Nelder-Corvari, directrice, Politique commerciale internationale, et négociatrice en chef (Accords de libre-échange avec le Pérou et la Colombie);

Dean Beyea, chef principal, Politique commerciale internationale.

L'honorable Stockwell Day fait une déclaration puis, aidé de Mme Nelder-Corvari, répond aux questions.

À 17 h 7, Mme Nelder-Corvari, aidée de MM. Beyea et Kronby et de Mme Kutz, continue de répondre aux questions.

Il est convenu que le comité procède à l'étude article par article du projet de loi C-24, Loi portant mise en œuvre de l'Accord de libre-échange entre le Canada et la République du Pérou, de l'Accord sur l'environnement entre le Canada et la République du Pérou et de l'Accord de coopération dans le domaine du travail entre le Canada et la République du Pérou.

Il est convenu d'annexer des observations au rapport sur le projet de loi C-24, dont le texte sera soumis à l'approbation du Sous-comité du programme et de la procédure.

It was agreed that the title stand postponed.

It was agreed that clause 1, the short title, stand postponed.

With leave, it was agreed that clauses 2 to 57 carry.

With leave, it was agreed that schedules 1 to 7 carry.

It was agreed that clause 1, the short title, carry.

It was agreed that the title carry.

It was agreed that the bill be adopted, without amendment, but with observations to be appended to the report; the text of which are to be ready by Tuesday, June 16 and subject to the agreement of the Subcommittee on Agenda and Procedure.

It was agreed that the chair report the bill to the Senate.

At 5:32 p.m., the committee adjourned to the call of the chair.

ATTEST:

OTTAWA, Tuesday, June 16, 2009
(21)

[*English*]

The Standing Senate Committee on Foreign Affairs and International Trade met in camera this day at 3:08 p.m., in room 256-S, Centre Block, the chair, the Honourable Consiglio Di Nino, Chair, presiding.

Members of the committee present: The Honourable Senators Corbin, Dawson, Di Nino, Downe, Fortin-Duplessis, Lang, MacDonald, Mahovlich, Oliver, Stollery and Zimmer (11).

In attendance: Natalie Mychajlyzyn and Jennifer Paul, Analysts, Parliamentary Information and Research Service, Library of Parliament.

Pursuant to the order of reference adopted by the Senate on Tuesday, June 9, 2009, the committee continued its consideration of Bill C-24, An Act to implement the Free Trade Agreement between Canada and the Republic of Peru, the Agreement on the Environment between Canada and the Republic of Peru and the Agreement on Labour Cooperation between Canada and the Republic of Peru.

Pursuant to rule 92(2)(f), the committee considered draft observations.

It was agreed, that the draft observations, as amended, be adopted and appended to the report on Bill C-24.

At 3:33 p.m., the committee adjourned to the call of the chair.

ATTEST:

Le greffier du comité,

Denis Robert

Clerk of the committee

Il est convenu de reporter l'étude du titre.

Il est convenu de reporter l'étude de l'article 1, le titre abrégé.

Avec le consentement des membres du comité, il est convenu d'adopter les articles 2 à 57.

Avec le consentement des membres du comité, il est convenu d'adopter les annexes 1 à 7.

Il est convenu d'adopter l'article 1, le titre abrégé.

Il est convenu d'adopter le titre.

Il est convenu d'adopter le projet de loi sans amendement et d'annexer des observations au rapport dont le texte sera prêt le mardi 16 juin et soumis à l'approbation du Sous-comité du programme et de la procédure.

Il est convenu que la présidence fasse rapport du projet de loi au Sénat.

À 17 h 32, le comité suspend ses travaux jusqu'à nouvelle convocation de la présidence.

ATTESTÉ :

OTTAWA, le mardi 16 juin 2009
(21)

[*Traduction*]

Le Comité sénatorial permanent des affaires étrangères et du commerce international se réunit aujourd'hui, à huis clos, à 15 h 8, dans la salle 256-S de l'édifice du Centre, sous la présidence de l'honorable Consiglio Di Nino (*président*).

Membres du comité présents : Les honorables sénateurs Corbin, Dawson, Di Nino, Downe, Fortin-Duplessis, Lang, MacDonald, Mahovlich, Oliver, Stollery et Zimmer (11).

Également présentes : Natalie Mychajlyzyn et Jennifer Paul, analystes, Service d'information et de recherche parlementaires, Bibliothèque du Parlement.

Conformément à l'ordre de renvoi adopté par le Sénat le mardi 9 juin 2009, le comité poursuit son examen du projet de loi C-24, Loi portant mise en œuvre de l'Accord de libre-échange entre le Canada et la République du Pérou, de l'Accord sur l'environnement entre le Canada et la République du Pérou et de l'Accord de coopération dans le domaine du travail entre le Canada et la République du Pérou.

Conformément à l'article 92(2)f du Règlement, le comité examine des observations provisoires.

Il est convenu que les observations provisoires modifiées soient adoptées et annexées au rapport sur le projet de loi C-24.

À 15 h 33, le comité suspend ses travaux jusqu'à nouvelle convocation de la présidence.

ATTESTÉ :

REPORTS OF THE COMMITTEE

Tuesday, June 9, 2009

The Standing Senate Committee on Foreign Affairs and International Trade has the honour to table its

NINTH REPORT

Your committee, which was authorized by the Senate on Tuesday, February 24, 2009, to review and report on the 2008 Legislative Review of Export Development Canada, tabled in the Senate on Tuesday, February 10, 2009, now tables its report entitled *Study on the 2008 Legislative Review of Export Development Canada*.

Respectfully submitted,

Le président,

CONSIGLIO DI NINO

Chair

(Text of the report appears following the evidence)

RAPPORTS DU COMITÉ

Le mardi 9 juin 2009

Le Comité sénatorial permanent des affaires étrangères et du commerce international a l'honneur de déposer son

NEUVIÈME RAPPORT

Votre comité, qui a été autorisé par le Sénat le mardi 24 février 2009 à étudier, afin d'en faire rapport, le Rapport de l'examen législatif d'Exportation et développement Canada de 2008, déposé au Sénat le mardi 10 février 2009, dépose maintenant son rapport intitulé *Étude sur le Rapport de l'examen législatif d'Exportation et développement Canada — 2008*.

Respectueusement soumis,

(Le texte du rapport paraît après les témoignages)

Tuesday, June 16, 2009

The Standing Senate Committee on Foreign Affairs and International Trade has the honour to present its

TENTH REPORT

Your committee, to which was referred Bill C-24, An Act to implement the Free Trade Agreement between Canada and the Republic of Peru, the Agreement on the Environment between Canada and the Republic of Peru and the Agreement on Labour Cooperation between Canada and the Republic of Peru, has, in obedience to the order of reference of Tuesday, June 9, 2009 examined the said Bill and now reports the same without amendment but with observations, which are appended to this report.

Respectfully submitted,

Le président,

CONSIGLIO DI NINO

Chair

Observations to the Tenth Report of the Standing Senate Committee on Foreign Affairs and International Trade (Bill C-24)

In reviewing Bill C-24, the Standing Senate Committee on Foreign Affairs and International Trade is concerned that the bill, and the agreement that it enacts, puts Canadians in a number of sectors at a competitive disadvantage with other countries, specifically the United States of America.

The committee recommends that the Minister of International Trade undertake a review of the *Canada-Peru Free Trade Agreement*, *The Agreement on the Environment* and *The Agreement on Labour Cooperation* five years following its implementation to evaluate the trade implications for Canadian exporters, and, if necessary, put forward a plan for undertaking further bilateral negotiations with the Republic of Peru to enhance the agreement.

At a minimum, in all future free trade agreements, Canada should seek to obtain a provision as that found in Appendix I, section 2(d)(ii) of the Tariff Schedule for Peru in the *United States-Peru Trade Promotion Agreement*. That section allows the United States to automatically obtain any beneficial agricultural-related provision negotiated by Peru and other countries in the future. The Canada-Peru agreement does not include such a clause; therefore Canada will fail to benefit from future trade measures adopted by Peru that will otherwise benefit other countries.

Given the importance of trade for the prosperity of Canadians, it is also recommended that the Government of Canada ensure that our best negotiators, either inside or outside of the federal government, represent Canada in trade proceedings to obtain stronger and more effective trade agreements.

It is the view of this committee that trade priorities should be excluded from Canada's decisions regarding disbursing foreign aid.

Le mardi 16 juin 2009

Le Comité sénatorial permanent des affaires étrangères et du commerce international a l'honneur de présenter son

DIXIÈME RAPPORT

Votre comité, auquel a été renvoyé le projet de loi C-24, Loi portant mise en œuvre de l'Accord de libre-échange entre le Canada et la République du Pérou, de l'Accord sur l'environnement entre le Canada et la République du Pérou et de l'Accord de coopération dans le domaine du travail entre le Canada et la République du Pérou, a, conformément à l'ordre de renvoi du mardi 9 juin 2009 étudié ledit projet de loi et en fait maintenant rapport sans amendement, mais avec des observations qui sont annexées au présent rapport.

Respectueusement soumis,

Observations concernant le 10^e rapport du Comité sénatorial permanent des affaires étrangères et du commerce international (projet de loi C-24)

Après analyse, le Comité sénatorial permanent des affaires étrangères et du commerce international craint que le projet de loi C-24, ainsi que l'accord qu'il contient ne désavantagent les Canadiens dans un certain nombre de secteurs sur le plan de la concurrence avec d'autres pays, surtout les États-Unis d'Amérique.

Le Comité recommande que le ministre du Commerce international entreprenne un examen de l'*Accord de libre-échange Canada-Pérou*, de l'*Accord sur l'environnement* et de l'*Accord de coopération dans le domaine du travail* cinq ans après leur mise en œuvre, afin d'en évaluer les répercussions commerciales pour les exportateurs canadiens et, si nécessaire, propose un plan visant à entamer de nouvelles négociations bilatérales avec le Pérou dans le but d'améliorer l'accord.

Dans tous les accords de libre-échange qu'il conclura à l'avenir, il faudrait, à tout le moins, que le Canada cherche à inclure la clause qui se trouve à l'annexe 1, alinéa 2d)ii) du barème de tarifs du *United States-Peru Trade Promotion Agreement*, aux termes de laquelle les États-Unis bénéficient automatiquement de toute disposition relative à l'agriculture négociée ultérieurement par le Pérou et d'autres pays. L'accord entre le Canada et le Pérou ne comportant pas d'article de cette nature, le Canada ne bénéficiera pas des mesures commerciales futures adoptées par le Pérou qui seraient à l'avantage d'autres pays.

Compte tenu de l'importance du commerce pour la prospérité des Canadiens, le Comité recommande aussi que le gouvernement du Canada veille à ce que nos meilleurs négociateurs, qu'ils travaillent au gouvernement fédéral ou ailleurs, représentent le Canada lors des délibérations commerciales afin de pouvoir conclure des accords commerciaux plus rigoureux et plus avantageux.

Le Comité est d'avis que les priorités commerciales devraient être exclues des décisions que prend le Canada en matière d'aide étrangère.

EVIDENCE

OTTAWA, Wednesday, June 10, 2009

The Standing Senate Committee on Foreign Affairs and International Trade, to which was referred Bill C-24, An Act to implement the Free Trade Agreement between Canada and the Republic of Peru, the Agreement on the Environment between Canada and the Republic of Peru and the Agreement on Labour Cooperation between Canada and the Republic of Peru, met this day at 4:27 p.m. to give consideration to the bill.

Senator Consiglio Di Nino (*Chair*) in the chair.

[*English*]

The Chair: Welcome to this meeting of the Standing Senate Committee on Foreign Affairs and International Trade. Today the committee will be considering Bill C-24, the Canada-Peru Free Trade Agreement Implementation Act.

Appearing before the committee is the Honourable Stockwell Day, Minister of International Trade. He is accompanied by Carol Nelder-Corvari, Director, International Trade Policy and Chief Negotiator (Peru and Colombia FTAs), Finance Canada. As well, coming soon to the table will be Matthew Kronby, Director General, Trade Law Bureau, Department of Foreign Affairs and International Trade; Heidi Kutz, Director, Inter-American Relations and Regional Policy, Department of Foreign Affairs and International Trade; and Dean Beyea, Senior Chief, International Trade Policy, Finance Canada.

Minister, I understand you will make some brief comments, and we will then have an opportunity to ask some questions.

[*Translation*]

Hon. Stockwell Day, P.C., M.P., Minister of International Trade: It is an honour to appear before your committee. I appreciate your interest in free trade, particularly at a time of global economic turmoil. We think it is very important to open doors for our workers, our investors and our businesses. That is one reason why we are going forward with agreements with countries that want to do the same.

[*English*]

We are, of course, still embracing the World Trade Organization. We want to see the Doha round come to a conclusion. We are very ambitious on that.

Meanwhile, it is also very important, in our view, to pursue bilateral free trade agreements. This particular agreement, related to Peru, is very positive. It has been received well on most sides, certainly between Canada and Peru.

TÉMOIGNAGES

OTTAWA, le mercredi 10 juin 2009

Le Comité sénatorial permanent des affaires étrangères et du commerce international, auquel a été renvoyé le projet de loi C-24, Loi portant sur la mise en œuvre de l'Accord de libre-échange entre le Canada et la République du Pérou, de l'Accord sur l'environnement entre le Canada et la République du Pérou et de l'Accord de coopération dans le domaine du travail entre le Canada et la République du Pérou, se réunit aujourd'hui à 16 h 27 pour étudier ce projet de loi.

Le sénateur Consiglio Di Nino (*président*) occupe le fauteuil.

[*Traduction*]

Le président : Je souhaite à tous la bienvenue à cette réunion du Comité permanent des affaires étrangères et du commerce international. Nous allons nous consacrer aujourd'hui à l'étude du projet de loi C-24, Loi de mise en œuvre de l'Accord de libre-échange Canada-Pérou.

Nous allons entendre monsieur Stockwell Day, ministre du Commerce international. Il est accompagné de Carol Nelder-Corvari, directrice, Politique commerciale internationale et négociatrice en chef, Accords de libre-échange avec le Pérou et la Colombie, Finances Canada. Nous accueillerons aussi sous peu Matthew Kronby, directeur général, Droit commercial international, et Heidi Kutz, directrice, Relations inter-américaines et politique régionale, tous deux d'Affaires étrangères et Commerce international Canada, ainsi que Dean Beyea, chef principal, Politique commerciale internationale, Finances Canada.

Je crois savoir, monsieur le ministre, que vous allez commencer par nous faire part de quelques brefs commentaires et que vous nous proposez ensuite de répondre aux questions que nous ne manquerons pas de vous poser.

[*Français*]

L'honorable Stockwell Day, C.P., député, ministre du Commerce international : C'est un honneur de comparaître devant votre comité. J'apprécie le fait que vous êtes intéressés au sujet du libre-échange, surtout dans un climat mondial de crise fiscale. À notre avis, il est très important d'ouvrir les opportunités pour nos travailleurs, nos investisseurs et nos entreprises. C'est une des raisons pour laquelle nous allons poursuivre les accords avec les pays ouverts à ce sujet.

[*Traduction*]

Bien évidemment, nous sommes toujours des partisans de l'Organisation mondiale du commerce. Nous souhaitons vivement que les négociations du cycle de Doha aboutissent. Nous y comptons beaucoup.

Dans l'intervalle, il nous paraît également très important de tenter de parvenir à des accords de libre-échange bilatéraux. Nous sommes d'avis que celui-ci, que nous venons de conclure avec le Pérou, est un excellent accord. Il a été très bien accueilli par la plupart des parties, aussi bien au Canada qu'au Pérou.

For 2008, we saw the bilateral trade between our two countries at something like \$2.3 billion, and similar amounts related to bilateral, two-way foreign direct investment. This particular agreement is the first one that we have signed in the Americas since 2001, and we see great opportunities for workers, producers and investors on both sides.

The fact that about 97 per cent of all the tariffs that we impose on Peruvian goods coming into Canada will be immediately removed is very positive. In an economy like Peru's, where its workers and manufacturers are trying to raise their own levels of prosperity, when we take the tariffs off of those products and services that they want to sell to Canada, it helps them to do that. It makes them more competitive.

The remaining approximately 3 per cent of those tariffs will be eliminated over the next three to seven years, and this will be a positive thing. The removal of tariffs on our side will help our producers, investors and workers to sell products in a competitive way into Peru.

For all of these reasons, especially in a time of fiscal downturn, we believe that a free trade agreement like this, in and of itself, is positive. It also sends a signal to people in our own country and people around the world that if you really want to protect workers and industries, you do that by opening up the doors of opportunity, not closing them. That is what these agreements are all about.

I am glad you are interested in them and I look forward to your questions — and maybe even your advice. Thank you.

[*Translation*]

Senator Fortin-Duplessis: Welcome, Mr. Minister. It is always a pleasure to have you with us.

Mr. Minister, on June 8, 2009, some 30 demonstrators who belonged to Amazonian tribes were killed during confrontations with police, and 22 police officers also lost their lives. Tens of thousands of aboriginals are opposed to giving concessions to mining companies and others engaged in oil exploration in the tropical forest.

Mr. Minister, would chapter 8, which deals with investment, of the Canada-Peru Free Trade Agreement not negate the benefits of the side agreements between Canada and the Republic of Peru on the environment and labour? Because that chapter essentially re-creates the same controversial model of chapter 11 of the North American Free Trade Agreement. You know how opposed environmentalists and labour representatives are to chapter 11 of NAFTA.

En 2008, les échanges commerciaux bilatéraux entre nos deux pays étaient d'environ 2,3 milliards de dollars, et le montant total des flux bilatéraux des investissements directs étrangers était à peu près comparable. Cet accord avec le Pérou est le premier que nous signions avec un autre pays des Amériques depuis 2001. Nous sommes convaincus qu'il permettra aux travailleurs, aux producteurs et aux investisseurs des deux pays de profiter de quantité de possibilités.

Le fait que nous éliminions immédiatement environ 97 p. 100 de tous les tarifs douaniers qui frappaient jusqu'ici les marchandises péruviennes entrant au Canada est une excellente chose. Dans une économie comme celle du Pérou, l'élimination de ces tarifs douaniers contribue aux efforts de tous, aussi bien les travailleurs que les manufacturiers, pour parvenir à une plus grande prospérité. Ils deviennent ainsi plus concurrentiels.

Nous ne continuerons donc à appliquer pour l'instant qu'environ 3 p. 100 de tarifs douaniers actuels, et ils seront éliminés progressivement au cours des trois à sept ans à venir. Ce sera une excellente chose. D'un point de vue canadien, ces mesures permettront à nos producteurs, nos investisseurs et nos travailleurs d'être plus concurrentiels pour vendre leurs produits au Pérou.

C'est pour toutes ces raisons que nous estimons, en particulier pendant une période de repli budgétaire, qu'un accord de libre-échange comme celui-ci est en soi une bonne chose. C'est aussi une façon de prêcher par l'exemple en montrant à nos concitoyens, et au reste du monde, que pour protéger réellement les travailleurs et les industries, il faut ouvrir et non fermer la voie à de nouvelles possibilités. C'est là l'objectif fondamental de ce type d'accord.

Je suis ravi que vous vous intéressiez à ces accords et j'attends avec intérêt vos questions, et même peut-être vos conseils. Je vous remercie.

[*Français*]

Le sénateur Fortin-Duplessis : Bienvenue monsieur le ministre, cela nous fait toujours plaisir de vous recevoir à notre comité.

Monsieur le ministre, le 8 juin 2009, une trentaine de manifestants membres des tribus amazoniennes ont été tués lors d'affrontements avec la police, et 22 agents de police ont également perdu la vie. Des dizaines de milliers d'amérindiens s'opposent à l'octroi de concessions aux compagnies minières et aux travaux de recherche de pétrole dans la forêt tropicale.

Monsieur le ministre, les gains des accords parallèles entre le Canada et la république du Pérou sur l'environnement et le travail ne seront-ils pas défaits par le chapitre 8 sur l'investissement de l'Accord de libre-échange entre le Canada et la république du Pérou? Car en effet, ce chapitre reproduit sensiblement le même modèle controversé du chapitre 11 de l'Accord de libre-échange nord-américain. Vous savez quelle opposition le chapitre 11 de l'ALÉNA suscite dans les milieux environnementalistes et les milieux du travail.

Mr. Day: Let me say one thing. First, it was with much regret that we heard about the violence that occurred in Peru, and I think that it will be the Peruvian people and Peru's members of Parliament who find the solutions to these problems. It is a shame that such a violent situation occurred. You are right. Twenty-two police officers were killed, and according to news reports, I believe that 28 or so other individuals were killed, and that is tragic.

Senator Fortin-Duplessis: Could that hinder the agreement?

Mr. Day: Yes, but that situation was not the result of our agreement.

Senator Fortin-Duplessis: No, I know.

Mr. Day: Unfortunately, violence does occur from time to time all over the world. I understand that Peru's lawmakers are going to amend some provisions in their legislation with respect to issues that affect the mining sector. But it is for them to decide.

Our agreement with Peru contains provisions governing labour and environmental laws. They are not just guidelines, they are regulations that will force Peru as well as Canada to respect the standards set by international labour organizations. In addition, under the environmental regulations, both Canada and Peru have to respect the United Nations regulations on biodiversity. They are rigorous regulations that include sanctions for violations by either side.

That is why I am confident about the agreement. It will force both sides to adhere to very clear regulations.

Canada will continue moving in that direction, and I hope that Peru's government will find a solution to the problems with its indigenous people.

[English]

Senator Segal: Mr. Minister, thank you for taking the time to help us today. I want to put the labour agreement and the environmental agreement that is an integral part of this legislation to you with this question: Is it now federal government policy that trade agreements that we negotiate with all countries will have these elements as part of it? Is that our going-in position, for example, in our negotiations that are beginning in earnest with the Europeans with respect to a European-Canada trade agreement?

If so, are you happy that the labour side provides sufficient openness for the free movement of people and capital, as well as goods, between Canada and the target country — in this case, our partners in Peru?

Mr. Day: I could just say very briefly, in answer to all of the questions you have posited, yes, yes and yes.

M. Day : Permettez-moi de dire une chose. Premièrement, c'est avec beaucoup de regret que nous avons vu la situation de violence au Pérou et, à mon avis, les solutions aux problèmes seront déterminées par le peuple péruvien et par leurs députés. C'est dommage de voir une situation de violence. Vous avez raison, 22 officiers de la police ont été tués et, selon les nouvelles, je pense, environ 28 autres personnes ont été tuées aussi et c'est tragique.

Le sénateur Fortin-Duplessis : Est-ce que cela peut nuire à l'accord?

M. Day : Oui, mais la situation n'est pas le résultat de notre accord.

Le sénateur Fortin-Duplessis : Non, je le sais.

M. Day : Partout dans le monde, il y a de temps en temps, malheureusement, des situations de violence. Je comprends que les législateurs au Pérou vont changer quelques articles de leurs lois relativement aux questions qui vont avoir des effets pour le secteur minier. Mais c'est à eux de le décider.

Nous avons, dans notre accord avec le Pérou, des articles qui vont régir les lois concernant les domaines du travail et de l'environnement. Ce n'est pas juste un guide, ce sont des règlements qui vont forcer le Pérou, et le Canada également, à respecter les normes des organisations du travail internationales. Aussi, avec les règlements environnementaux, il faut que nous respections, de même que le Pérou, les règlements des Nations Unies sur la diversité biologique. Ce sont des règlements très forts qui comprennent des sanctions en cas d'infraction d'une partie ou de l'autre.

C'est pourquoi, j'ai confiance en l'accord parce qu'il va forcer les deux parties à suivre des règlements qui sont très clairs.

Pour notre part, nous allons continuer en ce sens et j'espère que le gouvernement du Pérou va trouver une solution à ses problèmes avec les indigènes.

[Traduction]

Le sénateur Segal : Merci, monsieur le ministre, d'avoir pris le temps de nous venir en aide aujourd'hui. Je veux maintenant en venir aux accords sur la main-d'œuvre et sur l'environnement qui font partie intégrante de cette législation en vous posant cette question. Le gouvernement fédéral a-t-il dorénavant pour politique d'inclure de tels documents dans les accords commerciaux que nous négocions avec d'autres pays? Est-ce là la position que nous adoptons dès le départ, par exemple dans les négociations que nous entamons tout juste avec l'Union européenne en vue de parvenir à un accord de libre-échange Canada-Europe?

Si c'est bien le cas, estimez-vous que les documents traitant du domaine du travail suffisent à garantir la libre circulation des personnes, des capitaux et des biens entre le Canada et le pays visé, le Pérou dans ce cas-ci?

M. Day : Je peux répondre très brièvement à toutes les questions que vous m'avez posées. Les réponses sont oui, oui et oui.

Senator Segal: Are you happy that this agreement will remove any difficulties that might now exist with respect to Canadian professionals seeking opportunities within the Peruvian marketplace? Are you happy that there will be no further substantive barriers to the free movement of goods, capital and people once this agreement is approved and ratified?

Mr. Day: It will certainly improve the situation. Even with an agreement as open as we have with the United States, there are still challenges and difficulties on the professional, business and occupation sides. It will vastly improve the situation.

Senator Segal: Your colleague, the Minister for International Development, recently indicated a reorientation of our foreign aid priorities to take greater interest in our own hemisphere, which is a policy the Prime Minister, to his credit, has enunciated.

Do you see any constructive linkage between this free trade agreement with Peru and our development activities in Peru? I ask that question in terms of investment on the development side. Do you see the two as quite separate?

Mr. Day: History shows, senator, that when you engage in trade and you do that in an elevated way and open up doors to trade, you are not just opening the doors. You are opening the eyes of everyone on both sides. Development will still be a key focus as we see the need and if there can be ways in which we can assist.

Last year, CIDA aid into Peru was about \$11 million. You will see resources continue. We are able to do that in some ways that can be measured. For instance, if we look at the CIDA aid that went into some of the poorer urban areas, where we were addressing things like freshwater and sewage problems, we can measure that. We can look at the urban area that received assistance, and just by a census, we know that last 760,000 people had improved water capabilities.

With respect to the CIDA investment related to assisting with the rates that children were finishing primary school, we can measure that also: In 2003, it was a little over 60 per cent; last year it was over 80 per cent.

The senator shared some concerns related to the extractive sectors. Through CIDA, we have directed funds into Peru to assist the government on the regulatory side when it comes to the extractive sector. We have helped in monitoring and in the protection of the environment. We are pleased with what we have invested so far into Peru. We can measure the results, and that will continue.

Le sénateur Segal : Êtes-vous convaincu que cet accord va éliminer les difficultés auxquelles peuvent se heurter maintenant des professionnels canadiens qui cherchent des débouchés sur le marché péruvien? Êtes-vous convaincu qu'il n'y aura plus d'entraves importantes à la libre circulation des biens, des capitaux et des personnes lorsque cet accord aura été approuvé et ratifié?

M. Day : Il va certainement améliorer la situation. Même avec des accords aussi ouverts que celui que nous avons conclu avec les États-Unis, il arrive que des professionnels et des entreprises n'aient pas la liberté d'action voulue et que des titres professionnels ne soient pas reconnus. Cet accord va nettement améliorer la situation.

Le sénateur Segal : Votre collègue, le ministre du Développement international, a indiqué récemment que nous allons redéfinir nos priorités en matière d'aide étrangère pour accorder plus d'importance à notre propre hémisphère. C'est une politique qui a été énoncée par le premier ministre et que nous devons porter à son crédit.

Faites-vous un lien implicite entre cet accord de libre-échange avec le Pérou et nos activités de développement dans ce pays? Je fais allusion ici aux investissements destinés au développement. Les deux vous paraissent-ils indépendants l'un de l'autre?

M. Day : L'histoire nous enseigne, sénateur, que lorsque vous vous adonnez au commerce et que vous le faites de façon dynamique et en libéralisant les échanges, vous ne vous contentez pas simplement d'ouvrir les portes. Vous ouvrez aussi les yeux de tous dans chacun des pays. Dans la mesure où nous percevons des besoins, et si nous trouvons des moyens d'apporter de l'aide, nous continuerons à accorder beaucoup d'importance au développement.

L'an dernier, l'aide consacrée au Pérou par l'ACDI a été d'environ 11 millions de dollars et nous allons continuer à aider ce pays. Les moyens que nous choisissons pour cela nous permettent, dans une certaine mesure, de mesurer les résultats de cette aide. C'est ainsi que l'aide de l'ACDI dans certaines des zones urbaines les plus pauvres, où nous nous sommes attaqués, par exemple, à des problèmes d'eau potable et d'égouts, donne des résultats mesurables. Nous savons, par un simple décompte, que 760 000 personnes ont bénéficié d'un accès plus facile à une eau de meilleure qualité.

Nous pouvons aussi mesurer l'efficacité des sommes investies par l'ACDI pour permettre à un pourcentage plus élevé d'enfants de terminer leurs études primaires. Alors qu'ils étaient un peu plus de 60 p. 100 en 2003, ils dépassaient les 80 p. 100 l'an dernier.

Le sénateur nous a fait part de certaines de ses préoccupations concernant le secteur de l'extraction. Nous avons, par l'intermédiaire de l'ACDI, versé des fonds au gouvernement péruvien pour l'aider à réglementer ce secteur. Nous l'avons aidé à assurer le contrôle et la protection de l'environnement. Nous sommes très satisfaits des investissements que nous avons faits jusqu'à maintenant au Pérou. Nous pouvons en mesurer les résultats, et nous allons continuer.

A free trade agreement raises the levels of prosperity that takes place over time. Some of the challenges will still be there, and it is still our intention, as their government allows us, to work with them.

Senator Downe: The United States-Peru Trade Promotion Agreement contains a separate chapter on intellectual property rights. It requires that the two countries ratify a number of international agreements and includes detailed provisions related to digital products such as software, music, domain names on the Internet, copyright, patents, trademarks and enforcement. None of these protections were negotiated under this deal. I am wondering why we failed to obtain the same benefits for Canada.

Mr. Day: Again, that goes both ways. Peru was seeking development in those particular areas. You are probably aware that previously we had tabled Bill C-61, which had to do with many of the questions relative to intellectual property rights. That bill will be reintroduced, but I cannot say exactly when. The house leader has his order in terms of when.

We hear from the international community, quite frankly, that we can improve in that area. We have done a number of things to show that we are concerned. As you are aware, last year, resources and regulations were put in place to deal with counterfeiting and piracy, especially those related to the movie industry and CDs. We have taken that step.

We will continue, but we could not put that into the agreement at this point when we have not fully developed and had our legislation on those specifics passed in our own house.

We have sent the signals clearly that we are marching down that road. It is interesting that you mentioned that because in a meeting today with one of the EU commissioners related to our pursuit of a broader economic agreement with the EU, that subject also came up. They wanted some assurance that we are working diligently down that road, and we are. As we do that, these are things that may be added to an agreement like Peru's or any other country. That is where we are right now.

Progress is taking place, and we need to put in our own domestic legislation before we try to introduce that as something that can be enforceable in a free trade deal.

Senator Downe: Is there a provision to modify the agreement with Peru to add that provision?

Avec le temps, un accord de libre-échange améliore la prospérité. Il reste cependant des défis à résoudre et nous avons toujours l'intention, dans la mesure où cela conviendra au gouvernement péruvien, de collaborer avec lui.

Le sénateur Downe : L'Accord de promotion du commerce États-Unis-Pérou contient un chapitre distinct consacré aux droits de propriété intellectuelle. Il impose aux deux pays de ratifier un certain nombre d'ententes internationales et contient des dispositions détaillées concernant des produits numériques, comme les logiciels, la musique, les noms de domaine sur Internet, les droits d'auteur, les brevets, les marques de commerce et l'application de la loi et de la réglementation. Aucune de ces mesures de protection n'a été négociée dans ce cas-ci. Je me demande si cela signifie que nous ne sommes pas parvenus à obtenir les mêmes avantages pour notre pays que les États-Unis.

M. Day : Là aussi, c'est un jeu qui se joue à deux. Le Pérou voulait favoriser le développement dans ces domaines particuliers. Vous savez probablement que nous avons déposé auparavant le projet de loi C-61, qui traite de nombreux aspects des droits de propriété intellectuelle. Ce projet de loi va être présenté à nouveau, mais je ne saurais vous dire exactement quand. C'est le leader du gouvernement à la Chambre des communes qui décide du calendrier.

Pour être honnête, la communauté internationale nous a dit que nous avons des progrès à faire dans ce domaine. Nous avons adopté un certain nombre de mesures pour bien montrer que nous prenons ces questions au sérieux. Comme vous le savez, l'an dernier, nous avons consacré des fonds à l'adoption de règlements pour lutter contre la contrefaçon et le piratage, en particulier dans le domaine du cinéma et de la musique. C'est ce que nous avons fait.

Nous allons poursuivre sur cette voie, mais nous ne pouvions pas inscrire de telles mesures dans cet accord alors que nous n'avions pas encore fini d'élaborer les nôtres et que notre législation en la matière n'avait pas encore été adoptée par notre propre Parlement.

Nous avons toutefois indiqué clairement que c'est la voie que nous suivons. Il est intéressant que vous abordiez cette question parce qu'elle l'a été aujourd'hui lors d'une réunion avec l'un des commissaires de Bruxelles dans le cadre de nos efforts pour parvenir à un accord économique plus large avec l'Union européenne. Les Européens souhaitent obtenir des garanties que nous allons continuer à nous attaquer à ces questions, et c'est bien ce que nous faisons. Il se peut que cela nous amène par la suite à vouloir ajouter des dispositions en la matière au texte de l'accord conclu avec le Pérou, ou avec n'importe quel autre pays. Voilà où nous en sommes pour l'instant.

Nous réalisons des progrès et nous devons appliquer notre propre législation intérieure avant de tenter d'insérer des dispositions de ce genre qui aient force de loi dans un accord de libre-échange.

Le sénateur Downe : Un article de l'accord conclu avec le Pérou permet-il d'ajouter par la suite ce type de disposition?

Mr. Day: In any agreement, agreement on both sides can bring about modifications or improvements to a free trade agreement. That example could well be one of them.

Senator Downe: That is assuming Peru agrees.

Mr. Day: Exactly.

Senator Downe: Minister, on the potato industry, tariffs are eliminated under the Peru-United States agreement right away for the Americans. With the exception of seed potatoes, Canadians have to wait 10 years to obtain the same benefit. Why did we not get the same benefit the United States received?

Mr. Day: We keep an eye on other countries and what they are doing. We always do agreements based on our own interest.

As I indicated earlier, in some areas can you take the full tariff off immediately; 97 per cent of those will come off right away. In others, to get agreement from a particular sector, you have to do it over a period of time.

If you recall, even before NAFTA, in the Canada-U.S. Free Trade Agreement, some of the areas of removal were as long as 17 years. When that was implemented, even then Canadians were saying that 17 years was forever. Of course, 17 years have come and gone, and the tariffs have gone also. It is simply a matter of what you can achieve; what is realistic; and sometimes it takes time to have a particular sector or particular industry buy in, due to their sensitivities, and how vulnerable they think they are.

As another example, in our trade agreement with the EFTA region, the European Free Trade Area comprising Switzerland, Norway, Iceland and Liechtenstein, for tariff removals related to some aspects of the shipping industry, we had to sign for a 15-year period, and it will be three years before some of that will kick in.

You do what is doable. Over all, as I said, the majority of tariffs are off quickly, and there is trading that goes on — hence the word “trade” — and you get the best deal you can, and that is how this one materialized.

Senator Downe: Under Peru's free trade agreement with the United States, pork producers receive a five-year tariff phase-out period. In the Canadian deal, it is 17 years. Why were we not able to negotiate a better deal for Canada?

M. Day : Comme dans tout accord, il faut que les deux parties s'entendent pour apporter des modifications ou des améliorations à un accord de libre-échange. C'est un domaine dans lequel cela pourrait se faire.

Le sénateur Downe : En faisant l'hypothèse que le Pérou soit d'accord.

M. Day : C'est exact.

Le sénateur Downe : Monsieur le ministre, en ce qui concerne le secteur de la pomme de terre, l'Accord conclu entre le Pérou et les États-Unis élimine immédiatement les tarifs douaniers sur les produits américains. Si ce n'est des pommes de terre de semence, les Canadiens devront attendre dix ans pour obtenir le même avantage. Pourquoi n'avons-nous pu obtenir les mêmes avantages que ceux dont ont bénéficié les États-Unis?

M. Day : Nous nous tenons informés de ce que font les autres pays, mais nous négocions toujours nos accords en fonction de nos propres intérêts.

Comme je l'ai indiqué précédemment, dans certains domaines, vous pouvez éliminer immédiatement la totalité des tarifs douaniers. C'est ce qui se produira pour 97 p. 100 d'entre eux. Dans d'autres, vous devez accepter d'étaler les réductions dans le temps pour parvenir à une entente.

Vous vous souviendrez qu'avant l'entrée en vigueur de ALENA, sous le régime de l'Accord de libre-échange entre le Canada et les États-Unis, l'élimination des tarifs douaniers a pris jusqu'à 17 ans dans certains secteurs. Lors de l'entrée en vigueur de cet accord, même les Canadiens affirmaient que 17 ans équivalaient à une éternité. Bien évidemment, les 17 ans se sont écoulés et les tarifs douaniers ne sont plus qu'un souvenir. Cela dépend tout simplement du résultat que vous voulez obtenir, de ce qui est réaliste. Il faut parfois du temps pour qu'un secteur particulier ou une industrie précise se fasse à l'idée. Cela peut tenir à ses sensibilités et à la perception qu'elle a de sa vulnérabilité.

On peut donner comme autre exemple de ce type de disposition celles qui figurent dans l'Accord de libre-échange signé par le Canada et les pays membres de l'Association européenne de libre-échange (AELE), soit la Suisse, la Norvège, l'Islande et le Liechtenstein. L'élimination des tarifs douaniers pour certains volets de l'industrie du transport prendra 15 ans, et il faudra trois ans avant que le décompte ne commence.

Vous faites ce qui est réaliste. Dans l'ensemble, comme je l'ai dit, la majorité des tarifs douaniers sont éliminés rapidement. La négociation donne lieu à des échanges et c'est ainsi que vous obtenez le meilleur accord possible. Voilà comment nous y sommes parvenus dans ce cas-ci.

Le sénateur Downe : Dans le cadre de l'Accord de promotion du commerce États-Unis-Pérou, l'élimination des tarifs douaniers pour les producteurs de porc est étalée sur cinq ans. Dans l'accord conclu avec le Canada, cette période est de 17 ans. Pourquoi ne sommes-nous pas parvenus à négocier une meilleure entente pour le Canada?

Mr. Day: Again, there are certain sensitivities. We can talk about pork particularly, but let us say any particular area of production or manufacture, in a trade deal, as negotiated or working through it, one of the countries might be much more mature in the development of that particular industry, or of that particular product. Another country may be emerging in that area, and, therefore, very concerned that because the industry has emerged so maturely and is so strong in the competing country with which you are signing a deal, it does not want to be totally overwhelmed. The country registers its sensitivities in that regard.

You drive the best bargain you can, and some areas would be the ones that do not comprise the 97 per cent of all tariffs that will be removed immediately. You get the best deal you can. You consult with your industries to make sure there are not major problems, and you move on. That is what we have done.

Senator Downe: I quoted Senator LeBreton yesterday in the chamber, “No minister, no bill,” and I appreciate the minister being here today on short notice.

Minister Day, Canadian negotiators also failed to obtain a clause similar to that of the United States trade agreement allowing American agricultural exporters to Peru to benefit from any further trade negotiations entered into by Peru. In other words, if Peru negotiates a better deal with another country, the U.S. automatically gets that deal. We do not have that provision. Why did we not obtain that provision?

Mr. Day: For some of our trade agreements we do and some we do not. I appreciate that some people look at situations as a glass half full and some half empty. I appreciate you taking the half empty point of view.

We were able to achieve a deal because we were willing to show accommodation. You mentioned pork, for instance. Much of our pork will have full access in the free trade deal, but when it hits a certain quantity — and we do not know when it will hit that, because it is a bit of an untried market — then that tariff will cut in. Therefore, you need to look at and reflect on what did get access, as much of our pork did. When it hits that certain level, then there will be a tariff that will kick in.

I could tell you that we sometimes win with different countries that we are negotiating with right now when we say, “Anything the U.S. gets, we get.” There have been times when the U.S. has said, “Anything Canada gets, we want.” They may not get it. Therefore, you put the cards on the table; you look at the areas that matter most to you and the best interests of your country,

M. Day : Une fois encore, il arrive que nous soyons confrontés à certaines sensibilités. Nous pouvons parler du porc en particulier, mais on peut aussi dire qu’il arrive, lors de la négociation d’un accord commercial, qu’un secteur donné de production ou de fabrication de l’un des deux pays soit beaucoup plus développé que dans l’autre pays, dans lequel il ne fait qu’émerger. Ce dernier peut alors craindre d’être complètement noyé sous les produits de l’autre pays du fait de son manque de maturité et de la puissance concurrentielle de l’autre. Les pays déclarent les secteurs qu’ils jugent délicats de ce point de vue.

Vous négociez de votre mieux et vous allez finir par accepter que les produits de certains secteurs ne bénéficient pas immédiatement de l’élimination de 97 p. 100 de tous les tarifs douaniers. Vous obtenez la meilleure entente possible. Vous consultez les représentants de vos secteurs d’activités pour vous assurer que l’accord à l’étude ne pose pas de problèmes majeurs, et puis vous allez de l’avant. C’est ainsi que nous avons procédé.

Le sénateur Downe : J’ai cité ce qu’a dit le sénateur LeBreton hier en Chambre : « Pas de ministre, pas de projet de loi. » Je remercie le ministre d’être là aujourd’hui après un préavis si bref.

Monsieur le ministre, les négociateurs canadiens ne sont pas non plus parvenus à obtenir une disposition comparable à celle figurant dans l’entente conclue avec les États-Unis. Celle-ci permettra aux exportateurs américains de produits agricoles vers le Pérou de bénéficier des dispositions qui figureront dans tout autre accord conclu par la suite avec le Pérou. En d’autres termes, si un autre pays négocie une meilleure entente avec le Pérou, les producteurs américains en profiteront automatiquement. Il n’y a pas de disposition de ce genre dans l’accord que nous avons conclu avec le Mexique. Pourquoi?

M. Day : C’est une disposition qui figure dans certains de nos accords commerciaux, mais pas dans tous. Une personne voit un verre à moitié plein alors qu’une autre le voit à moitié vide. Je vous concède que vous avez le droit de le voir à moitié vide.

Nous sommes parvenus à une entente parce que nous étions prêts à faire preuve de souplesse. Vous avez pris l’exemple du porc. Cet accord de libre-échange permet à la plupart de nos produits du porc d’accéder librement au marché péruvien. Cependant, lorsque ces exportations atteindront un seuil donné, et nous ignorons quand cela se produira parce que nous n’avons pas l’expérience de ce marché, cela déclenchera l’application d’un tarif douanier. Nous devons donc comptabiliser nos exportations de produits du porc sur ce marché parce que, à partir d’un certain niveau, elles devront acquitter des droits de douane au Pérou.

Je peux vous dire que, dans les négociations que nous menons actuellement avec divers pays, il arrive que nous parvenions à les amener à nous consentir les mêmes dispositions que celles qu’obtiennent les États-Unis. Il est également arrivé que ce soit les États-Unis qui déclarent vouloir obtenir tout ce que le Canada a obtenu ou obtiendra. Ils ne l’obtiennent pas toujours. Vous

workers and producers, and sometimes can you get a clause that says, "Whatever the U.S. gets. . . ." Sometimes you cannot. It happens to them, also.

Senator Downe: This time we did not get it.

The Chair: Is that a question?

Senator Downe: No, it is a comment.

Senator Andreychuk: I will yield to Senator Downe.

Senator Dawson: Are you calling me Senator Downe?

Senator Andreychuk: I am preoccupied.

[*Translation*]

Senator Dawson: I want to come back to the comments of my colleague. I know that at this stage in free trade agreement negotiations, the possibility of a Senate committee making any changes is pretty slim. Nevertheless, I want to say that I agree with my colleague regarding the updating of our agreements. As Peru negotiates agreements with other countries, our agreements should be the same as those with the United States. When the U.S. signs an agreement, they say: if Peru signs a good agreement with another country, we want access to that same privilege.

I just want to say that it is a provision that I am going to support. It would be easier to say: whatever is good for the United States is good for Canada.

My colleague from Prince Edward Island mentioned potatoes. I am going to talk about pork. The agreement between the U.S. and Peru on pork and beef is necessarily more beneficial to American producers of pork and beef. I would have liked to receive the same level of cooperation from our partner Peru that the Americans did.

It seems obvious that there is a tendency in negotiations to apply pressure. I believe that in the next few weeks, we are likely to have another agreement with respect to Colombia. I want to be sure that we are able to put pressure on the government to ensure that these agreements will be ratified. We would like the government to be more in line with the U.S. regarding negotiations with other countries. I do not see why we should get any less than they do.

Those are more comments than questions. I just wanted to assure you, Mr. Minister, that I understand full well the process by which the agreement was reached, and it was not simple. It is important for us to say that even though we are going to approve this as a committee, that does not mean that we reached the level of negotiations we could have.

étez alors vos cartes sur la table, vous cherchez ce qui est le plus important pour vous et le plus avantageux pour votre pays, pour ses travailleurs et ses producteurs, et il arrive que vous obteniez l'accord de l'autre partie pour vous consentir ce que les États-Unis obtiendront. Il arrive aussi que vous n'y arriviez pas. Cela leur arrive également.

Le sénateur Downe : Cette fois-ci, nous n'y sommes pas parvenus.

Le président : Est-ce une question?

Le sénateur Downe : Non, un commentaire.

Le sénateur Andreychuk : Je cède mon tour de parole au sénateur Downe.

Le sénateur Dawson : Est-ce moi que vous appelez sénateur Downe?

Le sénateur Andreychuk : Je suis préoccupée.

[*Français*]

Le sénateur Dawson : Je vais reprendre les commentaires mon collègue. Je sais qu'à cette étape des négociations d'une entente de libre échange, la possibilité qu'un comité du Sénat y apporte des modifications est assez limitée. J'aimerais quand même dire qu'il me semble évident que les commentaires de mon collègue concernant la mise à niveau de nos ententes, au fur et à mesure que le Pérou négocie des ententes avec d'autres pays, devrait être la même que celles avec les États-Unis. Quand ceux-ci signent une entente, ils disent : si jamais le Pérou signe une bonne entente avec un autre pays, on veut profiter du même privilège.

Je veux juste indiquer que c'est une clause que je vais appuyer. Ce serait plus facile de dire que ce qui est bon pour les États-Unis est bon pour le Canada.

Mon collègue de l'Île-du-Prince-Édouard parlait des patates, je vais parler du porc. Dans le cas du porc, l'entente entre les États-Unis et le Pérou concernant le porc et le bœuf est nécessairement plus avantageuse pour les producteurs de porc américain et les producteurs de bœuf américain. J'aurais espéré avoir le même niveau de collaboration de la part de notre partenaire du Pérou que les Américains ont pu obtenir.

Il me semble évident que la tendance dans les négociations est de mettre de la pression. Je crois savoir que dans les prochaines semaines, nous risquons d'avoir une autre entente concernant la Colombie. Je voudrais être certain qu'on est capable de mettre de la pression sur le gouvernement pour nous assurer de ratifier ces ententes. Nous aimerions que le gouvernement soit un peu plus au même niveau que les États-Unis concernant les négociations avec les autres pays. Je ne vois pas pourquoi on devrait obtenir moins qu'eux.

Ce sont plus des commentaires que des questions. Je voulais quand même vous assurer, monsieur le ministre, que je comprends très bien le processus par lequel vous êtes arrivés à l'entente qui n'est pas simple. Il est important pour nous de dire que même si nous allons comme comité l'approuver, cela ne veut pas dire que nous avons atteint les niveaux de négociations qu'on aurait pu atteindre.

Mr. Day: I am always interested when I hear a comment about the Americans. It is an interesting approach, especially if we consider our agricultural sectors. We have a unique position in the world in terms of the sectors we indicated must remain protected.

As you know, they are known as the supply managed areas. Americans do not have such considerations. I think there are people in the United States who are very envious of Canada because we maintained our position on protected sectors. That is why it is hard to draw a comparison that is truly fair. We achieved something that was impossible for the Americans. We have to compare apples with apples.

Senator Dawson: Like my colleague, I fall into the glass is half-empty category. I think we could do better. I said from the beginning that I understand the constraints you are under. I understand that market control was to Canada's advantage. But I want to be able to tell you that we expect a lot from you, as minister, and that we will have a chance to debate the issue in the future. The way I see it, the glass is half empty, and the way you see it, the glass is half full. There will always be a disagreement. It may take a bigger glass, I don't know.

Mr. Day: If the glass is smaller, we can say that it has a lot of water. I appreciate your opinion, but I am convinced we have an agreement that has a lot of advantages for Canada's workers, producers and investors, and for the Peruvian people, as well.

Let us consider another sector where I think we are more advanced than the Americans, the mining sector. We also have another position, another policy. We have produced guidelines for the mining sector on corporate responsibility. We have set up a centre of excellence. We now have an advisor for the mining sector. That benefits us, but also and more importantly, the people of Peru.

We could be here for days making comparisons with the United States, but I still think that we now have an agreement that provides many benefits to Canadians. Those benefits did not exist a year ago, but they will be around for a long time to come.

Of course, there will be differing views, but we have a situation, an agreement that will improve our trading positions. I appreciate your point of view.

[English]

The Chair: Senator Andreychuk, I will give you the last question for the minister. The officials will remain. As a matter of fact, the two gentlemen in the back are anxious to come and give us a little more wisdom.

M. Day : Je suis intéressé toujours quand j'entends un commentaire qui vise les Américains. C'est une approche intéressante, surtout si on considère nos secteurs agricoles, nous avons une position unique dans le monde avec les secteurs où nous avons indiqué « doit rester protégé ».

Comme vous le savez, on dit en anglais, « the supply managed areas ». Les Américains n'ont pas de considérations comme cela. Je pense qu'il y a des gens aux États-Unis qui envient beaucoup le Canada parce que nous avons maintenu notre position avec les secteurs protégés. C'est pourquoi il est difficile d'avoir une comparaison exactement équitable. Nous avons atteint quelque chose d'impossible pour les Américains. Il ne faut pas comparer des pommes et des oranges.

Le sénateur Dawson : Je me situe comme mon collègue dans la catégorie du verre à moitié plein. Je pense qu'on pourrait faire mieux. Je vous ai dit dès le départ que je comprends les contraintes que vous avez. Je comprends que le contrôle des marchés a été à l'avantage du Canada. Mais j'aimerais qu'on soit capable de vous dire, en tant que ministre, que nous attendons beaucoup de vous, que nous allons avoir l'occasion de le débattre dans l'avenir. D'après moi le verre est à moitié vide et pour vous, le verre est à moitié plein. On aura toujours un désaccord. Ça prendrait un plus grand verre peut-être, je ne sais pas.

M. Day : Si le verre est plus petit, on peut déterminer qu'il y a beaucoup d'eau. J'apprécie votre avis mais je suis convaincu que nous avons un accord qui contient beaucoup de bénéfices pour les travailleurs, les producteurs, les investisseurs du Canada et qui aura des bénéfices pour les gens du Pérou aussi.

Si on considère un autre secteur où, à mon avis, nous sommes plus avancés que les Américains, c'est dans le secteur minier. Nous avons aussi une autre position, une autre politique. Nous avons produit des guides pour les secteurs miniers au sujet de la responsabilité des entreprises. Nous avons mis sur pied un centre d'excellence. Nous avons un conseiller maintenant pour le secteur minier. C'est un avantage pour nous mais aussi et surtout pour les gens du Pérou.

Nous pouvons rester ici quelques jours et faire les comparaisons avec les États-Unis et encore, à mon avis, nous avons maintenant un accord avec beaucoup de bénéfices pour les Canadiens et Canadiennes. Ces bénéfices n'étaient pas là il y a un an, mais qui vont rester pour longtemps à l'avenir.

Surtout, nous aurons des avis qui ne sont pas exactement les mêmes mais nous avons une situation, un accord qui améliorera nos positions d'échange. J'apprécie votre point de vue.

[Traduction]

Le président : Sénateur Andreychuk, c'est vous qui poserez la dernière question au ministre. Les fonctionnaires, eux, vont rester. En vérité, les deux messieurs qui se trouvent à l'arrière sont très désireux de nous en apprendre un peu plus.

Senator Andreychuk: I think the minister has addressed my interest. I was quite interested to hear my colleagues want to be just like the Americans because I think, when I was sitting in the opposition, they were telling us how they were not just like the Americans. I think it is an interesting debate.

I looked into the agreement and it will be of benefit in some of the areas that I have worked on in agriculture; certainly, wheat, barley and pulse crops are a huge issue and it will be a huge market for us. On the one hand, there are some restrictions on beans, and I wondered why. On the other hand, we are not into that area in any significant way. The areas of concern to us seem to have been covered.

That leads me to my point. The stakeholders who are interested in trading and working in Peru were consulted. As we know in the previous agreement a significant sector of shipbuilders that had concerns, and we had to slow down a process for them for over 10 years and then there were barriers left for them.

In our trade agreement with Peru, there were obviously consultations. Where was a significant difficulty, and with whom? Alternatively, was this an agreement where the relationship and consultation addressed their issues?

Mr. Day: We tried to do both simultaneously. I can give credit to our agricultural sectors and producers. When we are involved in free trade discussions, and Peru is no exception, they are right at our elbow making sure that their interests are protected. When we go into these free trade agreements, it is safe to say that anything to do with agriculture is highly sensitive and requires much consultation before we go ahead and stake out a position to ensure that we are accommodating our own producers and growers. That would be an area of very high and key interest.

With respect to areas like machinery, we wanted to ensure and our producers wanted to be sure that in the manufacture of machinery, here is an area where the labour side of the accord is important. For instance, the manufacturer of heavy machinery in Canada is highly specialized, as is understandable, and highly paid; you do not want to be competing with a country that has no such regulations, especially on their workforce.

That was an area of sensitivity that the labour side of the accord helped to allay and put to rest. We know that a worker in Peru will not necessarily be getting the same wage as a worker in Canada. However, in Peruvian labour laws, they are subject to all of the things our labour laws are subject to, whether it is child labour,

Le sénateur Andreychuk : Je crois que le ministre a traité des sujets qui m'intéressaient. J'ai trouvé fort intéressant d'entendre mes collègues indiquer qu'ils voulaient que nous obtenions la même chose que les Américains alors que, à l'époque où je siégeais dans l'opposition, ils nous expliquaient en quoi nous étions différents des Américains. Je trouve que c'est là un débat intéressant.

J'ai lu le texte de l'accord et il sera avantageux dans certains des secteurs de l'agriculture dans lesquels j'ai travaillé. Il est certain que les cultures de blé, d'orge et de légumineuses posent d'énormes problèmes et que le Pérou constituera un marché énorme pour nous. Par contre, je me demande pourquoi des restrictions continuent à s'appliquer aux fèves. Ce n'est toutefois pas une question très importante pour nous. L'accord semble couvrir les produits agricoles qui sont importants pour nous.

Cela m'amène au point qui m'intéresse. Les intervenants désireux de faire du commerce et de travailler au Pérou ont été consultés. Comme nous le savons, dans l'accord précédent, une part importante des chantiers de construction navale éprouvait des inquiétudes, et nous avons dû étaler le processus sur plus de 10 ans pour eux et conserver quelques barrières commerciales pour les protéger.

L'accord commercial que nous avons conclu avec le Pérou a manifestement donné lieu à des consultations. Dans quels domaines a-t-on fait face à des difficultés importantes, et avec qui? Pour formuler les choses autrement, les parties concernées ont-elles pu résoudre les problèmes qui se sont présentés dans le cadre de leurs relations et par la consultation?

M. Day : Nous avons essayé de faire les deux simultanément. Je peux ici reconnaître le mérite des secteurs de l'agriculture et des producteurs agricoles. Quand nous participons à des discussions sur le libre-échange, et le Pérou ne fait pas exception à la règle, leurs représentants surveillent très attentivement ce qui se passe pour veiller à la protection de leurs intérêts. Quand nous négocions ces types d'accord, il ne fait aucun doute que tout ce qui touche à l'agriculture est très délicat et impose de procéder à davantage de consultations avant d'aller de l'avant et de définir notre position, pour nous assurer que nous tenons compte des intérêts de nos producteurs agricoles. C'est un domaine qui suscite énormément d'intérêt.

Dans le cas d'autres secteurs, comme celui de la machinerie, nos producteurs et nous tenons à nous assurer de bien défendre leurs intérêts car le volet main-d'œuvre de l'accord est important pour eux. C'est ainsi que les fabricants de machinerie lourde au Canada sont très spécialisés et que les emplois dans ce secteur, comme on peut s'y attendre, sont fort bien rémunérés. Vous ne voulez pas subir la concurrence d'un pays qui n'est pas soumis à la même réglementation, en particulier sur la main-d'œuvre.

Le volet main-d'œuvre de l'accord touchait à toute une série de questions délicates qui soulevaient des inquiétudes et que le texte final de l'accord a permis d'apaiser. Nous savons fort bien qu'un travailleur péruvien ne sera pas nécessairement rémunéré au même niveau qu'un travailleur canadien. Toutefois, la législation

the number of hours worked or safety and occupational issues. That was another area of sensitivity where we drove hard to ensure that we had something we could hold another country to.

The same goes for the environmental side of the accord. If there is a particular industry that has some effect in their production process in terms of emissions and we have certain emission rules in Canada, we want to ensure that our industries will not be at a significant disadvantage because there is no such sensitivity or concern on the Peruvian side. That is why they signed on to the environmental side of the accord, which ties into the UN regulations on biological diversity. We had the usual array of sensitivities from those areas, and we believe we largely addressed them. That is why we were able to move ahead with the deal.

You mentioned shipbuilding. You are quite right; it is simply a fact that there are some industries, in either country, where if the industry had their way, there would not be an agreement. They like their protective status. We work with them to say we cannot preserve that forever, but we will take the time to help you adjust. You are quite right; in the shipbuilding side of the agreement, which we achieved with the European countries, there are two classifications of vessels, one in which you will see all of the tariffs coming off in about 10 years and others in about 15 years. Even within a category you have to make allowances. It all spells progress and leads to an improved situation. We will see heightened levels of prosperity in both of our countries because of a freer trade agreement, and that is was our goal. I believe we largely achieved that goal.

Senator Andreychuk: Some years ago, this committee looked at the issue of WTO. We said that was preferred; if we could get an international structure, that is where we would go. We obviously ran up against Europeans and Americans on agriculture and our differences there and it stalled.

What we said in our report was that if we cannot do it internationally, we would try it regionally or bilaterally. As I recall, the underlying premise was that our negotiating strategy, however, would remain somewhat the same, that we do not change our philosophies from one to the other.

péruvienne du travail comporte quantité de dispositions assez proches de celles en vigueur chez nous, qu'il s'agisse de la main-d'œuvre infantine, du nombre d'heures travaillées ou des questions touchant à la sécurité et aux professions. C'est un autre domaine dans lequel nous avons veillé très attentivement à disposer de moyens pour obliger l'autre pays à respecter les règles en vigueur.

Il en va de même pour la partie de l'accord traitant de l'environnement. Si le processus de production d'une industrie donnée entraîne des émissions polluantes et que nous avons des règles concernant certains types d'émissions au Canada, nous voulons nous assurer que nos industries ne seront pas nettement désavantagées parce que les Péruviens n'accordent pas la même importance à ces questions ou ne partagent pas les mêmes préoccupations. C'est pourquoi ils ont signé le volet environnemental de l'accord, qui les oblige à respecter la réglementation sur la diversité biologique des Nations Unies. Nous avons abordé toutes les questions délicates dans ce domaine et nous sommes d'avis que nous les avons résolues dans une très large mesure. C'est pourquoi nous avons pu aller de l'avant avec l'accord.

Vous avez fait état de la construction navale. Vous avez tout à fait raison. Il est vrai que, dans certains pays, si certaines industries avaient eu leur mot à dire, il n'y aurait pas eu d'accord. Elles aiment bénéficier de protection. Nous leur expliquons que nous ne pourrions pas les protéger pour l'éternité, mais que nous prendrons le temps de les aider à s'adapter. Vous avez tout à fait raison, dans la partie consacrée à la construction navale de l'accord que nous avons conclu avec les pays européens, il y avait deux catégories de navires, une pour laquelle tous les tarifs douaniers seraient éliminés en une dizaine d'années et l'autre pour laquelle il faudrait une quinzaine d'années. Même au sein d'une catégorie, il faut prévoir quelques exceptions. Tout cela débouche sur des progrès et sur une amélioration de la situation. Nous avons observé une amélioration de la prospérité dans nos deux pays parce que l'entente a permis de procéder plus librement aux échanges, et c'était notre objectif. Je crois que nous l'avons largement atteint.

Le sénateur Andreychuk : Il y a quelques années, ce comité a étudié tout ce qui concerne l'OMC. Nous avons alors dit que, pour nous, c'était la solution privilégiée, si nous pouvions nous doter d'une structure internationale. C'était la voie que nous recommandions d'emprunter. Nous nous sommes manifestement heurtés aux Européens et aux Américains dans le domaine de l'agriculture, avec des points de vue nettement différents, et les négociations ont échoué.

Nous avons dit dans notre rapport que s'il n'était pas possible de parvenir à une entente au niveau international, nous devrions essayer de conclure des ententes au niveau régional ou bilatéral. Si j'ai bonne mémoire, le principe sous-jacent était que notre stratégie de négociation devrait toutefois rester sensiblement la même, que nous ne changerions pas de philosophie d'une négociation à l'autre.

In this case, WTO has not moved as quickly as we wanted it to, and we are doing a bilateral agreement. Are we still employing the same kind of principles and, therefore, we will not have to change direction on our WTO negotiations? In other words, are they in line?

Mr. Day: Largely, they are. You can take some comfort that the recommendations from this august body, the Senate, which you referred to some years ago, said the WTO is very important; if you cannot get agreements there, then go bilateral. It is just another example of how closely we listen to Senate recommendations, because indeed that is what we have done.

We want to see the successful completion of the so-called Doha Round with the World Trade Organization. We are slightly more optimistic. Recently, we have received dates where all ministers will be getting together.

Out of respect, as I know Senator Dawson and Senator Downe are concerned, with respect to the Americans, they are still a bit in the learning curve when it comes to WTO with their new administration. They are one of the reasons it has slowed down somewhat. We know that India has had some concerns. Their recent election will require their new trade people to get up to speed, so there could be some delay.

We are ambitious on the Doha Round. We want to see this completed. You are right; we cannot wait. Producers, workers and investors in Canada cannot wait. If there are opportunities on a one-on-one deal with another country or even a multilateral deal with a small group of countries, we are pursuing those deals. It is with the same principle so that when you get the WTO deal, you do not have to crater all these other ones you have worked hard to get.

The Chair: We will continue with the officials. I want to thank Minister Day for appearing, particularly on such short notice. We appreciate it. You have always been forthcoming, and we look forward to the next time.

Mr. Day: Thank you for your ongoing interest and your usual good questions.

The Chair: We have been joined at the table by Mr. Kronby, Mr. Beyea and Ms. Kutz, who are prepared to answer any and all questions.

[Translation]

Senator Fortin-Duplessis: Thank you very much, Mr. Chair. I would have liked to address my question to the minister, but I am sure that the witnesses are just as capable of answering.

Dans ce cas, l'OMC n'a pas évolué aussi rapidement que nous le souhaitons et nous avons négocié une entente bilatérale. Nous nous en remettons toujours au même type de principes, sans avoir à changer d'attitude en ce qui concerne les négociations que nous menons à l'OMC? En d'autres termes, suivons-nous toujours la même voie?

M. Day : Dans une large mesure, oui. Vous pouvez être rassurés dans une certaine mesure parce que les recommandations auxquelles vous avez fait allusion, formulées il y a quelques années par cette institution vénérable qu'est le Sénat, réaffirmaient l'importance de l'OMC. S'il n'est pas possible de parvenir à des accords dans le cadre de l'OMC, il faut alors entamer des négociations bilatérales. C'est là un autre exemple de l'attention que nous prêtons aux recommandations du Sénat, parce que c'est en vérité ce que nous avons fait.

Nous tenons à ce que l'on appelle le cycle de Doha de l'OMC aboutisse. Nous sommes un peu plus optimistes maintenant. Récemment, nous avons été informés des dates auxquelles tous les ministres vont se réunir.

Par égard pour eux, comme je sais que ces questions intéressent le sénateur Dawson et Downe, en ce qui concerne les Américains, leur nouvelle administration a encore un peu de travail à faire pour bien maîtriser les questions abordées à l'OMC. C'est une des raisons pour lesquelles les choses ont ralenti. Nous savons que l'Inde a eu des sujets d'inquiétude. À la suite de l'élection récente dans ce pays, il faudra aussi que les nouveaux responsables du commerce maîtrisent bien leurs dossiers, et cela pourrait entraîner quelques retards.

Nous avons des attentes importantes avec le cycle de Doha. Nous tenons à ce que celui-ci aboutisse. Vous avez raison, nous ne pouvons pas attendre. Les producteurs, les travailleurs et les investisseurs du Canada ne peuvent pas attendre. S'il s'avère possible de négocier des accords bilatéraux avec d'autres pays, ou même des accords multilatéraux avec un petit groupe de pays, nous entamons les négociations avec eux. Nous nous inspirons toutefois des mêmes principes afin que, lorsqu'il y aura eu entente à l'OMC, nous n'ayons pas à réviser en profondeur tous ces accords après tout le travail qu'il aura fallu pour les conclure.

Le président : Nous allons maintenant poursuivre avec les fonctionnaires. Je tiens à remercier le ministre Day d'avoir comparu devant nous, surtout avec un préavis aussi bref. Nous l'en remercions. Vous avez toujours été disponible pour nous et nous nous ferons un plaisir de vous revoir à la prochaine occasion.

M. Day : Je vous remercie de l'intérêt que vous portez toujours à ces questions et, comme à l'habitude, de la pertinence de vos questions.

Le président : M. Kronby, M. Beyea et Mme Kutz se sont maintenant joints à nous et sont prêts à répondre à toutes nos questions.

[Français]

Le sénateur Fortin-Duplessis : Merci beaucoup, monsieur le président. J'aurais aimé poser ma question au ministre, mais je suis certaine que les témoins pourront tout aussi bien y répondre.

Like Senator Downe, intellectual property was an area of concern for me. The U.S. provisions on intellectual property in the United States-Peru agreement are very strict.

Even if the bill does not pass — I do not know if it was reintroduced, I know that it died on the order paper when the government was almost defeated — does Canada have reason to worry that those provisions will give American investors an advantage over Canadian investors in Peru?

[English]

Carol Nelder-Corvari, Director, International Trade Policy and Chief Negotiator (Peru and Colombia FTAs), Department of Finance Canada: This agreement reinforces that we will abide by our WTO obligations. That continues, and we are pursuing this multilaterally in this context. As the minister said, though, we leave open the chance of further refining in the area of intellectual property.

I do not think it places us at a disadvantage, because our WTO disciplines are still there. Also, it is not only our domestic law that is evolving. In Peru, as well, a key issue was intellectual property and traditional knowledge in the area of biodiversity. Canada and Peru are working together on this under the international Convention on Biological Diversity. That is why the environment agreement stresses that part.

There were intensive discussions about intellectual property both in areas where Peru had an interest and areas where Canada had an interest. At this point, it was felt best to reinforce our WTO rules as we are evolving, but we leave open the opportunity, as we did with Chile, where we added procurement and financial services later.

This is a comprehensive agreement as it stands, but it is not static. Both parties have indicated in their provisions the opportunity for further negotiations or discussions.

Senator Downe: On that point, it is static unless the Peruvians agree to open the agreement. In the Canada-Peru Free Trade Agreement, we have only reaffirmed our commitment to the WTO Trade-Related Aspects of Intellectual Property Rights agreement, which establishes minimum standards of protection, unlike what the U.S. was able to negotiate, which is far superior. I did not want any confusion on that. We accepted the minimum under the WTO. The Americans have a superior package.

Tout comme le sénateur Downe, j'étais préoccupée par la propriété intellectuelle. Les dispositions des Américains en matière de propriété intellectuelle contenues dans l'accord États-Unis-Pérou sont très sévères.

Même si le projet de loi n'est pas ratifié — je ne sais pas si on en a présenté un nouveau, je sais qu'il est mort au Feuilleton quand le gouvernement a failli être renversé —, est-ce qu'en raison de ces dispositions, on peut craindre, au Canada, que les investisseurs américains aient un avantage sur les investisseurs canadiens au Pérou?

[Traduction]

Carol Nelder-Corvari, directrice, Politique commerciale internationale et négociatrice en chef, Accords de libre-échange avec le Pérou et la Colombie, ministère des Finances Canada : Cet accord donne encore plus de poids à nos obligations de nous conformer aux règles de l'OMC. Nous nous en tenons au même principe, mais dans un cadre multilatéral dans ce contexte. Comme l'a dit le ministre, nous restons toutefois ouverts à la possibilité de préciser davantage les règles qui s'appliqueront dans le domaine de la propriété intellectuelle.

Je ne crois pas que cela nous mette en situation désavantageuse parce que les règles de l'OMC continuent à s'appliquer. Il n'y a pas non plus que notre législation nationale qui évolue. Pour le Pérou également, la propriété intellectuelle et les connaissances traditionnelles, dans le domaine de la biodiversité, étaient des questions importantes. Le Canada et le Pérou collaborent dans le cadre de la Convention des Nations Unies sur la diversité biologique. C'est pourquoi l'accord traitant de l'environnement insiste sur cet aspect.

Nous avons eu des discussions intenses au sujet de la propriété intellectuelle, aussi bien dans les domaines qui intéressent le Pérou que dans ceux qui intéressent le Canada. Il nous a alors semblé que la meilleure solution était de renforcer les règles auxquelles nous sommes soumises dans le cadre de l'OMC comme notre législation évolue, mais tout en laissant place à des révisions ultérieures, comme nous l'avons fait avec le Chili en ajoutant par la suite des dispositions sur les approvisionnements et les services financiers.

C'est là une entente globale dans sa forme actuelle, sans pour autant être statique. Les deux parties ont convenu de dispositions leur permettant de mener d'autres négociations ou discussions par la suite.

Le sénateur Downe : À ce sujet, c'est un accord statique à moins que les Péruviens ne consentent à reprendre les négociations. Dans l'Accord de libre-échange Canada-Pérou, nous n'avons fait qu'affirmer à nouveau notre engagement à respecter le volet commercial de l'Entente sur les droits de propriété intellectuelle conclue dans le cadre de l'OMC, qui fixe des normes minimales de protection, à la différence de ce que les États-Unis ont pu négocier, qui est nettement mieux. Je ne veux pas qu'il y ait de confusion dans ce domaine. Nous nous sommes contentés du minimum dans le cadre de l'OMC. Les Américains ont obtenu une meilleure entente en la matière.

Ms. Nelder-Corvari: I think the minister answered clearly that we are in the process of refining our laws. In fact, some of what was agreed to between the U.S. and Peru could not have been agreed to by Canada at this point.

Senator Mahovlich: Canada is known around the world for mining. I did not know that there was a security problem in Peru. How is this agreement going to stabilize security for Canadian mining companies?

Ms. Nelder-Corvari: Corporate social responsibility was an important topic in these discussions. You will see in this agreement, for the first time, provisions on corporate social responsibility. They occur in the general commitments in the beginning of the agreement, they occur in the investment chapter, and they occur in the environment chapter.

These discussions were initiated by Canada in recognition of the fact that we had ongoing cooperative efforts underway in Peru at the time. We initiated these discussions because we wanted to deepen cooperation and promotion in this area. Mining in Peru is a large area for investment from Canada. We have over \$2.3 billion in investment in Peru, which compares to about \$800 million in India.

Senator Mahovlich: How many mining companies do we have in Peru?

Ms. Nelder-Corvari: That is hard for me to say off the top of my head. We have several exploratory oil and gas operations as well as ongoing operations. Key operations are Barrick Gold Corp., Teck Cominco Ltd. and Talisman (Peru) Ltd.

The current ongoing dispute was a long time in coming. There were protesters blocking the highway, and the government took action. The positive steps that the government is taking include involving the church and the Peruvian ombudsman in mediating the dispute. Canada, along with a few other countries, was instrumental in development of the Peruvian ombudsman's office, and we provide ongoing funding for this office to help mediate this problem.

You talk about corporate social responsibility, and this is in fact that. It is their brand that is at risk. Many of our companies are leaders in this area and have put into effect the practices they have in Canada. In fact, Natural Resources Canada, our embassy in Peru and the Government of Peru have developed what is called the Mining Toolkit. The toolkit mirrors some of the domestic lessons we have learned. It tries to share those lessons with Peru in terms of transparency and consultation with local communities to ensure that local communities can exercise control in decision making to maximize the benefits of these operations.

Senator Mahovlich: Our mining companies cooperate with and support the communities.

Mme Nelder-Corvari : Je crois que le ministre a indiqué clairement que nous sommes en train de réviser notre législation pour y apporter des précisions. En réalité, le Canada n'aurait pu donner son accord à certains aspects de l'entente conclue entre les États-Unis et le Pérou dans ce domaine.

Le sénateur Mahovlich : Le Canada est réputé à travers le monde pour son industrie minière. À ma connaissance, il n'y avait pas de problème de sécurité au Pérou. Comment cet accord va-t-il stabiliser la situation des sociétés minières canadiennes?

Mme Nelder-Corvari : Les responsabilités sociales des entreprises ont été un sujet important de discussions. Nous allons avoir, pour la première fois avec cette entente, des dispositions sur la responsabilité sociale des entreprises. Elle se manifeste dans les engagements de nature générale pris au début de l'Accord, puis dans les chapitres sur les investissements et sur l'environnement.

Ces discussions ont eu lieu à l'initiative du Canada pour tenir compte du fait que nous travaillons actuellement dans le domaine de la coopération au Pérou. Nous avons lancé ces discussions parce que nous voulions approfondir la coopération et la promotion dans ce domaine. Au Pérou, le secteur minier est important pour les investissements canadiens. Nous avons investi au-delà de 2,3 milliards de dollars au Pérou, contre environ 800 millions de dollars en Inde.

Le sénateur Mahovlich : Combien de nos sociétés minières sont présentes au Pérou?

Mme Nelder-Corvari : J'aurais du mal à vous le dire à brûle-pourpoint. Nous avons plusieurs entreprises qui s'adonnent à l'exploration pétrolière et gazière et d'autres sociétés qui sont en exploitation. Les entreprises importantes sont Barrick Gold Corp., Teck Cominco Ltd. et Talisman (Pérou) Ltd.

Les protestations actuelles ne datent pas d'hier. Des protestataires ont bloqué les routes, et le gouvernement a pris des mesures. C'est ainsi qu'il a décidé de faire appel à l'Église et à l'ombudsman péruvien comme médiateurs dans ce différend. Le Canada, ainsi que quelques autres pays, a joué un rôle dans la mise sur pied du bureau de l'ombudsman péruvien, et nous assurons en permanence le financement de ce bureau pour faciliter la médiation de ce problème.

Vous avez parlé de la responsabilité sociale des entreprises, et c'en est là un cas concret. C'est leur réputation qui est en jeu. Nombre de nos entreprises sont des leaders dans ce domaine et ont appliqué dans ce pays leurs pratiques canadiennes. En vérité, Ressources naturelles Canada, notre ambassade au Pérou et le gouvernement du Pérou ont élaboré ce qu'on appelle la trousse à outils du secteur minier. Celle-ci s'inspire de certaines des leçons que nous avons tirées de notre expérience chez nous. Elle vise à partager ces leçons avec les Péruviens en ce qui concerne la transparence et les consultations avec les collectivités locales pour nous assurer que ces dernières peuvent exercer un certain contrôle de la prise de décision afin de maximiser les retombées de ces activités.

Le sénateur Mahovlich : Nos sociétés minières coopèrent avec ces collectivités et leur apportent leur appui.

Ms. Nelder-Corvari: Absolutely. We are leaders in some of these areas in some of our operations.

Senator Downe: I agree with your analysis of what Canadian mining companies are doing in Peru. They have a very good program. The problem is what happened 20 years and 25 years ago. At that time, the waste and pollution of the mining industry was left for these villages, many of which are isolated, to clean up.

I am surprised that CIDA can no longer help in that area because of the reallocation of their funding. CIDA investment in Peru in this area would be of assistance with the Canadian mess that was left many years ago.

My question is about the side deals we signed — and I wish the minister had stayed longer so that he could address this issue— on the Canada-Peru Agreement on Labour Cooperation and the Canada-Peru Agreement on the Environment. They are not integrated into the related provisions in the main agreement to ensure that they are subject to the main dispute resolution process.

When he appeared before the House of Commons Standing Committee on International Trade, Mr. Mark Rowlinson, representing the United Steelworkers, said:

In respect of the enforcement of labour rights, there's no question that I believe the Canadian government has negotiated an agreement that is inferior to the one negotiated by the U.S. government.

This is the fifth or sixth example from a host of sources that the United States was able to negotiate a better deal in many areas that are important to Canadians.

I accept the minister's comments that there are many good things in the bill, but it is of great concern that this is the best deal we could negotiate with a developing country.

What will happen when Canada negotiates with the EU? If this is an example of our negotiating abilities, we may be in serious trouble.

I would like to propose that working with Senator Dawson and Senator Mahovlich, we come up with some recommendations on the bill. We could work on them overnight and would have to get them translated. We could send them to members of the committee on Friday or Monday for consideration at our next meeting, hopefully on Tuesday.

The Chair: I think we should give our witnesses an opportunity to respond to your comment.

Senator Downe: The question is directed to the minister. In his absence, I do not want to put the officials on the spot.

The Chair: It is important that they put the position of the government on the record, particularly when the minister indicated to us that in a number of areas we were obviously

Mme Nelder-Corvari : Tout à fait. Pour certaines de nos activités, nous sommes des leaders dans ce domaine.

Le sénateur Downe : Je partage votre analyse de ce que font les sociétés minières au Pérou. Elles se sont dotées d'un excellent programme. Le problème est ce qui s'est passé il y a 20 et 25 ans. À cette époque, c'était les villages, dont beaucoup étaient isolés, qui devaient s'efforcer de procéder au nettoyage des déchets et de la pollution.

Je trouve surprenant que l'ACDI ne puisse pas apporter d'aide dans ce domaine à cause de la réaffectation de ces fonds. Si elle investissait dans ce secteur au Pérou, cela aiderait à trouver des solutions au gâchis laissé par des entreprises canadiennes il y a de nombreuses années.

Ma question porte sur les accords annexes que nous avons signés, et j'aurais aimé que le ministre puisse rester plus longtemps pour lui permettre d'aborder cette question, soit l'Accord Canada-Pérou de coopération dans le domaine du travail et l'Accord Canada-Pérou sur l'environnement. Leurs dispositions ne sont pas intégrées aux dispositions connexes de l'accord principal pour garantir qu'elles soient soumises aux modalités de résolution des différends de ce dernier.

Quand il a comparu devant le Comité permanent du commerce international, M. Mark Rowlinson, représentant les Syndicats des métallos, a déclaré :

Pour ce qui est des droits des travailleurs, à mon avis, le Canada a sans aucun doute signé un accord inférieur à celui conclu avec les États-Unis.

C'est là le cinquième ou sixième exemple venant de sources très nombreuses indiquant que les États-Unis sont parvenus à négocier une meilleure entente dans de nombreux domaines qui sont importants pour les Canadiens.

Je conviens, comme nous l'a dit le ministre, qu'il y a beaucoup de bons éléments dans le projet de loi, mais je suis très préoccupé par le fait que ce soit là la meilleure entente que nous ayons pu négocier avec un pays en développement.

Que va-t-il se passer quand le Canada va négocier avec l'Union européenne? Si c'est là un exemple de nos capacités de négociation, nous pourrions faire face à de sérieuses difficultés.

J'aimerais proposer qu'en travaillant avec les sénateurs Dawson et Mahovlich, nous rédigeons quelques recommandations sur ce projet de loi. Nous pourrions y travailler ce soir et les faire traduire, puis les remettre aux membres de ce comité vendredi ou lundi pour qu'ils puissent les étudier lors de notre prochaine réunion, probablement mardi.

Le président : Je crois que nous devrions d'abord donner à nos témoins l'occasion de répondre à vos commentaires.

Le sénateur Downe : La question s'adresse au ministre. En son absence, je ne veux pas mettre les fonctionnaires sur la sellette.

Le président : Il est important qu'ils nous donnent la position du gouvernement sur cette question pour qu'elle figure dans le compte rendu, en particulier après que le ministre nous ait dit que

successful in negotiating something much better than the Americans. This is a question of balance. Would any of our witnesses like to comment?

Senator Segal: Could the officials also comment on the general premise that in our negotiations with other countries, we would expect a country with an economy 10 times our size would have no better leverage in their negotiations than we might have?

It strikes me that while the proposition on the table is interesting, I am not sure it is based on the hard economic reality of trading relationships, but I leave that to the experts.

Senator Downe: Senator Segal makes an excellent point because the U.S. is stronger. However, Peru is traveling the world negotiating trade agreements with everyone they can — Singapore, China, EU, Chile and Canada. They are receptive to making a deal. If this is the best deal we could get with a developing country, then there is a tremendous concern about what we will be able to negotiate with the EU.

Senator Segal: I do not see a contagion affect with one or the other.

The Chair: Let us not have a debate.

Ms. Nelder-Corvari: There is a lot of debate about what the best model is. It reflects Canada's approach to a number of foreign policy issues, not only trade issues. We take a cooperative approach.

In the case of Peru, it is true that the obligations are not directly integrated into the dispute settlement process. There is a dispute settlement process in the labour side agreement, which focuses on cooperation. If there is a problem, it can go before an independent panel. Monetary penalties can be applied up to \$15 million annually that goes to a cooperative fund to help address the ongoing problem.

The American approach is to use trade retaliation. There is a pragmatic issue for Canada. If you go beyond North America, our trade influence shrinks dramatically. Beyond North America, we have marginal trade with many different countries. For example, only about 2 per cent to 3 per cent of our exports go to the U.K. Peru is substantially smaller than that.

When you talk about being influential and using trade retaliation to pressure countries on labour rights, we felt it was more effective to go with monetary penalties than to take market

nous étions manifestement parvenus dans un certain nombre de domaines à négocier des dispositions plus avantageuses que les Américains. C'est une question d'équilibre. L'un de nos témoins aimerait-il faire des commentaires dans ce domaine?

Le sénateur Segal : J'aimerais également que les fonctionnaires nous disent ce qu'ils pensent du principe général voulant que, dans nos négociations avec d'autres pays, nous devrions nous attendre à ce qu'un pays dont l'économie est 10 fois plus importante que la nôtre ne dispose pas de moyens de pression plus efficaces que les nôtres dans la négociation?

Si la proposition qui nous est faite est intéressante, je ne suis pas pour autant convaincu qu'elle tienne compte des dures réalités économiques des relations commerciales, mais je laisse la réponse aux spécialistes.

Le sénateur Downe : Le point soulevé par le sénateur Segal est excellent, parce que l'économie américaine est beaucoup plus puissante que la nôtre. Cela dit, le Pérou tente de négocier des accords commerciaux avec tous les pays qui y sont ouverts, comme Singapour, la Chine, l'Union européenne, le Chili et le Canada. Ils sont désireux de conclure des ententes. Si c'est là la meilleure entente que nous pouvons obtenir avec un pays en développement, nous pouvons alors sérieusement nous inquiéter de ce que nous parviendrons à négocier avec l'Union européenne.

Le sénateur Segal : Je ne vois pas de raison pour qu'il y ait un phénomène de contagion entre les deux négociations.

Le président : Évitions de nous lancer dans un débat.

Mme Nelder-Corvari : Les caractéristiques du meilleur modèle en la matière suscitent beaucoup de débats. Cela traduit l'approche du Canada à un certain nombre de questions de politique étrangère, et pas uniquement des questions commerciales. Nous avons adopté une approche de coopération.

Dans le cas du Pérou, il est vrai que les obligations ne sont pas intégrées directement aux modalités de règlement des différends. Il faut recourir à un processus de règlement des différends inscrit dans un accord parallèle sur le travail, qui met l'accent sur la coopération. En cas de différend, celui-ci peut être soumis à un groupe d'experts indépendants. Des amendes pouvant atteindre 15 millions de dollars par année peuvent être imposées, qui seront alors versées dans un fonds de coopération devant permettre de régler le problème en question.

L'approche américaine en la matière est de recourir à des mesures commerciales de rétorsion. Le Canada a adopté une attitude pragmatique en la matière. Lorsque vous dépassez les frontières de l'Amérique du Nord, notre influence commerciale diminue de façon très importante. En dehors de l'Amérique du Nord, les relations commerciales que nous entretenons avec de nombreux pays ne sont que marginales. C'est ainsi que nous n'exportons que 2 à 3 p. 100 de notre production vers le Royaume-Uni. Celles à destination du Pérou sont nettement plus faibles.

Quand vous envisagez d'exercer une influence et de faire appel à des mesures commerciales de rétorsion pour exercer des pressions sur des pays en matière de droit du travail, il nous

action that makes the situation unpredictable for both our exporters and theirs. It would also have little probable influence on the outcome.

We have a stronger model for the objectives we are seeking. My labour negotiator is not here, but others argue that our labour side agreement is stronger than the U.S. agreement. It requires Peru to implement ILO principles not only to enforce their own laws, but to ensure that their laws reflect ILO principles. There is also a dispute settlement process to address that.

Maybe the proof is in the pudding in how this will be implemented. Canada has taken a different approach. That approach is also respectful of provincial jurisdictions that are different for environment and labour jurisdictions in Canada than in the United States.

The Chair: I have to make everyone aware that the Senate is ringing its bells and there is a vote at 5:48 p.m. We could go on for another five minutes.

For the record, should we come back after the vote?

Senator Dawson: I have a Transport Committee meeting in which we are adopting a bill tonight. Other meetings are also being held. We already made the comment that we would like to annex some comments to the bill. I think the steering committee could have a conference call to convene a meeting for next Tuesday to adopt this report.

The Chair: Are you talking about an amendment?

Senator Dawson: No, I am talking about observations for consideration.

The Chair: Would you be prepared to pass the bill now, in effect, with the understanding that there will be observations.

Senator Dawson: I do not think so. We cannot do it in English and French now. We can have a steering committee meeting and pass it on Tuesday or Wednesday, should we agree. If we want to pass it, we have to adjourn anyway. I cannot come back later. We do not know if we will vote for an hour or an hour and a half.

The Chair: If everyone agrees that the bill can be passed without amendment, we can do it very quickly with the understanding that there will be observations appended to the bill to be discussed by the steering committee for approval.

Senator Downe: The intent is to present them for consideration of the committee to reflect upon and decide, in their wisdom, if they want to pass them. The immediate concern I have is that

paraît plus efficace de recourir à des amendes plutôt que de prendre d'autres types de mesures sur le marché, qui ont pour effet de rendre l'évolution de la situation imprévisible aussi bien pour nos exportateurs que pour les leurs. De telles mesures n'exerceraient probablement également que peu d'influence sur le résultat final.

Le modèle que nous utilisons est plus efficace en ce qui concerne les objectifs que nous voulons atteindre. Mon négociateur dans le domaine de la main-d'œuvre n'est pas ici, mais d'autres prétendent que l'accord que nous avons conclu dans ce domaine est plus efficace que celui conclu par les Américains. Il oblige le Pérou à adopter les principes de l'Organisation internationale du travail, l'OIT, non seulement pour renforcer sa propre législation mais aussi pour s'assurer que celle-ci respecte les principes énoncés par l'OIT. L'accord définit également les modalités de règlement des différends pour faire face à ce type de situation.

On peut sans doute affirmer que ce qui importe est la façon dont cela est mis en œuvre. Le Canada a adopté une approche différente. Celle-ci est également respectueuse des pouvoirs des provinces qui, en matière d'environnement et de droit du travail, sont différents au Canada de ceux des États américains.

Le président : Je dois vous signaler que le timbre du Sénat sonne et qu'un vote va avoir lieu à 17 h 48. Nous disposons encore de cinq minutes.

Pour que cela figure au compte rendu, estimez-vous que nous devrions revenir après le vote?

Le sénateur Dawson : Je dois siéger à une réunion du Comité des transports, qui doit adopter un projet de loi ce soir. Il y a également d'autres réunions. Nous avons déjà indiqué que nous aimerions joindre quelques commentaires au projet de loi. Je crois que le comité directeur pourrait organiser une conférence téléphonique afin de convoquer une réunion mardi prochain pour adopter ce rapport.

Le président : Parlez-vous des amendements?

Le sénateur Dawson : Non, je fais référence aux commentaires à prendre en compte.

Le président : Seriez-vous prêt à adopter ce projet de loi maintenant, étant entendu que nous formulerons des observations.

Le sénateur Dawson : Je ne le crois pas. Nous ne sommes pas en mesure de le faire en anglais et en français pour l'instant. Nous pourrions tenir une réunion du comité directeur et l'adopter mardi ou mercredi prochain, si nous sommes d'accord. Si nous voulons l'adopter, nous devons lever la séance de toute façon. Je ne pourrais pas revenir plus tard. Nous ignorons si nous allons voter dans une heure ou dans une heure et demie.

Le président : Si tout le monde convient que ce projet de loi peut être adopté sans amendement, nous pouvons voter très rapidement étant entendu que des commentaires seront joints au texte du projet de loi et qu'ils seront soumis à la discussion et à l'approbation du comité directeur.

Le sénateur Downe : L'objectif est ici de les soumettre à l'étude du comité pour que, dans sa grande sagesse, il décide s'il veut les adopter. Ce que me préoccupe pour l'instant est que le vice-

deputy chair of this committee had to be away today. This committee was not originally scheduled to meet today. I think we should wait until next week when the deputy chair is present.

The Chair: I have to correct your comment. We reserved yesterday and today in our calendar to meet specifically on this bill. We said that we would be meeting. We were not sure that the bill would come to us on time. However, the steering committee decided that yesterday and today would be set aside to deal with this bill. Obviously, we cannot fail to deal with the issues that the committee is charged with because one of our members is not here.

It would simplify things if we agree that we could pass the bill without amendment subject to the committee approving observations that I believe three of our members would like to make. If we can do that, we could accomplish it all.

Senator Dawson: I do not mind.

You give a lot of wisdom to the steering committee, which is me, you and the deputy chair. I certainly trust myself and I trust you. I hope we can trust our deputy chair that we will adopt on behalf of the committee the comments discussed.

The Chair: We would share the observations with all the members for their consideration as well.

Senator Downe: It would not be presented to the Senate until the observations were attached to it. Is that correct?

Senator Andreychuk: I think that is all right. I am in the hands of your steering committee. Pass the bill. I am sure there will be due diligence by the steering committee on the observations so it embraces all of us.

The Chair: Can we agree then that the observations will be dealt with on Tuesday morning through some teleconference and the steering committee would be given the authority to approve them?

Senator Segal: When will we do clause-by-clause consideration?

The Chair: Now.

Senator Downe: I have to get them translated.

The Chair: We can have them done today and tomorrow. It will be done.

Senator Segal: Is the vote at 5:50 p.m.?

The Chair: It is at 5:48 p.m. We have five minutes to do clause by clause.

There is a consensus.

Shall the title stand postponed?

Hon. Senators: Agreed.

président de ce comité ne pouvait être parmi nous aujourd'hui. Cette réunion n'était pas prévue au départ. Je crois que nous devrions attendre la semaine prochaine, lorsque le vice-président sera parmi nous.

Le président : Je dois apporter une correction à votre commentaire. Nous avons précisément prévu sur notre calendrier de nous réunir au sujet de ce projet de loi hier et aujourd'hui. Nous avons prévu de nous réunir. Nous n'étions par contre pas sûrs de recevoir le projet de loi à temps. Toutefois, le comité directeur a décidé que les réunions d'hier et d'aujourd'hui pouvaient être consacrées à ce projet de loi. Il est bien évident que nous ne pouvons laisser de côté les questions dont ce comité doit traiter parce que l'un de nos membres est absent.

Les choses seraient plus simples si nous pouvions convenir que nous allons adopter le projet de loi sans amendement, sous réserve que le comité approuve les commentaires que trois de nos membres voudraient faire, je crois. En procédant ainsi, nous pourrions tout faire.

Le sénateur Dawson : Cela ne me dérange pas.

Nous reconnaissons la grande sagesse du comité directeur, dont je suis membre, avec vous et le vice-président. Il est bien évident que je me fais confiance et que je vous fais confiance. Je crois que nous pouvons aussi faire confiance à notre vice-président qui adoptera les commentaires dont nous avons discuté au nom du comité.

Le président : Nous allons faire part des commentaires aux autres membres pour qu'ils les étudient également.

Le sénateur Downe : Il ne sera pas transmis au Sénat tant que les commentaires n'y seront pas joints. Est-ce exact?

Le sénateur Andreychuk : Je crois que c'est exactement cela. Je m'en remets au comité directeur. Adoptons le projet de loi. Je suis sûre qu'il fera tout en son pouvoir au sujet de ces commentaires pour qu'ils nous représentent bien tous.

Le président : Pouvons-nous convenir que nous étudierons les commentaires mardi matin en organisant une conférence téléphonique et que nous accorderons au comité directeur le pouvoir de les approuver?

Le sénateur Segal : Quand allons-nous passer à l'étude article par article?

Le président : Maintenant.

Le sénateur Downe : Il faut que je les fasse traduire.

Le président : Vous pourriez le faire faire aujourd'hui et demain. Ce sera fait.

Le sénateur Segal : Le vote se tient bien à 17 h 50?

Le président : Il est 17 h 48. Nous disposons de cinq minutes pour procéder à l'étude article par article.

Nous avons un consensus.

L'adoption du titre est-elle reportée?

Des voix : D'accord.

The Chair: Shall clause one, the short title, stand postponed?

Hon. Senators: Agreed.

The Chair: Shall clause 2 to clause 57 carry?

Hon. Senators: Agreed.

The Chair: Shall schedules 1 to 7 carry?

Hon. Senators: Agreed.

The Chair: Shall clause 1, the short title, carry?

Hon. Senators: Agreed.

The Chair: Shall the title carry?

Hon. Senators: Agreed.

The Chair: Is it agreed that the bill be adopted without amendment?

Hon. Senators: Agreed.

The Chair: Is it agreed that I report the bill without amendment, but with observations attached, on Tuesday next?

Hon. Senators: Agreed.

The Chair: Thank you. We look forward to your observations, which form part of the report, as you know. However, they are not necessarily part of the bill. We can do this.

Senator Downe: They will be advice to the government. Hopefully, they will be able to negotiate better bills in the future.

The Chair: Witnesses and colleagues, thank you for your cooperation.

(The committee adjourned.)

Le président : L'adoption de l'article 1, le titre abrégé, est-elle reportée?

Des voix : D'accord.

Le président : Les articles 2 à 57 sont-ils adoptés?

Des voix : D'accord.

Le président : Les annexes 1 à 7 sont-elles adoptées?

Des voix : D'accord.

Le président : L'article 1, le titre abrégé, est-il adopté?

Des voix : D'accord.

Le président : Le titre est-il adopté?

Des voix : D'accord.

Le président : Nous convenons donc d'adopter le projet de loi en l'état.

Des voix : D'accord.

Le président : Convenons-nous que je fasse, mardi prochain, rapport du projet de loi sans amendement, mais en y joignant des observations?

Des voix : D'accord.

Le président : Je vous remercie. Nous attendrons vos commentaires qui, comme vous le savez, figureront dans notre rapport. Toutefois, ils ne seront pas obligatoirement intégrés au texte de ce projet de loi. Nous pouvons procéder de cette façon.

Le sénateur Downe : Ils prendront la forme de conseils donnés au gouvernement. Nous espérons qu'ils seront retenus pour permettre de négocier de meilleurs accords à l'avenir.

Le président : Mesdames et messieurs les témoins et chers collègues, je vous remercie de votre coopération.

(La séance est levée.)

Senate



Sénat

CANADA

Study on the 2008 Legislative Review of Export Development Canada

The Honourable Consiglio Di Nino
Chair

The Honourable Peter Stollery
Deputy Chair

**Standing Senate Committee
on Foreign Affairs and
International Trade**

June 2009

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THE COMMITTEE

The following Senators have participated in the study:

The Honourable Consiglio Di Nino, Chair of the committee
The Honourable Peter Stollery, Deputy Chair of the committee

and

The Honourable Senators:

Raynell Andreychuk;
Eymard G. Corbin;
Dennis Dawson;
Pierre De Bané, P.C.;
Percy Downe;
Suzanne Fortin-Duplessis;
Jerahmiel S. Grafstein;
Frank Mahovlich;
Hugh Segal; and
Pamela Wallin.

Ex-officio members of the committee:

The Honourable Senators Marjory LeBreton, P.C. (or Gérald Comeau) and
James Cowan (or Claudette Tardif).

Other Senators who have participated from time to time in the study:

The Honourable Senators Kinsella, Massicotte, Peterson, Prud'homme, P.C.,
Stratton and Zimmer.

Staff of the committee:

Natalie Mychajlyszyn, Analyst, Parliamentary Information and Research Service, Library of Parliament;

Jennifer Paul, Analyst, Parliamentary Information and Research Service, Library of Parliament;

Karen Schwinghamer, Senior Communications Officer;

Debbie Murphy, Communications Coordinator;

Sylvie Simard, Administrative Assistant; and

Denis Robert, Clerk of the committee.

ORDER OF REFERENCE

Extract from the *Journals of the Senate*, Tuesday, February 24, 2009:

“The Honourable Senator Comeau moved, seconded by the Honourable Senator Di Nino:

That the Standing Senate Committee on Foreign Affairs and International Trade be empowered to review and report on the 2008 Legislative Review of Export Development Canada, tabled in the Senate on Tuesday, February 10, 2009.

The question being put on the motion, it was adopted.”

Paul C. Bélisle
Clerk of the Senate

SUMMARY OF RECOMMENDATIONS:

Recommendation 1

The committee recommends that the Government of Canada continue the mandate of Export Development Canada (EDC), which includes the promotion of Canadian businesses abroad by providing services at all stages of the business cycle, and make adjustments as appropriate.

Recommendation 2

The committee recommends that international offices of EDC be located where they would be the most effective for Canadian companies, including separately from Canadian diplomatic missions.

Recommendation 3

The committee recommends that EDC maximize the cultural, human and social abilities of Canada's diaspora communities including when staffing its offices, particularly those outside of Canada, in order to exploit opportunities for Canadian business.

Recommendation 4

The committee recommends that EDC expand its role in the short-term export credit insurance market as demand warrants.

Recommendation 5

The committee recommends that the Government of Canada create a broker advisory panel whose mandate would be to ensure that the activities of EDC are carried out for the benefit of a competitive business environment.

Recommendation 6

The committee recommends that EDC make publicly available information that is, to the extent possible, consistent with the information that its private-sector competitors are required to provide to the Office of the Superintendent of Financial Institutions (OSFI).

Recommendation 7

The committee recommends that the Government of Canada evaluate, and report to Parliament on, the continued need for EDC's presence in the domestic credit market and that, as provided by legislation, Parliament be given ample time to study the issue.

Recommendation 8

The committee recommends that the Government of Canada establish greater coordination between EDC and Investment Cooperation (formerly Industrial Cooperation Program) in order to enhance trade using existing tools and resources.

Recommendation 9

The committee recommends that section 25 of the *Export Development Act* be amended by specifying that responsibility for the ten-year legislative review be undertaken by each Chamber of Parliament.

THE TEN-YEAR LEGISLATIVE REVIEW OF EXPORT DEVELOPMENT CANADA: WHERE WE ARE AND WHERE WE NEED TO BE

INTRODUCTION

Export Development Canada (EDC) is a federal Crown corporation mandated under the *Export Development Act* to “support and develop, directly and indirectly, Canada’s export trade and Canadian capacity to engage in that trade and to respond to international business opportunities.”¹ In particular, it offers short-, medium- and long-term credit insurance; it also provides financial services, bonding and guarantees, political risk insurance, direct loans to buyers and lines of credit in other countries to encourage buyers to purchase Canadian products.

This study by the Standing Senate Committee on Foreign Affairs and International Trade is part of the legislatively mandated ten-year review of the *Export Development Act*.² The objective of the review is to assess how EDC is evolving, and should continue to evolve, to address the competitive demands of international trade on behalf of its stakeholders, and to make recommendations where appropriate.

In compliance with its legislative obligations, the committee examined the report commissioned by the Department of Foreign Affairs and International Trade and carried out by International Financial Consulting Inc. (IFC), entitled *The Legislative Review of Export Development Canada* which was released in December 2008 and tabled in the Senate on February 10, 2009. In carrying out the study, the committee held six meetings in March 2009 and heard from twelve witnesses. We also received several written submissions.

Canada continues to depend on trade and, without a doubt, EDC plays a valuable role in promoting Canadian trade and international commercial interests. Its value cannot be overstated in light of the significance of trade for Canada’s economy. With exports of goods and services representing 34.5 per cent of gross domestic product (GDP) in 2008, trade plays a vital role in the Canadian economy. Merchandise exports amounted to \$484 billion in 2008, an increase of \$33 billion from the previous year. Furthermore, service exports amounted to \$67 billion in 2006 (the most recent data available), a slight increase from the previous year.³

The committee undertook this study under exceptional circumstances. The economic downturn was taking hold and, as part of its response, the Government of Canada introduced its 2009 Budget that announced a temporary expansion in EDC’s mandate. Moreover, following the conclusion of the committee’s consultations, in May 2009, the Minister of Finance increased

¹ *Export Development Act* (R.S., 1985, c. E-20), available at <http://laws.justice.gc.ca/en/E-20/index.html>.

² The *Export Development Act* required an initial review of the legislation five years after adoption, followed by a ten-year review. The first review was carried out in 1998 by Gowling, Strathy and Henderson, and the Act was subsequently studied by the Standing Senate Committee on Banking, Trade and Commerce. The committee’s report was tabled March 2000 and a federal response was released in June 2000.

³ Data are from Statistics Canada and the OECD Economic Outlook.

EDC's long- and short-term borrowing limits from \$7 billion to \$9 billion and from \$6 billion to \$8 billion, respectively, in order to meet the increased demands for its services. As a result, developments directly affecting EDC were unfolding in real time during the course of our consultations, a situation that has affected the pertinence of this report. At the appropriate time, we intend to study more comprehensively EDC's expanded mandate.

In this context, the report summarizes the testimony that was presented to the committee and provides our comments on EDC's current and newly assigned operations. It also offers recommendations that we believe will improve EDC's operations and the future competitiveness of Canada's exporters.

THE CHANGING GLOBAL ENVIRONMENT AND EDC'S VALUE IN IT

A. What the Witnesses Said

Any effort to ascertain the value and appropriateness of EDC's mandate must begin with an assessment of the context in which it and Canadian businesses operate. In this respect, the committee notes the tremendous changes in the global environment and the structure of world trade that have occurred since the last review of EDC. Several witnesses alluded to these changes, which can be categorised according to how firms interact with each other, the emergence of new markets in the global economy and the worldwide economic slowdown.

There was general consensus among the committee's witnesses that the nature of international business now reflects less national-based processes and more global supply chains or integrative trade.⁴ Canadian Manufacturers & Exporters emphasised that, to be successful, Canadian businesses have to operate in a manner that reflects a global supply chain that sources parts and inputs from different parts of the world: "It is not just really making a product; it is delivering value to your clients through a tangible good."⁵

In its testimony to the committee, the Automotive Parts Manufacturers' Association described the integrated manufacturing process for the auto sector: "[I]t is not unusual for a part to cross those borders six or seven times before a vehicle arrives at the dealer lot from which it is sold."⁶

Furthermore, according to IFC, the intellectual property and design of a product are becoming increasingly important aspects of international trade: "[I]t is no longer a case of 'made in' or even 'made by' but rather it is 'conceived by' or 'designed by.' In other words, the intellectual property of companies and the value creation is about the designing."⁷

Moreover, the emergence of new markets in the global economy, including Brazil, China, India and Russia, has generated new opportunities and challenges for export-oriented Canadian businesses. According to Dessau Inc, Canadian companies need to be more aggressive and creative in order to meet the challenge of a more competitive playing field.

International competition has heated up considerably and the massive entry of China, India and Brazil into developing countries has altered the landscape. They are taking very impressive steps to set up for the long term in African, Asian and Latin American markets. They are seriously threatening Canadian presence in these markets. We need to get off the beaten path, do more and better,

⁴ *Evidence*, 40th Parliament, 2nd Session, Issue no. 4, pp. 5-6.

⁵ *Evidence*, 40th Parliament, 2nd Session, Issue no. 4, p. 21.

⁶ *Evidence*, 40th Parliament, 2nd Session, Issue no. 4, p. 29.

⁷ *Evidence*, 40th Parliament, 2nd Session, Issue no. 2, p. 10.

otherwise as Canadians, we will be out of these very important markets.⁸

The global economic slowdown has also affected the environment in which EDC and Canadian businesses operate. The committee is concerned about the impact on Canadian businesses of the dramatic economic slowdown in the United States, Canada's primary trading partner, and the reduced availability of credit, a vital element for any business. As the committee heard from the Canadian Bankers Association, "[T]here is no doubt that there is a credit problem. We have had large sections of what have formerly been active lenders either shrunk down, not growing as much or completely pulled out, so there is a need for more credit."⁹

The impact of reduced financing for Canadian businesses and for the economy is potentially devastating, particularly as exports account for over one-fifth of Canada's gross national product (GNP) and manufacturers are responsible for two-thirds of Canada's exports.¹⁰ A significant number of witnesses reinforced this view, including the Forest Products Association of Canada:

[C]redit is a necessary precondition for business working. Credit is like oxygen. You can be competitive, brilliant, have great markets and good profit margins. If you cannot get credit, if you cannot renew credit, if your suppliers cannot get credit, if your customers cannot get credit, business does not happen. ... This is absolutely vital.¹¹

Some Canadian businesses access EDC's resources and expertise as they seek to operate in the challenging and changing economic environment. EDC's ability to respond to a changing environment is due, in part, to an expansion in its overseas representation, particularly in emerging economies such as China, India and Russia. Indeed, the relative importance of emerging economies as trading partners for all Organization for Economic Co-operation and Development (OECD) countries is increasing. As a result, international representation is a necessary component of competitiveness for Canadian businesses. Such a presence is imperative as export credit agencies of other countries have a strong presence in foreign countries and promote their national business interests, at times resulting in a competitive disadvantage for Canadian exporters.

These export credit agencies, and their foreign offices, are proliferating overseas, as stated in IFC's presentation to the committee.¹² Dessau Inc. also supported the value of EDC's international presence:

Opening EDC offices abroad is a step in this direction, and hopefully there will be many more. Competition among export support agencies has become very fierce. Furthermore, we should

⁸ *Evidence*, 40th Parliament, 2nd Session, Issue no. 4, p. 45.

⁹ *Evidence*, 40th Parliament, 2nd Session, Issue no. 3, p. 79.

¹⁰ *Evidence*, 40th Parliament, 2nd Session, Issue no. 4, p. 19.

¹¹ *Evidence*, 40th Parliament, 2nd Session, Issue no. 3, p. 63.

¹² *Evidence*, 40th Parliament, 2nd Session, Issue no. 2, p. 23.

not hesitate to copy our competitors when they do something good.¹³

A similar point was made by the Conference Board of Canada: “We have to become much more aggressive, knowing that countries like China or India will be the dominant growth markets for the world economy for the next ten years. Certainly, the EDC has signalled their understanding of that. They are opening offices in these markets and trying to build more capacity.”¹⁴

The Automotive Parts Manufacturers’ Association concurred with this positive assessment of EDC’s international presence:

We need EDC to ensure we keep a level playing field with our competitors. In the last three years, the [Automotive Parts Manufacturers’ Association] has led trade missions to Russia, India, China, Hungary, Slovakia, the Czech Republic and Japan and, over the last ten years, we have led trade missions to almost every country in the world that is a significant producer of vehicles and parts for them. EDC has generally participated in those trade missions and we need them to continue to participate. ... They publish [country analysis] information, and it is available to other Canadian companies, especially to the small and medium enterprises ... that do not have the ability to gather this information on their own.¹⁵

B. What the Committee Recommends

The committee believes that the changing global business environment, in the context of both the current economic crisis and ongoing transformations, underline the need for continued flexibility in EDC’s services in order to enhance the competitiveness and global presence of Canadian companies, particularly exporters. We were encouraged to hear that EDC recognises the changes in the global environment and is responsive to the evolving needs of Canadian businesses.

Recommendation 1

The committee recommends that the Government of Canada continue the mandate of Export Development Canada (EDC), which includes the promotion of Canadian businesses abroad by providing services at all stages of the business cycle, and make adjustments as appropriate.

¹³ *Evidence*, 40th Parliament, 2nd Session, Issue no. 4, p. 45.

¹⁴ *Evidence*, 40th Parliament, 2nd Session, Issue no. 4, p. 17.

¹⁵ *Evidence*, 40th Parliament, 2nd Session, Issue no. 4, p. 30.

The committee recalls the comments made by the Minister of International Trade about the advantages of the co-location of EDC offices with Canada's diplomatic missions and the establishment of separate offices if deemed appropriate. We are also cognizant of the IFC report's comment about EDC's lack of authorization to establish overseas offices independent of the Department of Foreign Affairs and International Trade, unlike other federal Crown corporations such as the Canadian Commercial Corporation.¹⁶ While the committee appreciates that co-location of EDC and diplomatic offices may be advantageous in some cases, we believe that this situation should be examined on a case-by-case basis.

Recommendation 2

The committee recommends that international offices of EDC be located where they would be the most effective for Canadian companies, including separately from Canadian diplomatic missions.

At the same time, the committee believes that EDC can do more to maximize the potential found in Canada's diaspora communities in order to facilitate and achieve successful international business relationships. We appreciate that EDC's first priority when staffing an office abroad should be the objective business skills and knowledge of an individual. However, we note that many of EDC's international offices are located in the home countries of Canada's diaspora communities. Individuals from these communities have vital business contacts and cultural insights and could add significant value to EDC's operations. Such individuals offer their human and social capital in addition to their knowledge of the local business culture, which can benefit Canadian businesses.¹⁷

Recommendation 3

The committee recommends that EDC maximize the cultural, human and social abilities of Canada's diaspora communities including when staffing its offices, particularly those outside of Canada, in order to exploit opportunities for Canadian business.

¹⁶ Specifically, section 17 of the *Export Development Act* restricts EDC's independent authority to establish offices to anywhere in Canada. International Financial Consulting Ltd., *The Legislative Review of Export Development Canada*, December 2008, pp. 77-78.

¹⁷ *Evidence*, 40th Parliament, 2nd Session, Issue no. 3, pp. 42-44.

EDC AND THE PRIVATE SECTOR: COMPETING TO MEET THE NEEDS OF CANADIAN EXPORTERS?

A. What the Witnesses Said

During the course of the study, the committee was told that EDC has an unfair competitive advantage over the private sector in a number of areas. For example, EDC's presence in the short-term (ST) export credit insurance market exceeds simply filling gaps in the market; EDC's backing by the Crown gives it an unfair advantage in raising capital; and EDC is not subject to the same financial reporting requirements as its competitors.

1. The Short-Term Credit Insurance Market and Other Services

Among EDC's many services, short-term export credit insurance covers political and commercial risks for non-payment of exports, and applies to goods and services sold up to two years' credit. In its report, the IFC estimated that more than 90 per cent of world exports are sold for cash or on credit of up to 180 days.¹⁸

According to witnesses, short-term export credit insurance is one service area where EDC is in direct competition with the private sector, particularly in the very short-term period of up to 180 days. Euler Hermes, Atradius and Coface are the three largest private-sector providers of short-term export credit insurance, with an estimated combined share of 85 per cent of the global market.¹⁹ However, these three private-sector insurers make up less than 25 per cent of the Canadian market. Although the market share of these companies is increasing in Canada, while that of EDC is falling, EDC continues to dominate the Canadian market for short-term export credit insurance.

Both Euler Hermes and Atradius argued that EDC should withdraw from the short-term export credit insurance market. As indicated by Euler Hermes:

I reiterate our concern and opposition to IFC's main recommendation that EDC's mandate remain unchanged. The facts presented to IFC by Euler Hermes Canada and other competitors reflect the reality of fundamental changes in the global economic environment over the last decade and call out for EDC to withdraw from the short-term credit insurance market.²⁰

¹⁸ International Financial Consulting Ltd., (December 2008), p. 23.

¹⁹ These companies have such advantages as credit information on buyers worldwide as well as significant income from premiums paid worldwide. This income in 2007 is reported as follows: Euler Hermes US\$2.7 billion, Atradius US\$2.6 billion and Coface US\$1.6 billion. Comparatively, EDC's income from premiums paid was C\$0.98 billion in that year.

²⁰ *Evidence*, 40th Parliament, 2nd Session, Issue no. 3, p. 53.

A similar point was made by Atradius:

We strongly recommend to you that EDC withdraw from the role of primary insurer and shift to a role of re-insurer in the short-term export credit insurance.²¹

EDC provided the committee with a different perspective, and argued that, in its provision of short-term insurance and other financing services, it takes on a higher level of risk compared to its private-sector competitors and, therefore, provides more needed services to Canadian businesses wishing to expand. It is able to do so by setting aside capital with a specific allocation towards relatively higher-risk, lower-grade investments. Furthermore, EDC is able to remain in the market longer than a private-sector insurer, thereby holding a credit limit open for an extended period of time. According to IFC, “EDC, apart from being owned by government, is Canada first; it makes a decision to support a buyer perhaps longer than the private sector.”²²

Moreover, the presence of EDC in the market is particularly important during economic downturns. Several of the witnesses said that, as the financial crisis worsened, both credit and insurance became relatively more expensive and private-sector insurers largely vacated the market. Thus, as market gaps become apparent and grow larger, Canadian exporters rely on the services provided by EDC.

According to the Forest Products Association of Canada:

Our companies are reporting to us that in the area of receivables and insurance the private insurers have completely vacated the market for those markets to which we export, which would be, for example, U.S. newspapers and U.S. housing. [...] EDC has stepped in behind the private insurers in a major and significant way, which has allowed our companies to keep receiving that sort of insurance. That is one example.²³

The Automotive Parts Manufacturers’ Association agreed:

The regular financial institutions have almost abandoned the automotive industry as a place to do business. Certainly, these institutions are not doing any new business. They may have retained existing business, but there is no new business to be had. EDC was the only significant institution with the appetite for a little more risk, and it was able to step in and give financing where other financial institutions did not.²⁴

²¹ *Evidence*, 40th Parliament, 2nd Session, Issue no. 2, p. 47.

²² *Evidence*, 40th Parliament, 2nd Session, Issue no. 2, p. 21.

²³ *Evidence*, 40th Parliament, 2nd Session, Issue no. 3, p. 65.

²⁴ *Evidence*, 40th Parliament, 2nd Session, Issue no. 4, p. 31.

The private-sector insurers confirmed these concerns in explaining that they are relatively more risk averse. Specifically, Atradius testified:

Like all industries, adjustment will occur in our sector as well, but, as much as possible, we must adhere to the principle that markets should decide on acceptable risks, not government. Does this mean somewhat more difficult credit? You bet. We will not be driven to taking unsound risks.²⁵

Competition in short-term export credit insurance markets, as well as in markets for other services provided by EDC, is not explicitly regulated. Rather, EDC operates in a free market. At the same time, OECD member countries have agreed to a ‘gentleman’s arrangement’ for Officially Supported Export Credits, which aims to ensure that export credits are not being used as subsidies. Furthermore, Canada can be challenged under the World Trade Organization (WTO) agreements if seen to be providing a subsidy through export credits. While the IFC report found that EDC’s services are generally more costly than private-sector competitors, it also noted that EDC is competitive because it is generally able to provide more coverage to its clients, and because of its ability to tolerate more risk.

2. The Ability to Raise Capital

EDC is able to raise capital with more ease than its private-sector competitors in part due to its higher credit rating. Standard & Poor’s AAA rating of EDC reflects the fact that EDC is 100 per cent government-owned; the provision of debt constitutes a direct obligation of the federal government and is a charge on, and payable out of, the federal government’s Consolidated Revenue Fund. However, debt is generally financed by EDC’s own resources, and EDC has been “financially profitable for every year except one.”²⁶ Moreover, in its testimony, the Department of Finance stated, “although EDC had advantages in terms of its cost of funds, there was no evidence that EDC was passing along lower pricing on its loans or anything that would be seen as unfair competition.” Although EDC’s relatively higher credit rating makes it easier to raise capital, the cost savings are not passed on to the client. As a result, EDC’s rating does not put it at an unfair advantage over its private-sector competitors.

As discussed above, EDC is financially self-sustaining and operates in accordance with corporate principles. Therefore, it is important to consider the financial implications of EDC withdrawing from the short-term export credit insurance market completely, or becoming simply the lender of last resort and a re-insurer. Without EDC in this market, fewer high-risk clients would likely be served by private insurers, which have less risk tolerance. Moreover, if EDC ended its participation in the short-term export credit insurance market, the relatively lower revenues that would result might limit the services it provides. Ultimately, the Canadian export community would be underserved.

²⁵ *Evidence*, 40th Parliament, 2nd Session, Issue no. 2, p. 46.

²⁶ *Evidence*, 40th Parliament, 2nd Session, Issue no. 3, p. 18.

3. Reporting, Accountability and Administrative Costs

The lack of transparency in respect of EDC's operations is also considered to provide a competitive advantage. The IFC report concluded that EDC should be required to be more transparent and accountable in the areas of short-term export credit insurance, and should provide public information consistent with what its private-sector counterparts are required to publish.

Part of these concerns relate to EDC not being subject to the financial reporting requirements of the Office of the Superintendent of Financial Institutions (OSFI). OSFI regulates and supervises federal financial institutions and federally regulated private pension plans, creating a framework that manages risk, contributes to public confidence and helps to ensure that these institutions and plans remain in sound financial condition. Accordingly, private-sector insurers provide detailed financial information to the OSFI, some of which is available publicly while other remains confidential. However, as confirmed by the Department of Finance, a federal Crown corporation cannot be regulated by the OSFI. Rather, operating at arms-length from the federal government, EDC is governed by the *Financial Administration Act* (FAA) and is audited by the Auditor General of Canada.

Currently, EDC does not publish comparable financial details regarding short-term export credit insurance; similar data are grouped together in the annual reports. Concerns in this regard were raised by both IFC²⁷ and EDC's private-sector competitors. For example, Atradius stated:

EDC does not provide adequate financial information to its shareholders, nor does it need to comply with OSFI regulations. This is wrong. For example, up until the release of the report, it was impossible to get information on the short-term credit insurance business line, despite the fact that it is used by over 80 per cent of their customers and represents over 65 per cent of its business volume. I do not know whether EDC's accounts substantiate the consultant's conclusions, but neither do you.²⁸

In its testimony, the IFC stated that a change to these reporting requirements was the primary recommendation resulting from the legislative review of EDC.²⁹ It informed the committee, "There is no reason to believe that EDC is doing anything wrong, but transparency goes a long way to build confidence in the market."³⁰

However, these concerns must be balanced with the demands created by additional reporting and EDC's ability to remain competitive internationally. Some witnesses were concerned that if EDC publicly provides information at the transaction level, it may inadvertently assist the domestic private-sector competition, as well as export credit agencies (ECA) of other countries, thereby

²⁷ International Financial Consulting Ltd., (December 2008), p. 33.

²⁸ *Evidence*, 40th Parliament, 2nd Session, Issue no. 2, p. 46.

²⁹ *Evidence*, 40th Parliament, 2nd Session, Issue no. 2, p. 22.

³⁰ *Evidence*, 40th Parliament, 2nd Session, Issue no. 2, p. 22.

undercutting Canadian exporters. A delicate balance exists between accountability and transparency on one side, and the ability to remain competitive on the other side. This balance was addressed in the 2000 legislative review, which resulted in transparency requirements for many of EDC's practices. According to the Conference Board of Canada:

EDC performs a different purpose. It is there as the Government of Canada to ensure that there is enough capacity in terms of insurance and financing for our exporters. It is a different beast, 100 per cent in the public sector, with oversight almost daily by the Department of Finance, Treasury Board and Foreign Affairs and International Trade Canada. ... Theoretically, it is an interesting notion but I do not think there is any more oversight required than what EDC already has from the Government of Canada. I hope that it can be as streamlined as much as possible to allow management to focus on its core job to provide service to Canadian exporters and investors.³¹

EDC issues public reports that indicate the benefits accruing to Canadian businesses through the services it provides, such as the number of jobs created, the number and size of companies served, and some estimates of the percentage of GDP arising from its support of Canadian exporters. Through EDC's environmental disclosure policy, the details of lending and equity transactions as well as the number of transactions that have not been approved are published on its website. EDC must first attain the approval of the commercial parties involved in the transactions, but it has never had a problem receiving this authority. In addition to the audits performed by the Auditor General, the Ministers of Foreign Affairs and International Trade, in conjunction with the Minister of Finance, provide oversight and ensure that EDC is fulfilling its mandate. EDC regularly meets with its shareholders, as well as with other federal departments, Crown corporations and financial institutions.

EDC's administrative costs include both the direct costs of the services it provides and the appropriate share of overhead. When administrative expenses are calculated as a percentage of premium income, the ratio ranges from 40 per cent to 60 per cent between 2000 and 2006. The administrative expenses have continued to increase gradually over the period, while premium revenues have varied a great deal. Euler Hermes, a private-sector insurer, stated that EDC's cost ratio seemed too high; Euler Hermes' cost ratio is approximately 30 per cent, which it also considers to be high, thereby making profitability relatively more difficult. Atradius indicated that its cost ratio is higher than usual, which it attributed to the current financial situation. It should be noted, however, that – in the case of EDC – this analysis does not take into account the investment income which may, for example, be used to offset cash deficits in certain years.

EDC responded to these concerns and explained that 80 per cent of its revenues are derived from its lending program, such that EDC relies on insurance premiums for approximately 20 per cent of its revenues, earned through receivables insurance, bonds, foreign investment insurance, etc.³² Furthermore, EDC's revenues are affected by the exchange rate between the US and Canadian

³¹ *Evidence*, 40th Parliament, 2nd Session, Issue no. 4, p. 14.

³² *Evidence*, 40th Parliament, 2nd Session, Issue no. 3, pp. 29-30.

dollars, since most of its business is transacted in American dollars. Beginning in mid-2002, the Canadian dollar began to rise relative to the US dollar, which has negatively affected the value of EDC's revenues as they were stated in Canadian dollars. Administrative expenses are valued in Canadian dollars, leading to the expected result of a higher expense ratio. EDC informed the committee that "when you put all those administrative expenses into perspective, they run about 25 per cent on average of our operating income." Operating income combines the revenues from premiums and the net interest revenue, and a 25 per cent expense ratio was said to be lower than the average expense ratio incurred by a non-retail bank (35 per cent). Furthermore, EDC informed us that "[t]he actual increase in administrative expenses over the period is a direct result of the growth of the program, the related investment in technology and our increased market representation."³³ It should be noted that the total premiums collected under EDC's program were generally sufficient to cover its related claims costs as well as the administrative costs.

B. What the Committee Recommends

1. Addressing Concerns about Predatory Competition

The committee acknowledges the competitiveness concerns presented by witnesses and recalls those concerns included in the IFC report, which indicated that, without doubt, EDC operates outside any "market gap" in respect of short-term export credit insurance and actively competes with private insurers in the short-term export credit business. These concerns do not suggest that EDC is operating in a manner inconsistent with its mandate or with government policy or improperly. Indeed, we note that the IFC report does *not* recommend that EDC change its activities or mandate in the short-term export credit insurance market.

After hearing the testimony of a number of witnesses, and following significant consideration, the committee agrees that EDC should remain in the short-term export credit insurance market. This market is growing in Canada, while the market share held by EDC is shrinking. Moreover, the presence of EDC alongside its private-sector competitors creates more competition among service providers, thereby enabling a greater degree of choice for Canadian businesses wishing to access these services. This trend is positive and, in our view, EDC is not "crowding out" the private sector.

Recommendation 4

The committee recommends that EDC expand its role in the short-term export credit insurance market as demand warrants.

The committee notes the recommendation in the IFC report that the Department of Foreign Affairs and International Trade establish a broker advisory panel to review and report on any alleged examples of predatory competition from EDC, as well as to provide EDC's Board of Directors and the Minister of International Trade with market intelligence. As envisioned by the IFC report, this panel – which would report annually – would examine individual complaints

³³ Letter to the Standing Senate Committee on Foreign Affairs and International Trade, 27 March 2009.

from private-sector insurers. We are mindful of the interests and incentives faced by the members of this panel, particularly with respect to whose interests the panel would serve.

Recommendation 5

The committee recommends that the Government of Canada establish a broker advisory panel whose mandate would be to ensure that the activities of EDC are carried out for the benefit of a competitive business environment.

2. Consistency in Reporting and Other Administrative Concerns

The committee believes that EDC should work to improve its transparency. In our view, greater transparency builds consumer confidence and enhances fairness among competitors. Specifically, EDC should take measures to improve public reporting of its financial transactions in the short-term credit insurance market. At the same time, the committee recognizes that EDC performs a purpose that is different from the financial institutions supervised by OSFI and, therefore, should neither be supervised nor regulated by it.

Recommendation 6

The committee recommends that EDC make publicly available information that is, to the extent possible, consistent with the information that its private-sector competitors are required to provide to the Office of the Superintendent of Financial Institutions (OSFI).

ENHANCING THE ROLE THAT EDC CAN PLAY

A. Recent Budget Measures

As part of its response to the current economic conditions and in order to meet the short-term financing needs of Canadian businesses, the Government of Canada has implemented a number of measures in respect of EDC. As the Minister of International Trade testified, Canadians “are facing extreme challenges the likes of which we have not seen for decades, and ... this particular organization, EDC, is able to help through this difficult time.”³⁴

As announced in *Economic and Fiscal Statement 2008* and *Budget 2009: Canada’s Economic Action Plan*, EDC has received:

- \$350 million to facilitate additional capitalization of loans;
- an increase in the ceiling of share capital to be purchased by the government from \$1.5 billion to \$3 billion;
- a temporary expansion of domestic powers, allowing it to provide financing solutions for domestic-oriented businesses;
- an increase in the Canada Account limit from \$13 billion to \$20 billion to ensure that the government has the direct capacity, if needed, to provide credit and meet the high-risk financing requirements of businesses in strategic, hard-hit sectors of the Canadian economy that are deemed to be in the national interest; and
- an increase in the contingent liability ceiling from \$30 billion to \$45 billion, thereby increasing the risks that EDC can underwrite and encouraging commercial banks to continue to advance loans and increase access to financing.

As well, the Business Credit Availability Program (BCAP) has been established to enhance cooperation between private-sector financial institutions and federal financial Crown corporations, including EDC, in providing loans and other forms of credit support to businesses whose access to financing would otherwise be restricted. The program is intended to fill gaps in market access and lever additional lending by private-sector institutions.

B. What the Witnesses Said

In addressing the committee, the Automotive Parts Manufacturers’ Association remarked that:

I think that insurance is absolutely essential, because receivable insurance is required in today’s environment when customer viability is much more questionable than it was in the past. [Small and medium enterprises], especially, need some assurance that they will be paid. [...] They cannot afford to bet the farm on one or two companies without that kind of receivable insurance to ensure their customer does not drag them under, and yet it may be a great

³⁴ *Evidence*, 40th Parliament, 2nd Session, Issue no. 3, p. 9; *Evidence*, 40th Parliament, 2nd Session, Issue no. 2, p. 30.

opportunity for them. Increasing contingency insurance, or liability, as they call it, is a good thing.³⁵

In reaction to EDC's extended temporary mandate designed to fill a gap in the domestic market, the Canadian Bankers Association noted: "Extraordinary times call for special measures, and we understand and support the government's initiatives regarding EDC. We recognize and appreciate the government's emphasis that the powers be temporary in nature and that they not be used to displace private-sector lending."³⁶

C. What the Committee Recommends

1. Expanded Resources and Authorities

The committee feels that it is critically important to examine the November 2008 *Economic Update* and *Budget 2009* measures in respect of EDC within the context of our review and the report of the 2008 legislative review, rather than as mere pieces of legislation.

The committee is encouraged by the favourable testimony regarding EDC's additional powers and resources, and is pleased that witnesses feel that EDC is suitably positioned to respond to the current financial situation facing Canadian businesses and exporters.

However, the committee is cautious in its assessment of the temporary expansion of EDC's mandate in support of the domestic market. On the one hand, we agree that significant gaps in the market for domestic credit have emerged since the release of IFC's report. On the other hand, the first recommendation in the IFC report is that, barring significant changes in the market leading to large-scale gaps in domestic credit insurance availability, EDC should not re-enter the domestic credit insurance market. Furthermore, we are concerned with the wording of the enabling legislation that allows for a possible extension, by an Order in Council, of the two-year period in which EDC may participate in the domestic credit market.³⁷

In light of the significance of these measures and the extraordinary economic conditions under which they were implemented, the committee believes that this temporary change in EDC's mandate merits further scrutiny. The IFC report states that "the notion of market gaps must be applied with some caution: gaps tend to ebb and flow over time, driven by myriad events and developments in market activity and public policy. As such, gaps that do not exist today may exist tomorrow and vice versa."³⁸ We agree with this statement, and recognize the need to monitor the economic environment and assess EDC's presence in the domestic market.

³⁵ *Evidence*, 40th Parliament, 2nd Session, Issue no. 4, p. 32.

³⁶ *Evidence*, 40th Parliament, 2nd Session, Issue no. 3, p. 72.

³⁷ 40th Parliament, 2nd Session, Statutes of Canada 2009, Chapter 2, An Act to implement certain provisions of the budget tabled in Parliament on January 27, 2009 and related fiscal measures, Received Royal Assent on 12 March 2009, Part 5, Division 3, Section 263 (2), p. 251, http://www2.parl.gc.ca/content/hoc/Bills/402/Government/C-10/C-10_4/C-10_4.PDF

³⁸ International Financial Consulting Ltd., (December 2008), p. 51.

Recommendation 7

The committee recommends that the Government of Canada evaluate, and report to Parliament on, the continued need for EDC's presence in the domestic credit market and that, as provided by legislation, Parliament be given ample time to study the issue.

2. The Need for Partnerships

The committee notes that some businesses have been able to take advantage of the Industrial Cooperation Program offered by the Canadian International Development Agency (CIDA) in order to support projects for which they have applied to receive EDC funding. At the same time, we heard concerns that inter-agency funding of large-scale and expensive development projects, which would include feasibility studies and training, carried out by private businesses is neither systemic nor coordinated. This situation complicates potentially valuable and beneficial initiatives by Canadians and permits competitors to procure them instead.

The committee acknowledges that there may be some benefit to greater inter-agency coordination of program support, particularly where objectives are complementary. In light of earlier studies, however, we also caution that such coordination should not be carried out in a way that requires commitments on the part of the recipient to purchase Canadian goods and services. In other words, we continue to be adamant that tied aid undermines aid effectiveness and increases costs.

Understanding that CIDA is currently holding consultations about whether the Industrial Cooperation Program should remain with it or whether elements of the program should be assigned to other agencies, the committee supports funding of development projects that meet EDC requirements and that are consistent with its mandate, whether these funds are assigned by CIDA or by another agency.

More generally, the committee supports partnerships, both with other Canadian governmental entities and the private-sector in the domestic market. In that regard, we believe that the establishment of Business Credit Availability Program is a useful development. We encourage this and other opportunities for continued dialogue and partnerships among EDC and relevant agencies and organizations. We feel that these types of dialogue provide valuable opportunities to minimize the overlap in services and to contribute to the goal of ensuring that the needs and complementary objectives of Canadians and Canadian businesses are met as efficiently and effectively as possible.

In addition, we are encouraged by the recent announcement of collaboration between EDC and the private-sector insurers in Canada to facilitate up to \$1 billion in new domestic credit. EDC

will provide re-insurance for domestic receivables to private insurers, such as Atradius and Euler Hermes, to assist Canadian business in accessing credit.³⁹

Recommendation 8

The committee recommends that the Government of Canada establish mechanisms for greater coordination between EDC and Investment Cooperation (formerly Industrial Cooperation Program) in order to enhance trade using existing tools and resources.

3. Ongoing Review

As the basis for its research and analysis, IFC engaged stakeholders in a series of town hall as well as one-on-one meetings arranged at the request of an individual. Stakeholders, which included the Canadian business community, private-sector competitors, civil society and individuals representing the Canadian taxpayer, were consulted on a variety of issues. Town hall meetings were held in Toronto, Vancouver, Calgary, Winnipeg, Montreal, Kanata, Halifax and Ottawa. While the committee acknowledges that IFC was pro-active in its attempts to advertise and raise awareness of its review process, we are concerned about the lack of consultation in Atlantic Canada, where only a single town hall meeting was held. It was also brought to our attention that representatives of EDC, the Department of Foreign Affairs and International Trade as well as various other federal departments and agencies were present at the town hall meetings. The committee is concerned that stakeholders did not have the opportunity to communicate their opinions openly to the IFC review team, as comments might be constrained in the presence of EDC, an agency on which some stakeholders depend for export financing and insurance services.

The committee is of the view that, given the dynamic nature of the world in which we live, the rather static nature of legislation, and the need to ensure that public policy goals are being achieved as efficiently and effectively as possible, Parliament – whether as a result of a statutory provision or as part of its oversight responsibilities – should review legislation periodically in order to ensure that its objectives are being met in the best possible manner. Certainly, as part of this review, stakeholder input – whether it occurs through private-sector organizations, public consultations by departments and agencies, or parliamentary hearings – should be broadly representative of those affected.

³⁹ Export Development Canada *Media Release* 14 May 2009. Available at: http://www.edc.ca/english/docs/news/2009/mediaroom_16447.htm

Recommendation 9

The committee recommends that section 25 of the *Export Development Act* be amended by specifying that responsibility for the ten-year legislative review be undertaken by each Chamber of Parliament.

CONCLUSIONS

The committee believes that EDC's support of the Canadian export sector, whether independent or through partnerships with the private sector and/or other government agencies, is all the more significant in light of the increasing importance of trade and exports to Canada's economy and its growth, both in the current economic crisis and more generally. At the same time, we are convinced that the short-term additional measures and resources granted to EDC in recent months are critical in order to ensure that Canada's businesses remain competitive until the global economy recovers. While we are currently seized with the short-term imperatives of EDC because of the current economic conditions, we must not lose sight of the corporation's long-term value as Canadian businesses have much to gain. EDC's mandate remains relevant and beneficial to Canada's trade and investment.

Overall, the committee firmly believes that EDC is performing in accordance with its mandate and that, in the process, it is advancing the interests of Canada's businesses. Indeed, EDC's value has been reinforced by the actions it has been taking to support the credit and insurance needs of Canada's most vulnerable businesses and sectors in a changing global environment. In the end, we feel that Canadian businesses are positioned to emerge from the current global slowdown in a stronger position than they were when the financial crisis started. We note a number of continuing issues about EDC's transparency and are mindful of concerns raised by EDC's competitors about unfair advantages. At the same time, we are confident that the foundation on which EDC was built, including its short-term export credit insurance services, has survived the test of time and challenging circumstances.

WITNESSES AND BRIEFS

Amnesty International Canada
(Brief)

Atradius (March 4, 2009; Issue 2)
Ian Miller, Chief Agent and Country Manager.

Automotive Parts Manufacturers' Association (March 25, 2009; Issue 4)
Gerry Fedchun, President.

Canadian Apparel Federation
Bob Kirke, Executive Director. (Brief)

Canadian Manufacturers & Exporters (March 24, 2009; Issue 4)
Jean-Michel Laurin, Vice-President, Global Business Policy.

Canadian Bankers Association (March 11, 2009; Issue 3)
Terry Campbell, Vice-President, Policy;
John Lancaster, Director, Financial Institutions and Trade.

Conference Board of Canada (March 24, 2009; Issue 4)
Glen Hodgson, Senior Vice-President and Chief Economist.

Department of Finance (March 4, 2009; Issue 2)
Lise Carrière, Chief, International Finance and Development Division, International Trade and Finance;
John Davies, Director, International Finance and Development Division, International Trade and Finance.

Department of Foreign Affairs and International Trade (March 10, 2009; Issue 3)
The Honourable Stockwell Day, P.C., M.P., Minister of International Trade;
Louis Lévesque, Deputy Minister of International Trade;
Robert Clark, Director General, Economic Policy Analysis Bureau.

Dessau Inc (March 25, 2009; Issue 4)
J. Denis Bélisle, Chairman of the Board.

Euler Hermes Canada (March 11, 2009; Issue 3)
Paul Flanagan, Chief Executive Officer.

Export Development Canada (March 10, 2009; Issue 3)
Eric Siegel, President and Chief Executive Officer;
Benoit Daignault, Senior Vice-President, Business Development
Rosemarie Boyle, Vice-President, Strategic Planning and

Corporate Communications. (Brief)

Forest Products Association of Canada (March 11, 2009; Issue 3)

Avrim Lazar, President and Chief Executive Officer;
Marta Morgan, Vice-President of Trade and Competitiveness.

International Financial Consulting Ltd. (March 3, 2009; Issue 2)

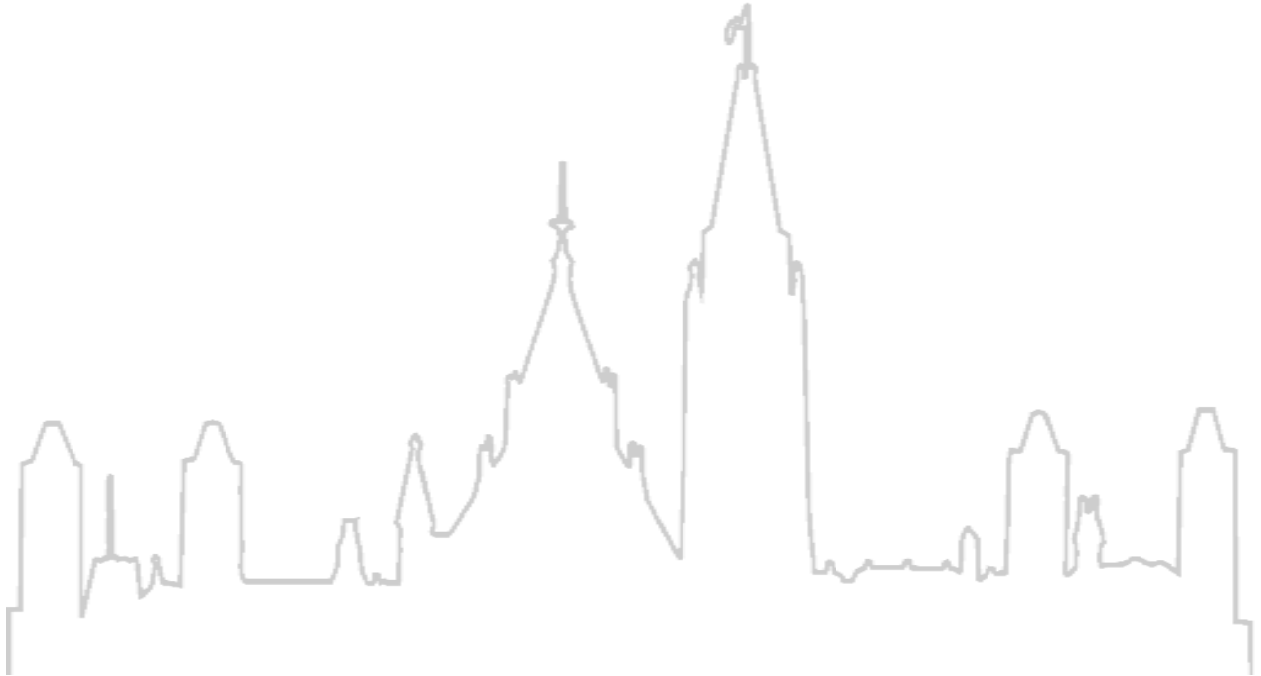
Diana Smallridge, President.

Maxtech Manufacturing Inc.

Kacee Vasudeva, Chairman and Chief Executive Officer. (Brief)

Peerless Clothing Inc.

Elliot Lifson, Vice-Chairman. (Brief)



***Study on the 2008
Legislative Review
of Export Development Canada***

Ce rapport est aussi disponible en français.

Des renseignements sur le comité sont accessibles sur le site:
www.senate-senat.ca/foraffetrang.asp

Information regarding the committee can be obtained through its web site:
www.senate-senat.ca/foraffetrang.asp

Information regarding the Senate can be obtained through its web site:
www.parl.gc.ca
Or by telephone at 1-800-267-7362

Senate



Sénat

CANADA

Study on the 2008 Legislative Review of Export Development Canada

The Honourable Consiglio Di Nino
Chair

The Honourable Peter Stollery
Deputy Chair

**Standing Senate Committee
on Foreign Affairs and
International Trade**

June 2009

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THE COMMITTEE

The following Senators have participated in the study:

The Honourable Consiglio Di Nino, Chair of the committee
The Honourable Peter Stollery, Deputy Chair of the committee

and

The Honourable Senators:

Raynell Andreychuk;
Eymard G. Corbin;
Dennis Dawson;
Pierre De Bané, P.C.;
Percy Downe;
Suzanne Fortin-Duplessis;
Jerahmiel S. Grafstein;
Frank Mahovlich;
Hugh Segal; and
Pamela Wallin.

Ex-officio members of the committee:

The Honourable Senators Marjory LeBreton, P.C. (or Gérald Comeau) and
James Cowan (or Claudette Tardif).

Other Senators who have participated from time to time in the study:

The Honourable Senators Kinsella, Massicotte, Peterson, Prud'homme, P.C.,
Stratton and Zimmer.

Staff of the committee:

Natalie Mychajlyszyn, Analyst, Parliamentary Information and Research Service, Library of Parliament;

Jennifer Paul, Analyst, Parliamentary Information and Research Service, Library of Parliament;

Karen Schwinghamer, Senior Communications Officer;

Debbie Murphy, Communications Coordinator;

Sylvie Simard, Administrative Assistant; and

Denis Robert, Clerk of the committee.

ORDER OF REFERENCE

Extract from the *Journals of the Senate*, Tuesday, February 24, 2009:

“The Honourable Senator Comeau moved, seconded by the Honourable Senator Di Nino:

That the Standing Senate Committee on Foreign Affairs and International Trade be empowered to review and report on the 2008 Legislative Review of Export Development Canada, tabled in the Senate on Tuesday, February 10, 2009.

The question being put on the motion, it was adopted.”

Paul C. Bélisle
Clerk of the Senate

SUMMARY OF RECOMMENDATIONS:

Recommendation 1

The committee recommends that the Government of Canada continue the mandate of Export Development Canada (EDC), which includes the promotion of Canadian businesses abroad by providing services at all stages of the business cycle, and make adjustments as appropriate.

Recommendation 2

The committee recommends that international offices of EDC be located where they would be the most effective for Canadian companies, including separately from Canadian diplomatic missions.

Recommendation 3

The committee recommends that EDC maximize the cultural, human and social abilities of Canada's diaspora communities including when staffing its offices, particularly those outside of Canada, in order to exploit opportunities for Canadian business.

Recommendation 4

The committee recommends that EDC expand its role in the short-term export credit insurance market as demand warrants.

Recommendation 5

The committee recommends that the Government of Canada create a broker advisory panel whose mandate would be to ensure that the activities of EDC are carried out for the benefit of a competitive business environment.

Recommendation 6

The committee recommends that EDC make publicly available information that is, to the extent possible, consistent with the information that its private-sector competitors are required to provide to the Office of the Superintendent of Financial Institutions (OSFI).

Recommendation 7

The committee recommends that the Government of Canada evaluate, and report to Parliament on, the continued need for EDC's presence in the domestic credit market and that, as provided by legislation, Parliament be given ample time to study the issue.

Recommendation 8

The committee recommends that the Government of Canada establish greater coordination between EDC and Investment Cooperation (formerly Industrial Cooperation Program) in order to enhance trade using existing tools and resources.

Recommendation 9

The committee recommends that section 25 of the *Export Development Act* be amended by specifying that responsibility for the ten-year legislative review be undertaken by each Chamber of Parliament.

THE TEN-YEAR LEGISLATIVE REVIEW OF EXPORT DEVELOPMENT CANADA: WHERE WE ARE AND WHERE WE NEED TO BE

INTRODUCTION

Export Development Canada (EDC) is a federal Crown corporation mandated under the *Export Development Act* to “support and develop, directly and indirectly, Canada’s export trade and Canadian capacity to engage in that trade and to respond to international business opportunities.”¹ In particular, it offers short-, medium- and long-term credit insurance; it also provides financial services, bonding and guarantees, political risk insurance, direct loans to buyers and lines of credit in other countries to encourage buyers to purchase Canadian products.

This study by the Standing Senate Committee on Foreign Affairs and International Trade is part of the legislatively mandated ten-year review of the *Export Development Act*.² The objective of the review is to assess how EDC is evolving, and should continue to evolve, to address the competitive demands of international trade on behalf of its stakeholders, and to make recommendations where appropriate.

In compliance with its legislative obligations, the committee examined the report commissioned by the Department of Foreign Affairs and International Trade and carried out by International Financial Consulting Inc. (IFC), entitled *The Legislative Review of Export Development Canada* which was released in December 2008 and tabled in the Senate on February 10, 2009. In carrying out the study, the committee held six meetings in March 2009 and heard from twelve witnesses. We also received several written submissions.

Canada continues to depend on trade and, without a doubt, EDC plays a valuable role in promoting Canadian trade and international commercial interests. Its value cannot be overstated in light of the significance of trade for Canada’s economy. With exports of goods and services representing 34.5 per cent of gross domestic product (GDP) in 2008, trade plays a vital role in the Canadian economy. Merchandise exports amounted to \$484 billion in 2008, an increase of \$33 billion from the previous year. Furthermore, service exports amounted to \$67 billion in 2006 (the most recent data available), a slight increase from the previous year.³

The committee undertook this study under exceptional circumstances. The economic downturn was taking hold and, as part of its response, the Government of Canada introduced its 2009 Budget that announced a temporary expansion in EDC’s mandate. Moreover, following the conclusion of the committee’s consultations, in May 2009, the Minister of Finance increased

¹ *Export Development Act* (R.S., 1985, c. E-20), available at <http://laws.justice.gc.ca/en/E-20/index.html>.

² The *Export Development Act* required an initial review of the legislation five years after adoption, followed by a ten-year review. The first review was carried out in 1998 by Gowling, Strathy and Henderson, and the Act was subsequently studied by the Standing Senate Committee on Banking, Trade and Commerce. The committee’s report was tabled March 2000 and a federal response was released in June 2000.

³ Data are from Statistics Canada and the OECD Economic Outlook.

EDC's long- and short-term borrowing limits from \$7 billion to \$9 billion and from \$6 billion to \$8 billion, respectively, in order to meet the increased demands for its services. As a result, developments directly affecting EDC were unfolding in real time during the course of our consultations, a situation that has affected the pertinence of this report. At the appropriate time, we intend to study more comprehensively EDC's expanded mandate.

In this context, the report summarizes the testimony that was presented to the committee and provides our comments on EDC's current and newly assigned operations. It also offers recommendations that we believe will improve EDC's operations and the future competitiveness of Canada's exporters.

THE CHANGING GLOBAL ENVIRONMENT AND EDC'S VALUE IN IT

A. What the Witnesses Said

Any effort to ascertain the value and appropriateness of EDC's mandate must begin with an assessment of the context in which it and Canadian businesses operate. In this respect, the committee notes the tremendous changes in the global environment and the structure of world trade that have occurred since the last review of EDC. Several witnesses alluded to these changes, which can be categorised according to how firms interact with each other, the emergence of new markets in the global economy and the worldwide economic slowdown.

There was general consensus among the committee's witnesses that the nature of international business now reflects less national-based processes and more global supply chains or integrative trade.⁴ Canadian Manufacturers & Exporters emphasised that, to be successful, Canadian businesses have to operate in a manner that reflects a global supply chain that sources parts and inputs from different parts of the world: "It is not just really making a product; it is delivering value to your clients through a tangible good."⁵

In its testimony to the committee, the Automotive Parts Manufacturers' Association described the integrated manufacturing process for the auto sector: "[I]t is not unusual for a part to cross those borders six or seven times before a vehicle arrives at the dealer lot from which it is sold."⁶

Furthermore, according to IFC, the intellectual property and design of a product are becoming increasingly important aspects of international trade: "[I]t is no longer a case of 'made in' or even 'made by' but rather it is 'conceived by' or 'designed by.' In other words, the intellectual property of companies and the value creation is about the designing."⁷

Moreover, the emergence of new markets in the global economy, including Brazil, China, India and Russia, has generated new opportunities and challenges for export-oriented Canadian businesses. According to Dessau Inc, Canadian companies need to be more aggressive and creative in order to meet the challenge of a more competitive playing field.

International competition has heated up considerably and the massive entry of China, India and Brazil into developing countries has altered the landscape. They are taking very impressive steps to set up for the long term in African, Asian and Latin American markets. They are seriously threatening Canadian presence in these markets. We need to get off the beaten path, do more and better,

⁴ *Evidence*, 40th Parliament, 2nd Session, Issue no. 4, pp. 5-6.

⁵ *Evidence*, 40th Parliament, 2nd Session, Issue no. 4, p. 21.

⁶ *Evidence*, 40th Parliament, 2nd Session, Issue no. 4, p. 29.

⁷ *Evidence*, 40th Parliament, 2nd Session, Issue no. 2, p. 10.

otherwise as Canadians, we will be out of these very important markets.⁸

The global economic slowdown has also affected the environment in which EDC and Canadian businesses operate. The committee is concerned about the impact on Canadian businesses of the dramatic economic slowdown in the United States, Canada's primary trading partner, and the reduced availability of credit, a vital element for any business. As the committee heard from the Canadian Bankers Association, "[T]here is no doubt that there is a credit problem. We have had large sections of what have formerly been active lenders either shrunk down, not growing as much or completely pulled out, so there is a need for more credit."⁹

The impact of reduced financing for Canadian businesses and for the economy is potentially devastating, particularly as exports account for over one-fifth of Canada's gross national product (GNP) and manufacturers are responsible for two-thirds of Canada's exports.¹⁰ A significant number of witnesses reinforced this view, including the Forest Products Association of Canada:

[C]redit is a necessary precondition for business working. Credit is like oxygen. You can be competitive, brilliant, have great markets and good profit margins. If you cannot get credit, if you cannot renew credit, if your suppliers cannot get credit, if your customers cannot get credit, business does not happen. ... This is absolutely vital.¹¹

Some Canadian businesses access EDC's resources and expertise as they seek to operate in the challenging and changing economic environment. EDC's ability to respond to a changing environment is due, in part, to an expansion in its overseas representation, particularly in emerging economies such as China, India and Russia. Indeed, the relative importance of emerging economies as trading partners for all Organization for Economic Co-operation and Development (OECD) countries is increasing. As a result, international representation is a necessary component of competitiveness for Canadian businesses. Such a presence is imperative as export credit agencies of other countries have a strong presence in foreign countries and promote their national business interests, at times resulting in a competitive disadvantage for Canadian exporters.

These export credit agencies, and their foreign offices, are proliferating overseas, as stated in IFC's presentation to the committee.¹² Dessau Inc. also supported the value of EDC's international presence:

Opening EDC offices abroad is a step in this direction, and hopefully there will be many more. Competition among export support agencies has become very fierce. Furthermore, we should

⁸ *Evidence*, 40th Parliament, 2nd Session, Issue no. 4, p. 45.

⁹ *Evidence*, 40th Parliament, 2nd Session, Issue no. 3, p. 79.

¹⁰ *Evidence*, 40th Parliament, 2nd Session, Issue no. 4, p. 19.

¹¹ *Evidence*, 40th Parliament, 2nd Session, Issue no. 3, p. 63.

¹² *Evidence*, 40th Parliament, 2nd Session, Issue no. 2, p. 23.

not hesitate to copy our competitors when they do something good.¹³

A similar point was made by the Conference Board of Canada: “We have to become much more aggressive, knowing that countries like China or India will be the dominant growth markets for the world economy for the next ten years. Certainly, the EDC has signalled their understanding of that. They are opening offices in these markets and trying to build more capacity.”¹⁴

The Automotive Parts Manufacturers’ Association concurred with this positive assessment of EDC’s international presence:

We need EDC to ensure we keep a level playing field with our competitors. In the last three years, the [Automotive Parts Manufacturers’ Association] has led trade missions to Russia, India, China, Hungary, Slovakia, the Czech Republic and Japan and, over the last ten years, we have led trade missions to almost every country in the world that is a significant producer of vehicles and parts for them. EDC has generally participated in those trade missions and we need them to continue to participate. ... They publish [country analysis] information, and it is available to other Canadian companies, especially to the small and medium enterprises ... that do not have the ability to gather this information on their own.¹⁵

B. What the Committee Recommends

The committee believes that the changing global business environment, in the context of both the current economic crisis and ongoing transformations, underline the need for continued flexibility in EDC’s services in order to enhance the competitiveness and global presence of Canadian companies, particularly exporters. We were encouraged to hear that EDC recognises the changes in the global environment and is responsive to the evolving needs of Canadian businesses.

Recommendation 1

The committee recommends that the Government of Canada continue the mandate of Export Development Canada (EDC), which includes the promotion of Canadian businesses abroad by providing services at all stages of the business cycle, and make adjustments as appropriate.

¹³ *Evidence*, 40th Parliament, 2nd Session, Issue no. 4, p. 45.

¹⁴ *Evidence*, 40th Parliament, 2nd Session, Issue no. 4, p. 17.

¹⁵ *Evidence*, 40th Parliament, 2nd Session, Issue no. 4, p. 30.

The committee recalls the comments made by the Minister of International Trade about the advantages of the co-location of EDC offices with Canada's diplomatic missions and the establishment of separate offices if deemed appropriate. We are also cognizant of the IFC report's comment about EDC's lack of authorization to establish overseas offices independent of the Department of Foreign Affairs and International Trade, unlike other federal Crown corporations such as the Canadian Commercial Corporation.¹⁶ While the committee appreciates that co-location of EDC and diplomatic offices may be advantageous in some cases, we believe that this situation should be examined on a case-by-case basis.

Recommendation 2

The committee recommends that international offices of EDC be located where they would be the most effective for Canadian companies, including separately from Canadian diplomatic missions.

At the same time, the committee believes that EDC can do more to maximize the potential found in Canada's diaspora communities in order to facilitate and achieve successful international business relationships. We appreciate that EDC's first priority when staffing an office abroad should be the objective business skills and knowledge of an individual. However, we note that many of EDC's international offices are located in the home countries of Canada's diaspora communities. Individuals from these communities have vital business contacts and cultural insights and could add significant value to EDC's operations. Such individuals offer their human and social capital in addition to their knowledge of the local business culture, which can benefit Canadian businesses.¹⁷

Recommendation 3

The committee recommends that EDC maximize the cultural, human and social abilities of Canada's diaspora communities including when staffing its offices, particularly those outside of Canada, in order to exploit opportunities for Canadian business.

¹⁶ Specifically, section 17 of the *Export Development Act* restricts EDC's independent authority to establish offices to anywhere in Canada. International Financial Consulting Ltd., *The Legislative Review of Export Development Canada*, December 2008, pp. 77-78.

¹⁷ *Evidence*, 40th Parliament, 2nd Session, Issue no. 3, pp. 42-44.

EDC AND THE PRIVATE SECTOR: COMPETING TO MEET THE NEEDS OF CANADIAN EXPORTERS?

A. What the Witnesses Said

During the course of the study, the committee was told that EDC has an unfair competitive advantage over the private sector in a number of areas. For example, EDC's presence in the short-term (ST) export credit insurance market exceeds simply filling gaps in the market; EDC's backing by the Crown gives it an unfair advantage in raising capital; and EDC is not subject to the same financial reporting requirements as its competitors.

1. The Short-Term Credit Insurance Market and Other Services

Among EDC's many services, short-term export credit insurance covers political and commercial risks for non-payment of exports, and applies to goods and services sold up to two years' credit. In its report, the IFC estimated that more than 90 per cent of world exports are sold for cash or on credit of up to 180 days.¹⁸

According to witnesses, short-term export credit insurance is one service area where EDC is in direct competition with the private sector, particularly in the very short-term period of up to 180 days. Euler Hermes, Atradius and Coface are the three largest private-sector providers of short-term export credit insurance, with an estimated combined share of 85 per cent of the global market.¹⁹ However, these three private-sector insurers make up less than 25 per cent of the Canadian market. Although the market share of these companies is increasing in Canada, while that of EDC is falling, EDC continues to dominate the Canadian market for short-term export credit insurance.

Both Euler Hermes and Atradius argued that EDC should withdraw from the short-term export credit insurance market. As indicated by Euler Hermes:

I reiterate our concern and opposition to IFC's main recommendation that EDC's mandate remain unchanged. The facts presented to IFC by Euler Hermes Canada and other competitors reflect the reality of fundamental changes in the global economic environment over the last decade and call out for EDC to withdraw from the short-term credit insurance market.²⁰

¹⁸ International Financial Consulting Ltd., (December 2008), p. 23.

¹⁹ These companies have such advantages as credit information on buyers worldwide as well as significant income from premiums paid worldwide. This income in 2007 is reported as follows: Euler Hermes US\$2.7 billion, Atradius US\$2.6 billion and Coface US\$1.6 billion. Comparatively, EDC's income from premiums paid was C\$0.98 billion in that year.

²⁰ *Evidence*, 40th Parliament, 2nd Session, Issue no. 3, p. 53.

A similar point was made by Atradius:

We strongly recommend to you that EDC withdraw from the role of primary insurer and shift to a role of re-insurer in the short-term export credit insurance.²¹

EDC provided the committee with a different perspective, and argued that, in its provision of short-term insurance and other financing services, it takes on a higher level of risk compared to its private-sector competitors and, therefore, provides more needed services to Canadian businesses wishing to expand. It is able to do so by setting aside capital with a specific allocation towards relatively higher-risk, lower-grade investments. Furthermore, EDC is able to remain in the market longer than a private-sector insurer, thereby holding a credit limit open for an extended period of time. According to IFC, “EDC, apart from being owned by government, is Canada first; it makes a decision to support a buyer perhaps longer than the private sector.”²²

Moreover, the presence of EDC in the market is particularly important during economic downturns. Several of the witnesses said that, as the financial crisis worsened, both credit and insurance became relatively more expensive and private-sector insurers largely vacated the market. Thus, as market gaps become apparent and grow larger, Canadian exporters rely on the services provided by EDC.

According to the Forest Products Association of Canada:

Our companies are reporting to us that in the area of receivables and insurance the private insurers have completely vacated the market for those markets to which we export, which would be, for example, U.S. newspapers and U.S. housing. [...] EDC has stepped in behind the private insurers in a major and significant way, which has allowed our companies to keep receiving that sort of insurance. That is one example.²³

The Automotive Parts Manufacturers’ Association agreed:

The regular financial institutions have almost abandoned the automotive industry as a place to do business. Certainly, these institutions are not doing any new business. They may have retained existing business, but there is no new business to be had. EDC was the only significant institution with the appetite for a little more risk, and it was able to step in and give financing where other financial institutions did not.²⁴

²¹ *Evidence*, 40th Parliament, 2nd Session, Issue no. 2, p. 47.

²² *Evidence*, 40th Parliament, 2nd Session, Issue no. 2, p. 21.

²³ *Evidence*, 40th Parliament, 2nd Session, Issue no. 3, p. 65.

²⁴ *Evidence*, 40th Parliament, 2nd Session, Issue no. 4, p. 31.

The private-sector insurers confirmed these concerns in explaining that they are relatively more risk averse. Specifically, Atradius testified:

Like all industries, adjustment will occur in our sector as well, but, as much as possible, we must adhere to the principle that markets should decide on acceptable risks, not government. Does this mean somewhat more difficult credit? You bet. We will not be driven to taking unsound risks.²⁵

Competition in short-term export credit insurance markets, as well as in markets for other services provided by EDC, is not explicitly regulated. Rather, EDC operates in a free market. At the same time, OECD member countries have agreed to a ‘gentleman’s arrangement’ for Officially Supported Export Credits, which aims to ensure that export credits are not being used as subsidies. Furthermore, Canada can be challenged under the World Trade Organization (WTO) agreements if seen to be providing a subsidy through export credits. While the IFC report found that EDC’s services are generally more costly than private-sector competitors, it also noted that EDC is competitive because it is generally able to provide more coverage to its clients, and because of its ability to tolerate more risk.

2. The Ability to Raise Capital

EDC is able to raise capital with more ease than its private-sector competitors in part due to its higher credit rating. Standard & Poor’s AAA rating of EDC reflects the fact that EDC is 100 per cent government-owned; the provision of debt constitutes a direct obligation of the federal government and is a charge on, and payable out of, the federal government’s Consolidated Revenue Fund. However, debt is generally financed by EDC’s own resources, and EDC has been “financially profitable for every year except one.”²⁶ Moreover, in its testimony, the Department of Finance stated, “although EDC had advantages in terms of its cost of funds, there was no evidence that EDC was passing along lower pricing on its loans or anything that would be seen as unfair competition.” Although EDC’s relatively higher credit rating makes it easier to raise capital, the cost savings are not passed on to the client. As a result, EDC’s rating does not put it at an unfair advantage over its private-sector competitors.

As discussed above, EDC is financially self-sustaining and operates in accordance with corporate principles. Therefore, it is important to consider the financial implications of EDC withdrawing from the short-term export credit insurance market completely, or becoming simply the lender of last resort and a re-insurer. Without EDC in this market, fewer high-risk clients would likely be served by private insurers, which have less risk tolerance. Moreover, if EDC ended its participation in the short-term export credit insurance market, the relatively lower revenues that would result might limit the services it provides. Ultimately, the Canadian export community would be underserved.

²⁵ *Evidence*, 40th Parliament, 2nd Session, Issue no. 2, p. 46.

²⁶ *Evidence*, 40th Parliament, 2nd Session, Issue no. 3, p. 18.

3. Reporting, Accountability and Administrative Costs

The lack of transparency in respect of EDC's operations is also considered to provide a competitive advantage. The IFC report concluded that EDC should be required to be more transparent and accountable in the areas of short-term export credit insurance, and should provide public information consistent with what its private-sector counterparts are required to publish.

Part of these concerns relate to EDC not being subject to the financial reporting requirements of the Office of the Superintendent of Financial Institutions (OSFI). OSFI regulates and supervises federal financial institutions and federally regulated private pension plans, creating a framework that manages risk, contributes to public confidence and helps to ensure that these institutions and plans remain in sound financial condition. Accordingly, private-sector insurers provide detailed financial information to the OSFI, some of which is available publicly while other remains confidential. However, as confirmed by the Department of Finance, a federal Crown corporation cannot be regulated by the OSFI. Rather, operating at arms-length from the federal government, EDC is governed by the *Financial Administration Act* (FAA) and is audited by the Auditor General of Canada.

Currently, EDC does not publish comparable financial details regarding short-term export credit insurance; similar data are grouped together in the annual reports. Concerns in this regard were raised by both IFC²⁷ and EDC's private-sector competitors. For example, Atradius stated:

EDC does not provide adequate financial information to its shareholders, nor does it need to comply with OSFI regulations. This is wrong. For example, up until the release of the report, it was impossible to get information on the short-term credit insurance business line, despite the fact that it is used by over 80 per cent of their customers and represents over 65 per cent of its business volume. I do not know whether EDC's accounts substantiate the consultant's conclusions, but neither do you.²⁸

In its testimony, the IFC stated that a change to these reporting requirements was the primary recommendation resulting from the legislative review of EDC.²⁹ It informed the committee, "There is no reason to believe that EDC is doing anything wrong, but transparency goes a long way to build confidence in the market."³⁰

However, these concerns must be balanced with the demands created by additional reporting and EDC's ability to remain competitive internationally. Some witnesses were concerned that if EDC publicly provides information at the transaction level, it may inadvertently assist the domestic private-sector competition, as well as export credit agencies (ECA) of other countries, thereby

²⁷ International Financial Consulting Ltd., (December 2008), p. 33.

²⁸ *Evidence*, 40th Parliament, 2nd Session, Issue no. 2, p. 46.

²⁹ *Evidence*, 40th Parliament, 2nd Session, Issue no. 2, p. 22.

³⁰ *Evidence*, 40th Parliament, 2nd Session, Issue no. 2, p. 22.

undercutting Canadian exporters. A delicate balance exists between accountability and transparency on one side, and the ability to remain competitive on the other side. This balance was addressed in the 2000 legislative review, which resulted in transparency requirements for many of EDC's practices. According to the Conference Board of Canada:

EDC performs a different purpose. It is there as the Government of Canada to ensure that there is enough capacity in terms of insurance and financing for our exporters. It is a different beast, 100 per cent in the public sector, with oversight almost daily by the Department of Finance, Treasury Board and Foreign Affairs and International Trade Canada. ... Theoretically, it is an interesting notion but I do not think there is any more oversight required than what EDC already has from the Government of Canada. I hope that it can be as streamlined as much as possible to allow management to focus on its core job to provide service to Canadian exporters and investors.³¹

EDC issues public reports that indicate the benefits accruing to Canadian businesses through the services it provides, such as the number of jobs created, the number and size of companies served, and some estimates of the percentage of GDP arising from its support of Canadian exporters. Through EDC's environmental disclosure policy, the details of lending and equity transactions as well as the number of transactions that have not been approved are published on its website. EDC must first attain the approval of the commercial parties involved in the transactions, but it has never had a problem receiving this authority. In addition to the audits performed by the Auditor General, the Ministers of Foreign Affairs and International Trade, in conjunction with the Minister of Finance, provide oversight and ensure that EDC is fulfilling its mandate. EDC regularly meets with its shareholders, as well as with other federal departments, Crown corporations and financial institutions.

EDC's administrative costs include both the direct costs of the services it provides and the appropriate share of overhead. When administrative expenses are calculated as a percentage of premium income, the ratio ranges from 40 per cent to 60 per cent between 2000 and 2006. The administrative expenses have continued to increase gradually over the period, while premium revenues have varied a great deal. Euler Hermes, a private-sector insurer, stated that EDC's cost ratio seemed too high; Euler Hermes' cost ratio is approximately 30 per cent, which it also considers to be high, thereby making profitability relatively more difficult. Atradius indicated that its cost ratio is higher than usual, which it attributed to the current financial situation. It should be noted, however, that – in the case of EDC – this analysis does not take into account the investment income which may, for example, be used to offset cash deficits in certain years.

EDC responded to these concerns and explained that 80 per cent of its revenues are derived from its lending program, such that EDC relies on insurance premiums for approximately 20 per cent of its revenues, earned through receivables insurance, bonds, foreign investment insurance, etc.³² Furthermore, EDC's revenues are affected by the exchange rate between the US and Canadian

³¹ *Evidence*, 40th Parliament, 2nd Session, Issue no. 4, p. 14.

³² *Evidence*, 40th Parliament, 2nd Session, Issue no. 3, pp. 29-30.

dollars, since most of its business is transacted in American dollars. Beginning in mid-2002, the Canadian dollar began to rise relative to the US dollar, which has negatively affected the value of EDC's revenues as they were stated in Canadian dollars. Administrative expenses are valued in Canadian dollars, leading to the expected result of a higher expense ratio. EDC informed the committee that "when you put all those administrative expenses into perspective, they run about 25 per cent on average of our operating income." Operating income combines the revenues from premiums and the net interest revenue, and a 25 per cent expense ratio was said to be lower than the average expense ratio incurred by a non-retail bank (35 per cent). Furthermore, EDC informed us that "[t]he actual increase in administrative expenses over the period is a direct result of the growth of the program, the related investment in technology and our increased market representation."³³ It should be noted that the total premiums collected under EDC's program were generally sufficient to cover its related claims costs as well as the administrative costs.

B. What the Committee Recommends

1. Addressing Concerns about Predatory Competition

The committee acknowledges the competitiveness concerns presented by witnesses and recalls those concerns included in the IFC report, which indicated that, without doubt, EDC operates outside any "market gap" in respect of short-term export credit insurance and actively competes with private insurers in the short-term export credit business. These concerns do not suggest that EDC is operating in a manner inconsistent with its mandate or with government policy or improperly. Indeed, we note that the IFC report does *not* recommend that EDC change its activities or mandate in the short-term export credit insurance market.

After hearing the testimony of a number of witnesses, and following significant consideration, the committee agrees that EDC should remain in the short-term export credit insurance market. This market is growing in Canada, while the market share held by EDC is shrinking. Moreover, the presence of EDC alongside its private-sector competitors creates more competition among service providers, thereby enabling a greater degree of choice for Canadian businesses wishing to access these services. This trend is positive and, in our view, EDC is not "crowding out" the private sector.

Recommendation 4

The committee recommends that EDC expand its role in the short-term export credit insurance market as demand warrants.

The committee notes the recommendation in the IFC report that the Department of Foreign Affairs and International Trade establish a broker advisory panel to review and report on any alleged examples of predatory competition from EDC, as well as to provide EDC's Board of Directors and the Minister of International Trade with market intelligence. As envisioned by the IFC report, this panel – which would report annually – would examine individual complaints

³³ Letter to the Standing Senate Committee on Foreign Affairs and International Trade, 27 March 2009.

from private-sector insurers. We are mindful of the interests and incentives faced by the members of this panel, particularly with respect to whose interests the panel would serve.

Recommendation 5

The committee recommends that the Government of Canada establish a broker advisory panel whose mandate would be to ensure that the activities of EDC are carried out for the benefit of a competitive business environment.

2. Consistency in Reporting and Other Administrative Concerns

The committee believes that EDC should work to improve its transparency. In our view, greater transparency builds consumer confidence and enhances fairness among competitors. Specifically, EDC should take measures to improve public reporting of its financial transactions in the short-term credit insurance market. At the same time, the committee recognizes that EDC performs a purpose that is different from the financial institutions supervised by OSFI and, therefore, should neither be supervised nor regulated by it.

Recommendation 6

The committee recommends that EDC make publicly available information that is, to the extent possible, consistent with the information that its private-sector competitors are required to provide to the Office of the Superintendent of Financial Institutions (OSFI).

ENHANCING THE ROLE THAT EDC CAN PLAY

A. Recent Budget Measures

As part of its response to the current economic conditions and in order to meet the short-term financing needs of Canadian businesses, the Government of Canada has implemented a number of measures in respect of EDC. As the Minister of International Trade testified, Canadians “are facing extreme challenges the likes of which we have not seen for decades, and ... this particular organization, EDC, is able to help through this difficult time.”³⁴

As announced in *Economic and Fiscal Statement 2008* and *Budget 2009: Canada’s Economic Action Plan*, EDC has received:

- \$350 million to facilitate additional capitalization of loans;
- an increase in the ceiling of share capital to be purchased by the government from \$1.5 billion to \$3 billion;
- a temporary expansion of domestic powers, allowing it to provide financing solutions for domestic-oriented businesses;
- an increase in the Canada Account limit from \$13 billion to \$20 billion to ensure that the government has the direct capacity, if needed, to provide credit and meet the high-risk financing requirements of businesses in strategic, hard-hit sectors of the Canadian economy that are deemed to be in the national interest; and
- an increase in the contingent liability ceiling from \$30 billion to \$45 billion, thereby increasing the risks that EDC can underwrite and encouraging commercial banks to continue to advance loans and increase access to financing.

As well, the Business Credit Availability Program (BCAP) has been established to enhance cooperation between private-sector financial institutions and federal financial Crown corporations, including EDC, in providing loans and other forms of credit support to businesses whose access to financing would otherwise be restricted. The program is intended to fill gaps in market access and lever additional lending by private-sector institutions.

B. What the Witnesses Said

In addressing the committee, the Automotive Parts Manufacturers’ Association remarked that:

I think that insurance is absolutely essential, because receivable insurance is required in today’s environment when customer viability is much more questionable than it was in the past. [Small and medium enterprises], especially, need some assurance that they will be paid. [...] They cannot afford to bet the farm on one or two companies without that kind of receivable insurance to ensure their customer does not drag them under, and yet it may be a great

³⁴ *Evidence*, 40th Parliament, 2nd Session, Issue no. 3, p. 9; *Evidence*, 40th Parliament, 2nd Session, Issue no. 2, p. 30.

opportunity for them. Increasing contingency insurance, or liability, as they call it, is a good thing.³⁵

In reaction to EDC's extended temporary mandate designed to fill a gap in the domestic market, the Canadian Bankers Association noted: "Extraordinary times call for special measures, and we understand and support the government's initiatives regarding EDC. We recognize and appreciate the government's emphasis that the powers be temporary in nature and that they not be used to displace private-sector lending."³⁶

C. What the Committee Recommends

1. Expanded Resources and Authorities

The committee feels that it is critically important to examine the November 2008 *Economic Update* and *Budget 2009* measures in respect of EDC within the context of our review and the report of the 2008 legislative review, rather than as mere pieces of legislation.

The committee is encouraged by the favourable testimony regarding EDC's additional powers and resources, and is pleased that witnesses feel that EDC is suitably positioned to respond to the current financial situation facing Canadian businesses and exporters.

However, the committee is cautious in its assessment of the temporary expansion of EDC's mandate in support of the domestic market. On the one hand, we agree that significant gaps in the market for domestic credit have emerged since the release of IFC's report. On the other hand, the first recommendation in the IFC report is that, barring significant changes in the market leading to large-scale gaps in domestic credit insurance availability, EDC should not re-enter the domestic credit insurance market. Furthermore, we are concerned with the wording of the enabling legislation that allows for a possible extension, by an Order in Council, of the two-year period in which EDC may participate in the domestic credit market.³⁷

In light of the significance of these measures and the extraordinary economic conditions under which they were implemented, the committee believes that this temporary change in EDC's mandate merits further scrutiny. The IFC report states that "the notion of market gaps must be applied with some caution: gaps tend to ebb and flow over time, driven by myriad events and developments in market activity and public policy. As such, gaps that do not exist today may exist tomorrow and vice versa."³⁸ We agree with this statement, and recognize the need to monitor the economic environment and assess EDC's presence in the domestic market.

³⁵ *Evidence*, 40th Parliament, 2nd Session, Issue no. 4, p. 32.

³⁶ *Evidence*, 40th Parliament, 2nd Session, Issue no. 3, p. 72.

³⁷ 40th Parliament, 2nd Session, Statutes of Canada 2009, Chapter 2, An Act to implement certain provisions of the budget tabled in Parliament on January 27, 2009 and related fiscal measures, Received Royal Assent on 12 March 2009, Part 5, Division 3, Section 263 (2), p. 251, http://www2.parl.gc.ca/content/hoc/Bills/402/Government/C-10/C-10_4/C-10_4.PDF

³⁸ International Financial Consulting Ltd., (December 2008), p. 51.

Recommendation 7

The committee recommends that the Government of Canada evaluate, and report to Parliament on, the continued need for EDC's presence in the domestic credit market and that, as provided by legislation, Parliament be given ample time to study the issue.

2. The Need for Partnerships

The committee notes that some businesses have been able to take advantage of the Industrial Cooperation Program offered by the Canadian International Development Agency (CIDA) in order to support projects for which they have applied to receive EDC funding. At the same time, we heard concerns that inter-agency funding of large-scale and expensive development projects, which would include feasibility studies and training, carried out by private businesses is neither systemic nor coordinated. This situation complicates potentially valuable and beneficial initiatives by Canadians and permits competitors to procure them instead.

The committee acknowledges that there may be some benefit to greater inter-agency coordination of program support, particularly where objectives are complementary. In light of earlier studies, however, we also caution that such coordination should not be carried out in a way that requires commitments on the part of the recipient to purchase Canadian goods and services. In other words, we continue to be adamant that tied aid undermines aid effectiveness and increases costs.

Understanding that CIDA is currently holding consultations about whether the Industrial Cooperation Program should remain with it or whether elements of the program should be assigned to other agencies, the committee supports funding of development projects that meet EDC requirements and that are consistent with its mandate, whether these funds are assigned by CIDA or by another agency.

More generally, the committee supports partnerships, both with other Canadian governmental entities and the private-sector in the domestic market. In that regard, we believe that the establishment of Business Credit Availability Program is a useful development. We encourage this and other opportunities for continued dialogue and partnerships among EDC and relevant agencies and organizations. We feel that these types of dialogue provide valuable opportunities to minimize the overlap in services and to contribute to the goal of ensuring that the needs and complementary objectives of Canadians and Canadian businesses are met as efficiently and effectively as possible.

In addition, we are encouraged by the recent announcement of collaboration between EDC and the private-sector insurers in Canada to facilitate up to \$1 billion in new domestic credit. EDC

will provide re-insurance for domestic receivables to private insurers, such as Atradius and Euler Hermes, to assist Canadian business in accessing credit.³⁹

Recommendation 8

The committee recommends that the Government of Canada establish mechanisms for greater coordination between EDC and Investment Cooperation (formerly Industrial Cooperation Program) in order to enhance trade using existing tools and resources.

3. Ongoing Review

As the basis for its research and analysis, IFC engaged stakeholders in a series of town hall as well as one-on-one meetings arranged at the request of an individual. Stakeholders, which included the Canadian business community, private-sector competitors, civil society and individuals representing the Canadian taxpayer, were consulted on a variety of issues. Town hall meetings were held in Toronto, Vancouver, Calgary, Winnipeg, Montreal, Kanata, Halifax and Ottawa. While the committee acknowledges that IFC was pro-active in its attempts to advertise and raise awareness of its review process, we are concerned about the lack of consultation in Atlantic Canada, where only a single town hall meeting was held. It was also brought to our attention that representatives of EDC, the Department of Foreign Affairs and International Trade as well as various other federal departments and agencies were present at the town hall meetings. The committee is concerned that stakeholders did not have the opportunity to communicate their opinions openly to the IFC review team, as comments might be constrained in the presence of EDC, an agency on which some stakeholders depend for export financing and insurance services.

The committee is of the view that, given the dynamic nature of the world in which we live, the rather static nature of legislation, and the need to ensure that public policy goals are being achieved as efficiently and effectively as possible, Parliament – whether as a result of a statutory provision or as part of its oversight responsibilities – should review legislation periodically in order to ensure that its objectives are being met in the best possible manner. Certainly, as part of this review, stakeholder input – whether it occurs through private-sector organizations, public consultations by departments and agencies, or parliamentary hearings – should be broadly representative of those affected.

³⁹ Export Development Canada *Media Release* 14 May 2009. Available at: http://www.edc.ca/english/docs/news/2009/mediaroom_16447.htm

Recommendation 9

The committee recommends that section 25 of the *Export Development Act* be amended by specifying that responsibility for the ten-year legislative review be undertaken by each Chamber of Parliament.

CONCLUSIONS

The committee believes that EDC's support of the Canadian export sector, whether independent or through partnerships with the private sector and/or other government agencies, is all the more significant in light of the increasing importance of trade and exports to Canada's economy and its growth, both in the current economic crisis and more generally. At the same time, we are convinced that the short-term additional measures and resources granted to EDC in recent months are critical in order to ensure that Canada's businesses remain competitive until the global economy recovers. While we are currently seized with the short-term imperatives of EDC because of the current economic conditions, we must not lose sight of the corporation's long-term value as Canadian businesses have much to gain. EDC's mandate remains relevant and beneficial to Canada's trade and investment.

Overall, the committee firmly believes that EDC is performing in accordance with its mandate and that, in the process, it is advancing the interests of Canada's businesses. Indeed, EDC's value has been reinforced by the actions it has been taking to support the credit and insurance needs of Canada's most vulnerable businesses and sectors in a changing global environment. In the end, we feel that Canadian businesses are positioned to emerge from the current global slowdown in a stronger position than they were when the financial crisis started. We note a number of continuing issues about EDC's transparency and are mindful of concerns raised by EDC's competitors about unfair advantages. At the same time, we are confident that the foundation on which EDC was built, including its short-term export credit insurance services, has survived the test of time and challenging circumstances.

WITNESSES AND BRIEFS

Amnesty International Canada
(Brief)

Atradius (March 4, 2009; Issue 2)
Ian Miller, Chief Agent and Country Manager.

Automotive Parts Manufacturers' Association (March 25, 2009; Issue 4)
Gerry Fedchun, President.

Canadian Apparel Federation
Bob Kirke, Executive Director. (Brief)

Canadian Manufacturers & Exporters (March 24, 2009; Issue 4)
Jean-Michel Laurin, Vice-President, Global Business Policy.

Canadian Bankers Association (March 11, 2009; Issue 3)
Terry Campbell, Vice-President, Policy;
John Lancaster, Director, Financial Institutions and Trade.

Conference Board of Canada (March 24, 2009; Issue 4)
Glen Hodgson, Senior Vice-President and Chief Economist.

Department of Finance (March 4, 2009; Issue 2)
Lise Carrière, Chief, International Finance and Development Division, International Trade and Finance;
John Davies, Director, International Finance and Development Division, International Trade and Finance.

Department of Foreign Affairs and International Trade (March 10, 2009; Issue 3)
The Honourable Stockwell Day, P.C., M.P., Minister of International Trade;
Louis Lévesque, Deputy Minister of International Trade;
Robert Clark, Director General, Economic Policy Analysis Bureau.

Dessau Inc (March 25, 2009; Issue 4)
J. Denis Bélisle, Chairman of the Board.

Euler Hermes Canada (March 11, 2009; Issue 3)
Paul Flanagan, Chief Executive Officer.

Export Development Canada (March 10, 2009; Issue 3)
Eric Siegel, President and Chief Executive Officer;
Benoit Daignault, Senior Vice-President, Business Development
Rosemarie Boyle, Vice-President, Strategic Planning and

Corporate Communications. (Brief)

Forest Products Association of Canada (March 11, 2009; Issue 3)

Avrim Lazar, President and Chief Executive Officer;
Marta Morgan, Vice-President of Trade and Competitiveness.

International Financial Consulting Ltd. (March 3, 2009; Issue 2)

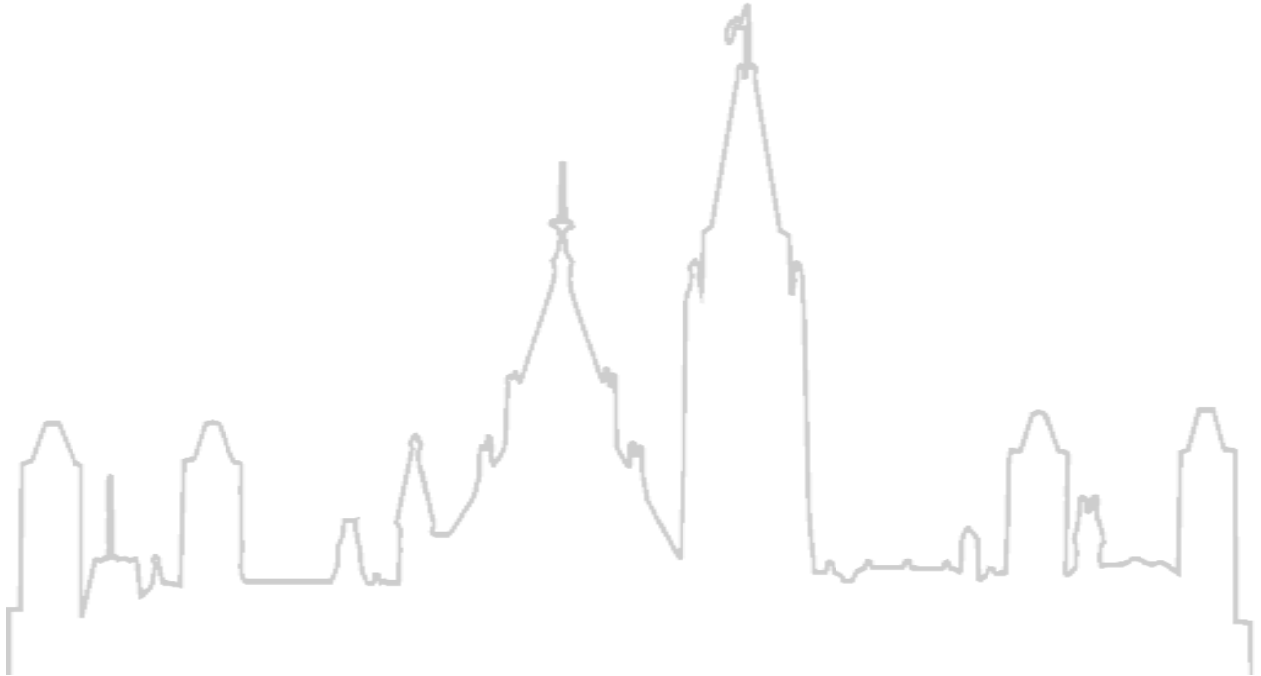
Diana Smallridge, President.

Maxtech Manufacturing Inc.

Kacee Vasudeva, Chairman and Chief Executive Officer. (Brief)

Peerless Clothing Inc.

Elliot Lifson, Vice-Chairman. (Brief)



***Study on the 2008
Legislative Review
of Export Development Canada***

Ce rapport est aussi disponible en français.

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APPEARING

Wednesday, June 10, 2009

The Honourable Stockwell Day, P.C., M.P., Minister of
International Trade.

WITNESSES

Wednesday, June 10, 2009

Department of Foreign Affairs and International Trade:

Matthew Kronby, Director General, Trade Law Bureau;

Heidi Kutz, Director, Inter-American Relations and Regional
Policy.

Department of Finance Canada:

Carol Nelder-Corvari, Director, International Trade Policy and
Chief Negotiator (Peru and Colombia FTAs);

Dean Beyea, Senior Chief, International Trade Policy.

COMPARAÎT

Le mercredi 10 juin 2009

L'honorable Stockwell Day, C.P., député, ministre du Commerce
international.

TÉMOINS

Le mercredi 10 juin 2009

Ministère des Affaires étrangères et du Commerce international :

Matthew Kronby, directeur général, Droit commercial international;

Heidi Kutz, directrice, Relations interaméricaines et politique
régionale.

Ministère des Finances Canada :

Carol Nelder-Corvari, directrice, Politique commerciale internationale
et négociatrice en chef (Accords de libre-échange avec le Pérou et la
Colombie);

Dean Beyea, chef principal, Politique commerciale internationale.