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Tuesday, October 30, 2001

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**THE HONOURABLE DAN HAYS
SPEAKER**

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THE SENATE

Tuesday, October 30, 2001

The Senate met at 2:00 p.m., the Speaker in the Chair.

[English]

Prayers.

THE HONOURABLE EDWARD M. LAWSON

EXPRESSION OF GRATITUDE FOR GET WELL WISHES

Hon. Edward M. Lawson: Honourable senators, I wish to take a brief moment to thank you for your kindness and courtesy in sending me flowers during my recent visit to the hospital in Seattle, Washington, where I was serving as a living laboratory experiment for Senator Kirby and his committee studying the difference between private and public medical coverage. I thank the government leadership for their kindness, Senator Lynch-Staunton and all the other senators who sent notes, cards, e-mails and best wishes. I can tell you from firsthand experience that it does help in the healing process to know that you are part of an institution with so many genuine, caring people. Thank you all.

[Translation]

ROUTINE PROCEEDINGS

CLERK OF THE SENATE

ANNUAL ACCOUNTS TABLED

The Hon. the Speaker: Honourable senators, I have the honour to inform the Senate that, pursuant to rule 133, the Clerk of the Senate has tabled a detailed statement of his receipts and expenditures for the fiscal year terminating March 31, 2001.

YUKON NORTHERN AFFAIRS PROGRAM DEVOLUTION TRANSFER AGREEMENT

TABLED

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour to table in this house, in both official languages, the Yukon Northern Affairs Program Devolution Transfer Agreement reached by the Government of Canada and the Government of the Yukon.

[English]

STUDY ON ROLE OF GOVERNMENT IN FINANCING DEFERRED MAINTENANCE COSTS IN POST-SECONDARY INSTITUTIONS

REPORT OF NATIONAL FINANCE COMMITTEE TABLED

Hon. Lowell Murray: Honourable senators, I have the honour to table the ninth report of the Standing Senate Committee on National Finance concerning the role of the government in the financing of deferred maintenance costs in Canada's post-secondary institutions.

SENATORS' STATEMENTS

THE LATE JEAN-MARC OUELLET

TRIBUTES

Hon. Richard H. Kroft: Honourable senators, I regret to announce the death of Jean-Marc Ouellet.

[English]

Mr. Ouellet joined the Senate some 10 years ago and was one of the Senate's three bus drivers who serve us all so well. Last Friday began as a usual workday for Jean-Marc. He arrived on site early, as was his practice, but before he was to begin his run, one which was always punctuated with warm smiles and good humour, he collapsed. Resuscitation attempts by members of the RCMP and our own security personnel were, unfortunately, unsuccessful. Jean-Marc Ouellet passed away at 7:10 a.m. on October 26. His funeral took place this morning at 11:30, with family, senators, friends and Senate colleagues in attendance. He will be missed by all.

[Translation]

I invite you to join with me in extending our most sincere condolences to his family.

[English]

Our thoughts and prayers go out especially to his wife, Joyce, who works with the Senate Maintenance Service; to his daughter, Lynn Ouellet, who works with the Senate Protective Service; and to his son, Michael, and all their families.

[Translation]

Hon. Marie-P. Poulin: Honourable senators, last week the Senate lost one of its devoted employees with the passing of Jean-Marc Ouellet. This morning, the diversity of those attending his funeral mass reflected the key values of the man: his respect for others, his generosity, his jovial nature, his community involvement. Above all, however, I shall remember him for his great affection for his family; his wife, Joyce, his daughter, Lynn, his son, Michael, and grandson, Maxime. All the senators faithfully turned over to Jean-Marc all those little pins we were given wherever we went in Canada or elsewhere in the world. In paying tribute to Jean-Marc Ouellet today, I am paying tribute to all the staff of the Senate of Canada.

Pursuant to rule 97(3), I move that the report be placed on the Orders of the Day for consideration at the next sitting of the Senate.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

[*Translation*]

CLERK OF THE SENATE

ANNUAL ACCOUNTS REFERRED TO COMMITTEE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I move, with leave of the Senate and notwithstanding rule 58(1)(f), that the Clerk's accounts be referred to the Standing Committee on Internal Economy, Budgets and Administration.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

• (1410)

ADJOURNMENT

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That, when the Senate adjourns today, it do stand adjourned until tomorrow, Wednesday, October 31, 2001, at 1:30 p.m.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

TRANSPORTATION APPEAL TRIBUNAL OF CANADA BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-34, to establish the Transportation Appeal Tribunal of Canada and to make consequential amendments to other Acts.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

[Senator Murray]

On motion of Senator Gill, bill placed on the Orders of the Day for second reading two days hence.

[*English*]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, before moving to Question Period, I wish to draw to the attention of honourable senators the presence in the north gallery of a group of people who are participating in the Senate Partnership Day. On behalf of all senators, I welcome you to the Senate of Canada.

QUESTION PERIOD

HEALTH

APPROVAL OF CIPRO AS ANTI-ANTHRAX MEDICATION

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, my question is to the Leader of the Government in the Senate. In light of the recent statements of the United States health authorities, including a warning stating that the safety and effectiveness of Cipro in pediatric patients, adolescents — that is, less than 18 years of age — pregnant women and lactating women have not been established as effective in counteracting anthrax, why did the Government of Canada take the decision to stockpile Cipro as the antidote of choice to treat anthrax in children?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the Government of Canada is not stockpiling Cipro to treat anthrax in children. It is stockpiling Cipro, or ciprofloxacin, which is its true name, as well as doxycycline, amixacillin, tetracycline and penicillin, which is the whole range of antibiotics, because it has been documented over a number of years that some antibiotics work in some circumstances for some patients and do not necessarily work for all patients.

For example, Senator Kinsella made a reference to a lactating woman, a woman who is nursing. In her particular case, Cipro would not be the drug recommended. One of the other drugs that has been stockpiled by Health Canada would be used for that particular case.

STOCKPILING OF ANTI-ANTHRAX MEDICATIONS

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Could the minister provide to the house the list of drugs that Health Canada is stockpiling to deal with this matter?

Hon. Sharon Carstairs (Leader of the Government): There are five drugs, and I could give that information to the honourable senator this afternoon.

The first drug is Cipro. The second drug is doxycycline. The third is amixacillin. The fourth is tetracycline and the fifth is penicillin. These have been identified as the best drugs, or antibiotics, that work the best over an entire range of individual cases.

Senator Kinsella: Could the minister also provide the house with the procurement process that is being used? Is this being done through a single-source method, as was apparently done with the ordering of Cipro, notwithstanding that the government broke the law and decided to go to one company that did not hold the patent?

Senator Carstairs: Honourable senators, these drugs are being purchased from the manufacturers of the variety of drugs. As the honourable senator is undoubtedly aware, some of these drugs are no longer covered by patent.

• (1420)

PURCHASE OF APOTEX ANTI-ANTHRAX DRUG

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, there are two large generic drug companies in Canada and numerous smaller ones with the sophistication to manufacture Cipro. Could the Honourable Leader of the Government in the Senate inform this house what criteria the Government of Canada used in its selection of Apotex to manufacture Cipro, knowing that in making that selection it was breaking the law on patents?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, as I indicated in response to an earlier question, it was well known that Apotex had the capacity to make Cipro; therefore, the government contacted them in respect of this need.

PRIVY COUNCIL OFFICE

EFFORTS TO INCREASE LEVEL OF SECURITY AND INTELLIGENCE

Hon. J. Michael Forrestall: Honourable senators, my question is for the Leader of the Government in the Senate. Last night, Mr. Richard Fadden, Deputy Clerk and Security and Intelligence Coordinator of the Privy Council, stated that if the current pace on security and intelligence matters continued until Christmas, the Canadian effort would be unsustainable.

What will the government do about sustaining the Privy Council's ability to coordinate security and intelligence matters past Christmas in what is looking like a long war on terrorism?

Hon. Sharon Carstairs (Leader of the Government): I thank the honourable senator for his question. I believe that Mr. Fadden was referring to the tremendous pressure on the staff of the Privy Council Office, not only in respect of the provision of security but also in respect of the legislative work made necessary by the events of September 11. I understand that they have been trying to put plans in place for post-Christmas.

Senator Forrestall: Honourable senators, Mr. Fadden also stated that the situation is worse on the front lines. My question for the Leader of the Government in the Senate is: What steps is the government taking to increase the number of CSIS agents and customs, immigration and RCMP officers available to the war on terror?

In respect of the first question, I had occasion to ask Mr. Fadden about the numbers of people who are seized with this question in the Privy Council. Mr. Fadden responded with numbers. However, he did not indicate the number of people available to prepare critical analyses for the government.

Could the government shed any light on whether there are plans to increase the number of analysts in the Privy Council Office?

Senator Carstairs: I thank the honourable senator for his question in respect of the number of staff persons available for critical analyses. I do not have that information. However, an additional \$280 million has been made available to provide extra resources for the departments that the honourable senator indicated, namely, CSIS, Customs, Immigration and the RCMP.

Senator Forrestall: I had hoped that the Leader of the Government in the Senate could respond to the obvious. Are special recruitment programs taking place outside of government, and particularly in the university field, to secure a greater number of analysts in an effort to keep pace with the flood of work?

Senator Carstairs: Honourable senators, an ongoing recruitment program within the military has resulted in significant increases. However, in respect of specific recruitment programs for other departments that have received additional funding, I do not have up-to-date information for the honourable senator. I will endeavour to obtain that for him.

Senator Forrestall: I thank the Leader of the Government in the Senate for that.

SECURITY AND INTELLIGENCE

POTENTIAL TERRORIST TARGETS

Hon. Terry Stratton: Honourable senators, my question is for the Leader of the Government in the Senate. Last night, Mr. Fadden also told the Standing Senate Committee on Defence and Security that Parliament Hill topped the Canadian list of potential targets. Would the honourable senator shed light on the threat to Parliament Hill and the threat to Canadian facilities in general?

I am particularly concerned in light of the American announcement that there is an additional threat of attack by terrorists on the United States. When we hear such announcements, naturally we think of the potential threats to Canada. We are not far from New York City and it would seem to be easy to drive something into the Peace Tower. Could the honourable senator shed some light on that issue?

Hon. Sharon Carstairs (Leader of the Government): I thank the honourable senator for his question because it is a serious one. The United States announced last night a top security alert because of a potential attack, possibly this week. The announcement has made it clear that we need to have all of our security on alert as well.

On September 11, there was a great deal of heightened fear that the Parliament buildings would be a potential target of attack. Fortunately, that did not transpire. All honourable senators are aware that security has been heightened on the Hill since that date, both with the inspection of cars belonging to senators, to members of the House of Commons and to other individuals who have passes. All other automobiles have been kept off the Hill. When taxis and trucks drive onto the Hill, they are given security checks in ways that have not happened before.

Honourable senators, precautions have been put in place on the Hill and they are necessary under the circumstances.

TERRORISTS IN NATIONAL CAPITAL REGION

Hon. Terry Stratton: Honourable senators, could the Honourable Leader of the Government in the Senate tell us if there are six individuals resident in Ottawa that may pose a threat to Parliament? If so, are they believed to be connected to al-Qaeda or another terrorist organization? It is my understanding that Mr. Fadden said to the Defence Committee last night that they are trying to obtain more information on those six individuals and the potential threat they pose to parliamentary security.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I have no knowledge of six individuals in Ottawa, or the surrounding area, that may pose a security threat. It is my understanding that the RCMP is being most vigorous in working closely with CSIS to determine which individuals across Canada might pose a security threat. Those who do pose such a security threat, provided circumstances justify, have been arrested.

TRANSPORT

AIR CANADA—POSSIBLE FINANCIAL AID PACKAGE— EFFECT ON COMPETITION

Hon. Donald H. Oliver: Honourable senators, my question is for the Leader of the Government in the Senate, and it relates to the federal government's negotiations for additional financial aid for Air Canada. Honourable senators will recall that, following last week's offer of \$75 million in loan guarantees for Canada 3000, media reports suggested that the federal government is now negotiating with Air Canada for a similar, proportional aid package.

Would the Leader of the Government in the Senate elaborate on the terms and conditions that Air Canada must meet before additional financial aid will be made available?

Hon. Sharon Carstairs (Leader of the Government): I thank the honourable senator for his question. Honourable senators, it is premature to say that there are negotiations at the present time between Air Canada and the Government of Canada. Canada 3000 came forward with a restructuring initiative. They indicated that, because of their commitments

[Senator Carstairs]

over the Christmas season, they were assured of a certain level of revenue. Canada 3000 indicated that their cash shortage was short-term and, therefore, a loan guarantee was made available to them.

• (1430)

In terms of Air Canada, the government has indicated that they would be willing to hear from Air Canada if the company was serious about its financial problems and was prepared to lay out a business plan, as Canada 3000 has done.

Senator Oliver: Honourable senators, in her answer to the first question, did the minister say with respect to an additional package for Air Canada that negotiations are ongoing now?

I have a supplementary question. Honourable senators would know that the President of Canada 3000 criticized Air Canada for trying to drive smaller competitors out of business with its own Tango cut-rate service, as reported in the *National Post* on October 27, 2001. Given the concerns expressed by Canada 3000 regarding Air Canada's low-cost Tango service and considering the prospect of additional financial aid for Air Canada, what is the government's response to the allegation that its air carrier aid policy is running at cross purposes in terms of achieving the objectives of preserving competition among our air carriers?

Senator Carstairs: Honourable senators, the honourable senator has answered his own question. He has spoken the magic word, namely, "competition." The government is concerned that competition continue to exist in the airlines in this country. That is why Mr. Collette has said that Air Canada is certainly welcome to apply for a similar financial package to that granted to Canada 3000. When I say "similar," I mean appropriate to the size of the airlines. To my knowledge, no specific negotiation is occurring at this moment between Air Canada and the Government of Canada.

FOREIGN AFFAIRS

AFGHANISTAN—REQUEST TO HALT BOMBING TO PROVIDE AID TO REFUGEES

Hon. Douglas Roche: Honourable senators, I have a question for the Leader of the Government in the Senate. Today, a hospital in Kabul suffered the effects of bombing, and the total number of civilians in Afghanistan killed as a result of bombing continues to grow. In fact, the bombing campaign and the breakdown of social order inside Afghanistan have thrown humanitarian delivery systems into turmoil. The United Nations now says that more than 1.5 million people are at risk of starvation this winter. Oxfam has called for a halt so that humanitarian aid can reach desperate people.

In the name of many Canadians who approached me over the weekend, I ask, once again: Will the government urge the coalition to halt the bombing in order to get the 16,000 metric tonnes of food needed per month into Afghanistan?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the question that Senator Roche asked is important not only for Canadians but also for the Afghani people. It is also important to both the Government of Canada and the Government of the United States. A very senior senator in the United States has raised concerns about the kind of bombing that is occurring. Apparently, they are flying at a level that is too high and they are not necessarily hitting the targets that they want to hit.

The humanitarian delivery system is, as the honourable senator said, in some chaos. Part of that is because Afghanistan is in some chaos. At the present time, it is difficult to even know where the Afghani people are. There have been reports that cities like Kabul are virtually deserted and people are moving primarily towards the borders of Pakistan, although I would assume that they are moving toward other borders, too. Pakistan is where most of the food aid is being provided at the present time.

Honourable senators, I do not think that the coalition will stop bombing at the present time, but I can assure the honourable senator that the humanitarian question and the need for aid is still very much on the table.

Senator Roche: Honourable senators, I thank the Leader of the Government in the Senate for her answer. I sense that she shares our concerns. We are not alone by any means. Many Canadians have a growing sense of concern. However, this is not a question of what we think the coalition will do. The question is: Will the Government of Canada go forward in urging the coalition to stop the bombing? The Canadian government has stated that, in our struggle against terrorism, we must be careful not to undercut the larger global struggle for the promotion and protection of human rights. How does the bombing of Afghanistan, which is bringing catastrophe to the people there, protect their human rights?

Senator Carstairs: Honourable senators, let me indicate to the honourable senator, as I have in the past, that the number of people in Afghanistan who may well suffer from starvation this winter is about 1.5 million. We do not know how many of those people will starve as a direct result of the bombing. Part of the tragedy of Afghanistan is that they are in the third year of a drought. There was no food there in the first place. Since the outbreak of hostilities how we can deliver that food has only become much more complex. That is why the Canadian government has given \$16 million in aid to this point in time. That amount was raised from \$1 million to \$6 million and now to \$16 million, and it still remains open. Quite frankly, however, I cannot tell honourable senators today that the Canadian government will urge the coalition to stop dropping the bombs.

AID FOR AFGHANI REFUGEES IN PAKISTAN AND IRAN

Hon. Marcel Prud'homme: Honourable senators, what assistance, if any, is the Canadian government, either by itself or with the world community, ready to offer to Pakistan and Iran, who must deal with millions of people who are already in

refugee camps inside their borders and for whom it seems we have not been too concerned until recently.

I visited the refugee camps in Pakistan. I did not see much support and offer of assistance by the world community. President Musharraf, who was then General Musharraf — and I met with him for four hours — must deal with this crisis alone. Yet there is not much we can do. Even if we were of the opinion that the United States should stop, I do not think they would listen. However, winter will stop them. People do not know what Afghanistan is like, but winter will stop a lot of the action that is going on at the moment. Winter is coming fast.

What action, if any, has the Government of Canada taken to show leadership in the name of humanity not only with regard to the millions of refugees who are about to try to enter into Iran and Pakistan but also the millions of people who have been forgotten for the last two or three years? This is not partisanship but a clear explanation of the facts that exist over there.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I thank the Honourable Senator Prud'homme for that question. I am sure that he knows that much of the \$16 million in aid that is going to Afghanistan is technically being used in Pakistan because that is where the refugees are primarily located. The refugees are either on the border or just across the border, and they are not being treated any differently, whether they are on the Pakistani side or on the Afghani side.

• (1440)

However, having said that, Canada provides approximately \$21 million per year in Pakistan towards poverty reduction. This aid is provided through a variety of programs working directly with organizations like the Aga Khan Foundation and the Aga Khan University, as well as the World Conservation Union and the Democratic Governance Program. Up to now our contribution has been approximately \$21 million, and poverty reduction is the focus of the programs.

Senator Prud'homme: Honourable senators, \$21 million for five million or six million refugees is a good effort, but I would kindly ask the Leader of the Government in the Senate to put to the government that the world is in extreme need of leadership. Canada still has — and I want the minister to take this very seriously — much goodwill in Pakistan and Iran. I just returned from Libya, and I can tell senators that when someone says they are from Canada, the tone and the atmosphere changes immediately. The \$21-million figure is not peanuts, but there is also the question of international leadership.

Does the Canadian government envisage taking any action at the United Nations to really tackle what will become an immensely frustrating situation? Canada should once again show extraordinary goodwill because the name “Canada” still means an open door. I do not know for how long, but Canada’s name is still synonymous with a display of immense leadership during times of great difficulty in the world, as described by Senator Roche.

Senator Carstairs: Honourable senators, I want Senator Prud'homme to understand that \$16 million is going to refugees and an additional \$21 million to poverty reduction programs. I will make sure that my cabinet colleagues are aware of his passionate comments this afternoon.

FINANCE

PROVISION OF FIVE-YEAR FISCAL FRAMEWORK IN UPCOMING BUDGET

Hon. W. David Angus: Honourable senators, the Minister of Finance has promised a full accounting to all Canadians in his December budget, including some advice on how revenues have been affected and on how we will be able to afford those important, but previously unanticipated, necessary military, security and other initiatives needed following the events of September 11. However, with the notable exception of the good taxation news in last October's fiscal and economic update, the minister has a sad history of only providing short-term fiscal forecasts. The events of September 11, combined with the economic slowdown that was already well underway at the time, plus rumoured threats of an impending energy crisis within two years, will have a profound effect on the government's revenues and on its spending priorities, not just for the balance of this fiscal year but for several years to come. Obviously, this will not be a good news budget.

Can the Leader of the Government in the Senate please assure honourable senators that the budget, scheduled to be delivered in early December, will provide the five-year fiscal framework needed to assure Canada's financial markets that the government in fact has in place a proper plan that is sustainable, not just in the short term but to the medium and long term as well?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I can certainly make the Minister of Finance aware of the honourable senator's desire for a five-year budget. However, if we learned anything from September 11, it should have been that long-term forecasts do not have a great deal of meaning.

We know that our own budgetary requirements have increased dramatically on issues like defence and security since September 11, the tragedy now referred to in many places — and I must say it took me a moment to figure out what it was — as 9/11. The reality of the budget that will come down in early December is that it will be an accurate forecast, as best the Minister of Finance can provide, bearing in mind that none of us know how long this war will last and none of us know the entire cost because of our inability to forecast at length.

Senator Angus: Honourable senators, even with the surplus shrinking and maybe even turning into a deficit by next year, we heard recently that the Minister of Industry and the Minister of Human Resources Development are asking for some \$6 million to spend on a host of extravagant new initiatives. In spite of falling revenues and the new security and military needs brought on by the events of September 11, or 9/11, does our government believe that it is still business as usual when it comes to these and other new spending projects? If the government is to undertake such major new multi-year spending schemes, does it not owe

Canadians an explanation of how it will pay for them, not only for this year and next but also for the full five-year cycle, as is the case in New Zealand, Australia and other Commonwealth countries?

Senator Carstairs: Honourable senators, one thing is clear: The Minister of Finance is the individual at the cabinet table who will present the budget. Yes, there are other ministers out there with their wish lists. Frankly, if I were in a situation where I had a line department to administer, I would probably be out there with my wish list, too. I am not in that situation, so I have no wish list, other than to ensure, of course, that the Senate is adequately resourced.

In terms of the final decisions, as honourable senators are well aware, those decisions will be made by the Minister of Finance and the Prime Minister of Canada.

[*Translation*]

DELAYED ANSWER TO ORAL QUESTION

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable Senators, I have the honour to table a response to a question raised in the Senate on October 16, 2001, by Senator Tkachuk regarding Afghanistan and, in particular, an official statement condemning treatment of women.

FOREIGN AFFAIRS

AFGHANISTAN—OFFICIAL STATEMENT CONDEMNING TREATMENT OF WOMEN

(*Response to question raised by Hon. David Tkachuk on October 16, 2001*)

The Government of Canada is profoundly concerned about the situation in Afghanistan. We unreservedly condemn the gross violations of human rights and fundamental freedoms, especially the systemic discrimination against women and girls in Afghanistan.

Canada has not had diplomatic relations with any Afghan regime since 1979; our direct influence on Afghanistan is therefore limited. Nevertheless, Canadian officials take any opportunity to remind Taliban authorities of their human rights and humanitarian obligations under international law.

Canada is committed to advancing gender equality and women's human rights through our international activities. Canada was instrumental in the creation of the mandate of the Special Rapporteur on violence against women of the United Nations (UN) Commission on Human Rights (CHR) in 1994. The Special Rapporteur was appointed to seek and receive information on violence against women, to recommend measures to eliminate violence against women and its causes, and to remedy its consequences. In September 1999, the Special Rapporteur visited Pakistan and Afghanistan to study the issue of violence against Afghan women and in her report issued a number of recommendations for the international community.

Canada has delivered annually official statements at the CHR and during Third Committee proceedings of the UN General Assembly in which we strongly criticize the Taliban for their treatment of women. Last year's statements are attached below for your information.

In addition to leading on the annual resolution at the CHR on the *Elimination of violence against women*, Canada also cosponsors resolutions which deal with the situation of women in Afghanistan, including at the UN Commission on the Status of Women, the UN General Assembly and the UN Security Council. For example, Canada supports UN Security Council Resolution 1267, which reiterates the Council's deep concern about the continuing violations of international humanitarian law and of human rights, particularly discrimination against women and girls. On November 14, 1999, Canada implemented sanctions against the Taliban consistent with Resolution 1267.

In April 2000, the UN Security Council, under the Canadian Presidency, issued a Presidential Statement whereby, amongst other things, the Council expressed its grave concern at the worsening human rights situation in Afghanistan, including the continuing discrimination against women and girls, and called upon the Taliban to end such practices and adhere to international norms and standards. The Council condemned the violations of the human rights of women and girls and noted its deep concern with respect to the continued restrictions on women's and girls' access to health care, education and employment outside the home as well as restrictions on their freedom of movement and freedom from intimidation, harassment and violence. While the Council welcomed recent reports of modest progress regarding the access of women and girls to certain services, it noted that these incremental improvements still fell far short of the minimum expectations of the international community.

Attached for your information are recent Canadian statements concerning human rights in Afghanistan:

1) Statement delivered in New York November 2, 2000 to the Third Committee of the United Nations General Assembly. and

2) Statement delivered in spring 2001 at the UN CHR.

(For text of statements, see appendix, p. 1543.)

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, as regards Government Orders on the Order Paper, we would like to move on to consideration of Bill C-11, now Item No. 1; Bill S-31, Item No. 3; Bill C-6, Item No. 4; and Bill C-14, Item No. 2, before

going back to Bill C-15A, Item No. 5 on the Order Paper. We will follow that order.

[English]

IMMIGRATION AND REFUGEE PROTECTION BILL

THIRD READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Cordy, seconded by the Honourable Senator LaPierre, for the third reading of Bill C-11, respecting immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or in danger.

Hon. Douglas Roche: Honourable senators, I start from the premise that Canada needs immigrants and has a duty to take in refugees. In the past decade, Canada has taken in 2.4 million immigrants and resettled more than 140,000 refugees from all continents. We have welcomed Kosovars fleeing the Balkans, Vietnamese boat people following reunification, and Hungarians after the 1956 uprising. In fact, our country operates the world's second-largest refugee settlement program — a concrete manifestation of international burden sharing.

Honourable senators, the laws concerning immigration are complex. We do not overhaul them often. The last time was in 1976. Bill C-11 attempts to ensure that Canada's immigration and refugee protection system is able to respond to new challenges and opportunities. This overhaul may not be done again for another 25 years. It is important to get it right.

• (1450)

The challenge inherent in Bill C-11 is to respond to refugee pressures and security concerns about terrorists without closing the door on persons in need of protection. There are more persons in need of protection in the world today than ever before.

Though we must ensure that Canada's borders are secure against those who constitute security threats and are potential terrorists, this bill is not proposed legislation to combat terrorism. However, because of the tragic events of September 11, the government suddenly decided to rush this bill through the Senate in the guise of anti-terrorist legislation. Even though Bill C-11 was passed by House of Commons months before the events of September 11, it is suddenly projected to be part of the government's response to the events of September 11. The government put its foot on the accelerator to get the bill through the Senate fast, thereby denying the Standing Senate Committee on Social Affairs, Science and Technology sufficient time to study the bill's many complexities.

Bill C-11 does not have it right. It cuts off the appeal process. Its statutory bars cast too wide a net. The rights of refugees are not clarified. Terrorism is not even defined. We had witnesses who excoriated the bill for its weaknesses.

Seeing the improvements needed in the bill, and recognizing the government did not want amendments that would have sent the bill back to the House of Commons, resulting in further delay, the committee unanimously made a wise choice and appended to its report a 13-page appendix called "Observations." Rather than splitting over amendments, the committee stayed together. Thus, the consensus of 12 members gives added weight to the observations. The many witnesses who came to the Senate committee to improve the bill should see their work reflected in the observations.

The committee wants these observations taken seriously by the Minister of Citizenship and Immigration. I have served notice that I will move in the committee that the minister respond in writing six months after Bill C-11 is proclaimed.

The observations state, first, that the fundamental problem in Canada's immigration and refugee program is not the lack of new legislation but, rather, the lack of resources. Many witnesses stated that two rounds of downsizing in the past decade, the same decade that saw immigration and refugees increase, reduced immigration staff by almost half, including front-line immigration officers.

The Immigration and Refugee Board now has a backlog of 34,000 refugee claims that have yet to be heard. The board has 186 decision makers at present and it needs at least 250. The current 103 refugee claims officers need to be augmented by another 50 or 60. It cannot be emphasized enough that what is needed in the present situation is more personnel, better enforcement, additional training programs and improved technology.

It was shocking to learn from the national president of the Customs Excise union that Customs officers in Victoria do not have a single computer and are operating out of a 35-year-old trailer with 30-year-old clipboards. Front line officers insist that they need more training.

Bill C-11 proposes to require that our immigration officers refer claims within 72 hours, a process that can currently take months. This presents an already understaffed and under funded system with an impossible situation. We must also deal with the reality that there are tens of thousands of claimants who have been ordered deported, but who continue to live within our borders. These are questions of resources, not legislation.

The observations also criticize the inadequate manner in which regulations, which we have yet to see, will be reviewed by the parliamentary process. Greater scrutiny of the regulations is essential, as these regulations will play an important role in implementing immigration and refugee laws fairly.

Many witnesses expressed concern at the absence in Bill C-11 of the explicit definition of a "terrorist," and the fear that an officer could make too subjective a determination of a suspected terrorist. Since Bill C-36 does define "terrorist activity," the same definition that emerges in the final form of Bill C-36 should be

inserted into the regulations for Bill C-11. It is only logical to apply consistency. Since the government has cited stopping terrorists at the borders as a principal reason to rush the bill, the absence of a definition of a terrorist is a significant flaw.

The claim that Bill C-11 is needed to stop terrorists from entering Canada is bogus. The current Immigration and Refugee Act already provides authorities with the power to arrest, detain and remove persons who constitute a security risk to Canada. Surprisingly, this power has never been used.

Since September 11, there have been calls for a perimeter around North America, with Canada and the U.S. integrating their rules governing immigration. I resist this strongly. As Canada's refugee record shows, ours is a more open country, and it should be kept that way. There should be cooperation and information sharing between our two countries, but let us maintain the entry laws to Canada that Canadians want.

Honourable senators, it is the effect of Bill C-11 on the processing of refugees that concerns me the most. Among those who spoke to this concern was Mary Jo Leddy of the Ontario Sanctuary Coalition, which was formed 10 years ago to protect innocent refugees who received notice that they would be deported to what the Geneva Convention describes as "arbitrary torture, detention or death." Church groups hid these refugees in church buildings until Canadian authorities could recognize their claims for protection. In the process, Ms Leddy learned much about the immigration and refugee system, and we should listen to her.

Ms Leddy told us that citizens and non-citizens are governed by two different sets of laws and regulations. A refugee may be picked up, detained and charged with being a terrorist, and may never see the evidence for such a charge before being deported. With the shadow of September 11 looming so large, it is essential not to so overreact in the pursuit of potential terrorists that innocent refugees are victimized. "Get more officers to do a thorough study," Ms Leddy tells us, and I agree. Ms Leddy further says:

Officers become mean and careless, just to survive. Files can sit for years, unread and unsolved. Someone's children are in those files while growing up as orphans in a refugee camp. Someone's desire to study is in those files while they are wasting away in a coffee shop. Someone's hope to start a business is in those files while wasting away in the line for welfare.

Honourable senators, it is wrong to clamp down on refugees because of a terrorist threat. Canada is not a haven for terrorists. It is, however, a haven for desperate refugees and we must keep it so. We must ensure that in our struggle against terrorism we do not undercut the larger global struggle for the promotion and protection of human rights and human dignity. We must ensure that applicants at the point of entry can fully access the refugee determination process.

I paid particular attention to the testimony of the United Nations High Commissioner for Refugees in Canada, Ms Judith Kumin. Ms Kumin listed the pros and cons of how the bill treats refugees. She told us that the bill affirms Canada's obligation to refugees. It establishes an appeal on the merits within the Immigration and Refugee Board. It has a pre-risk assessment and incorporates into Canadian law certain international obligations, all to the good. However, she also said that the statutory bars to a refugee hearing cast too wide a net, and she provided examples of innocent people who could be barred. Thus, the pre-removal risk assessment becomes all the more important. Ms Kumin also drew our attention to the administrative assistance refugee applicants are entitled to so that they can receive the convention rights to which they are entitled. I asked Ms Kumin how UNHCR weighs the pros and cons. She answered: "This is a bill that the UNHCR can certainly live with." That testimony helped me to make up my own mind about the bill.

However, such approval must not overshadow the need to better clarify the safe third country concept so that refugees would not be in danger of constant deportations until they were eventually returned to the country where they feared persecution.

• \$(1500)

In its observations, the committee suggested that Canada consider entering into formal agreements with other countries, especially the United States, to enhance the orderly processing of refugees.

Finally, in light of the many problems surrounding the immigration and refugee system, the committee recommended that the Senate do an in-depth study of all aspects of Canada's immigration and refugee system. Such a study should define the fundamental issues in order for Canada to remain a just and welcoming society and set the standard for a rapidly evolving world community. The history of the effectiveness of Senate studies on several issues commends this recommendation.

[Translation]

REPLACEMENT OF SEA KING HELICOPTERS

COMMITTEE OF THE WHOLE—APPEARANCE OF
OFFICIALS ON PROCUREMENT PROCESS

On the Order:

The Senate in Committee of the Whole to welcome senior officials from the Department of National Defence and the Department of Public Works and Government Services, for a briefing session on the marine helicopter procurement process.

The Senate was accordingly adjourned during pleasure and put into Committee of the Whole, the Honourable Rose-Marie Losier-Cool in the Chair.

The Chairman: Honourable senators, before we begin, allow me to draw your attention to rule 83 of the *Rules of the Senate*, which states that:

When the Senate is put into Committee of the Whole every Senator shall sit in the place assigned to that Senator. A Senator who desires to speak shall rise and address the Chair.

Is it the pleasure of the honourable senators to deviate from rule 83 of the *Rules of the Senate*?

Hon. Senators: Agreed.

Pursuant to order adopted by the Senate, Allan Williams and Jane Billings take a seat in the Senate.

The Chairman: On behalf of all senators, I welcome our two witnesses, Jane Billings, Assistant Deputy Minister, Supply Operations Service Branch, Public Works and Government Services Canada, and Allan Williams, Assistant Deputy Minister (Materiel), Department of National Defence.

Do the witnesses have a preliminary statement to make?

[English]

Ms Jane Billings, Assistant Deputy Minister, Supply Operations Service Branch, Public Works and Government Services Canada: Good afternoon, honourable senators. We are pleased to be here and we thank you for the opportunity to provide an update on the progress of the project to replace the current Sea King helicopters with a new maritime helicopter to take us into the 21st century.

Today, as indicated in the material with which we have provided you, we propose to cover the environment in which we are working and structuring this project, the background of the project, what we expect a maritime helicopter to do, some of the procurement objectives, elements of our strategy, who currently appears to be interested in pursuing this opportunity with the Government of Canada, where the project currently stands and what we propose to do next.

On environment, Canadian government procurement operates in a very complex environment. We must take into consideration all the subjects depicted on this slide.

• (1510)

First and foremost, it is essential that the helicopter that we procure over the course of this project does meet the operational requirements of the Department of National Defence. This is a mandatory requirement of the procurement, and a fundamental part of the procurement strategy and of the evaluation of the proposals.

We are conducting at the moment an extensive consultation with industry to ensure that the technical requirements are well understood by industry and that the procurement concepts that we are dealing with, some of which are very new and innovative, are within the capability of industry to address.

Also, industrial benefits play a key part in how we are putting together the procurement strategy, so that all regions of Canada and small business can benefit from this strategy. Indeed, you will see as we move along that we have to do this in the context of our trade agreements, which are complex and very demanding, in order to ensure that there is a competitive opportunity for companies to bid. Compliance to these trade agreements is a paramount objective as well.

I will give some background on the next two areas. As you all know, the current Sea King fleet is 38 years old and is reaching the end of its operational life. The new shipborne project was started by the Canadian government back in 1986 with a competitive process. At that point, we went out to industry. We invited 10 companies to bid and we received two proposals, only one of which was compliant. We went into a contract with a new company, EH Industries. EH Industries in turn had a major subcontract with Paramax Industries, which is now reformed and is largely Lockheed Martin at this point.

In the late 1980s and early 1990s, the Department of National Defence undertook a review of its Labrador helicopters as well, and at that point decided that the EH Industries product was best suited to meet their needs. We went into a new contract arrangement with EHI, adding on the additional helicopters to suit the search and rescue mandate as well as the shipborne aircraft.

At that point as well, the government decided that, rather than have EH Industries carry the whole contract, it would, in order to manage risk at that point, have two separate contracts, with EHI delivering the helicopters to the government as prime and the government then entering into a separate contract with Paramax to integrate the mission systems and to complete the helicopters.

We had separate contracts, at \$1.4 billion each, with each company, and it was those contracts that were terminated in 1993, with termination costs of \$478 million.

We then commenced a new process to acquire the search and rescue helicopters. In 1998, EH Industries won the contract to provide the Cormorant helicopters to satisfy the SAR requirement. The Cormorant is a variant of the EH-101 and is also a candidate for the Maritime Helicopter Project, which we are now out to acquire.

I will turn it over to my colleague Allan Williams to take you through Department of National Defence's requirements in the next part of the presentation.

Mr. Allan Williams, Assistant Deputy Minister, Department of National Defence: I echo my colleague's words that it is a pleasure to be here today to share some of our thoughts with you and to increase understanding about this very important program for the Department of National Defence.

I turn now to the rules, which are consistent with the 1994 White Paper and defence planning guidance. I would draw your attention to the subsurface surveillance section. The shallow

[Ms Billings]

water surveillance is in fact a significant change from the acquisition that was undertaken back in the early 1990s. Working in shallow waters, of course, presents its own unique threats and this helicopter therefore has to be capable of combating those threats. That is why you will see things such as machine guns and life rafts on this helicopter that you would not have seen on the previous one.

Turning now to the operational requirements, the government has authorized us to acquire 28 maritime helicopters. These helicopters are designed to meet a number of needs. First, 15 are designed to meet the white paper operational context. As you know, we, in fact, have a commitment to support the Standing Naval Force Atlantic, part of the NATO operations. That takes care of one of the 15. Seven helicopters are assigned to each of two task forces, one that operates on each coast. As you are probably aware, each task force consists of up to four combatants. By that I mean frigates, destroyers or submarines, with required helicopter support.

Our helicopter support has been deemed to be necessary to provide two helicopters 24 hours a day, seven days a week. In order to accommodate that requirement, we need seven helicopters to support each of the two task groups. Seven times two is 14, plus one is 15. Three more are needed to support our aircrew training, and five to accommodate maintenance. There are two types of maintenance. One is what I would call the depot level inspection, which is a fairly significant overhaul every five years or so, and periodic inspection every 600 or 700 hours. Finally, we have one for ongoing test and evaluation, and four in case there is attrition over the next 25 years.

In terms of the helicopter requirements, again, these are specified under the statement of operational requirements and are derived largely from very detailed and rigorous operational research studies. Ms Billings and I have tried in this procurement to work at high-level performance standards for industry. These articulate some of the high-level requirements we have asked industry to try to meet. In terms of endurance, we have asked them to ensure there is a minimum two-hour-and-50-minute capability, with a 30-minute reserve, and that should allow for 60 minutes of hovering time. This should take place at a temperature of 15 degrees Celsius.

We also have specified payload requirements: a crew of four, a pilot, a second pilot, a techno-coordinator and a sensor operator. I would just emphasize, in terms of the payload requirements, we have asked industry to allow for what I call role-fitting. There may be occasions when we are undertaking specific kinds of missions. We know about them, and we will permit industry to make allowances for that. For example, if we knew we were going on a fisheries patrol, it would be quite appropriate to take out some of the particular equipment and to allow room for a boarding party of six. We have asked industry, though, to ensure that in such events they have certain time limitations that they must try to meet. To reconfigure, to transport, configuration must be done within an hour. To move back into a more complex mission system because of the need to reconfigure all the sensors, we have asked for a time limit of three hours.

Finally, there are a number of issues dealing with integrating and interfacing the helicopters on the ships. I have indicated some of them here. The costs for doing that will be borne by the private sector bidders.

The second part of this major acquisition deals with the system. Here, I have indicated 12 major areas for the systems. In essence, these systems will allow us to conduct the operations as required, communicate with the task force group, as well as with our allies, detect threats to the task force as a whole, combat sub and subsurface threats, and protect our crew from threats as well.

In terms of the acquisition framework, I would start by saying that, if anyone did not really understand the significance of what we have been calling the revolution in military affairs, after September 11 they sure do. There is no question that we are coping with the new reality today. The notion of asymmetric threats, the notion of coalition warfare, the need to be deployed quickly and efficiently, the rapid change in technology are all part of today's world. Therefore, within the material world of National Defence, we have to be able to cope with this environment in what I would call a commensurate revolution in business affairs.

The Department of National Defence has developed a framework called "getting it right," which is our answer to the revolution in business affairs. I outlined this program to the Standing House of Commons Committee on Defence and Veterans Affairs on March 21 of last year. I think it is very relevant because we are now putting in place a lot of those best practices in this procurement.

"Getting it right" stands for getting the right goods at the right time to the right place, with the right support, for the right price, within the right rules, and with the right kind of expertly trained people.

• (1520)

There are three main dimensions. The first is a focus on industry and active communication. Ms Billings and I and our project team have spent months discussing this initiative with industry. We do it for two very significant reasons. First, we want to make sure that industry is not improperly interpreting things that we say. Second, we want to know whether we are saying things that do not seem to be doable or understandable by industry.

The key baseline for me, throughout all the discussions, is not to change one comma or one letter in the statement of requirements. That is sacrosanct. The statement of requirements was prepared by the military for the military. It is the military's articulation of what it needs to meet its needs and what it needs to do the job, at the same time making sure that the men and

women who serve in the forces have a safe environment in which to work.

We have had extensive consultations. There have been well over 1,000 suggestions and recommendations back and forth. We are looking at all of those now to ensure that we remain true to the statement of requirements and that we understand what industry can and cannot produce.

In terms of consultation, we wanted to ensure that in moving from the statement of requirements to the more detailed specifications we did not inadvertently raise or lower the barometer. To that extent, a U.S. company called MITRE Corporation, which is a federally funded R&D centre, has provided us with assistance and analysis. It operates at arm's length and does not compete with the private sector. On August 8 of this year, it provided us with a report confirming that we had remained true to the statement of requirements and had not inadvertently tampered with what was indicated in there.

In terms of best practices, cost containment is obviously crucial to the department. We want to make sure that we use the taxpayers' money in the most efficient way possible. To that end, we are doing two things.

First, we are using cost as an independent variable, or CAIV. By that I mean that rather than asking industry how much it would cost to do this, we have told industry that this is the most we can spend. We want them to tell us whether they can deliver what we want within this price range. In other words, we have said, "We cannot spend any more than this. We can spend less than this, if you are smart enough to deliver what we want for a lesser price, but we will not spend more." I think that is just good business.

Second, we adopted a lowest-cost compliance approach, which again was a positive development. We have said to industry that we know what we want. We know what we need in all aspects of the health, safety and operational requirement. These are the things we want to see. These are the things we want them to deliver. If they can be compliant with what we need, we will take the lowest price bid. In other words, we will not spend money on things we do not need.

The third aspect of cost containment is referred to as "total package procurement." Again, for the first time, Ms Billings and I are bundling the initial acquisition with a 20-year support contract. Rather than find ourselves in a position where we buy something that looks like a good deal only to find out that the incremental long-term support costs escalate dramatically, we are saying, no, not this time. We want to know the full cost for 20 years. We are bundling the two together, and the company that comes forward with the overall life cycle cost minimization is the one we will select.

Finally, with respect to best practices, we have introduced the notion of pre-qualification. We said to industry that we want to make sure there are no surprises when the request for proposal comes forward. We want to ensure that companies are not ruled non-compliant over some small matter. Therefore, we will have a pre-qualification phase. We will work together. They will tell us what they want to submit, and we will let them know whether it meets our technical specifications. If it does, they will get an assurance from us that should they submit that same proposal, post-RFP, it will be accepted. The key condition will then be whether they are lowest cost and whether they meet Ms Billings' other terms and conditions, in addition to meeting the other certification requirements. Pre-qualification puts to rest the risk that for some small matter, someone makes a mistake and does not submit a compliant technical bid when in fact compliance is at his or her fingertips.

Finally, in terms of contracting, our focus is on high-performance specifications, to let industry know what we want so that industry can use its innovation and creativity to give it to us in the best possible way.

There has been much discussion about costs. There is no doubt in my mind that the government will be saving between \$1 billion and \$1.5 billion undertaking this acquisition, combined with the one for the search and rescue helicopters of a few years ago, relative to what we have done in 1993.

I would like to say that Ms Billings and I are brilliant and it is because of us that we are saving this money, but that is not the case. Hopefully, we are smart, but that is not why we are saving all this money. There are two key drivers here.

In the 1990s, in the acquisition to which Ms Billings referred, we focused on developmental products. The cost for industry to develop the systems was borne by the Canadian taxpayer. That is an expensive way and high-risk way of doing business. Today, we have many competitors who feel that they can supply us with what we need.

The second major driver is the degree of competition. As I just said, we have many bidders for frames. We have many bidders for the systems. The combination of the degree of competition and the fact that we are talking about off-the-shelf military or commercial products accounts for the major savings.

Let me make it clear that we are talking about delivering exactly the same capability for between \$1 billion and \$1.5 billion. There is a lot of difference in the numbers and in the substance of what we are buying, but that does not change the bottom line: The taxpayers will be saving a lot of money. The Department of National Defence can use that money for other equally important acquisitions.

Ms Billings: We have covered some of the procurement objectives that have brought a high level of success, specifically for this project. When we go into each major project, we look at

[Mr. Williams]

what it is we are trying to achieve in structuring the procurement. Obviously, we want to acquire the equipment DND needs at the best possible price, with the acceptable terms and conditions. In a project of this size, we want to obtain industrial and regional benefits to allow all Canadian companies in all areas of Canada to benefit. We want to spread some of the growth potential throughout the country. We want to support small and medium-sized business as well as Aboriginal interests in the procurement aspects so that there is an evening benefit. In each case, we look at those specific goals to ensure that they are achievable. There is no point in structuring an regional industrial benefits package that bidders cannot bid against. We want to achieve those goals without making them a barrier to bidding.

A key mandate of my department is to ensure that the process is fair and open and that we encourage a competitive environment. In this context, the Canadian government handles its procurements in matters separate and unique from any other of our trading partners or military partners. This approach stems from the beginning of World War II when we established the War Supply Board to ensure that we could run a fair and objective procurement process and meet the requirements of departments. Ever since then, we have maintained a separate department to carry out these procurement processes in partnership with the acquiring department. That system has worked well for Canada. On our major projects, especially for the military, we have a better track record for on-time, on-budget delivery than most of our trading partners.

• (1530)

We certainly need to comply with legislative and government contracting policies. They are essential and the law of the land. We must be aware of them and respect them as we move forward.

In this particular project, we also have the desire to have the first mission-ready maritime helicopter as soon as possible, which is no easy feat.

Senator Forrestall: There is that word "soon" again.

Ms Billings: With respect to the procurement policies, as we structure procurement activity within the Canadian government, we must keep in mind three trade agreements. The first is the World Trade Organization agreement, which was the successor to the General Agreement on Tariffs and Trade, or GATT. The second is the North American Free Trade Agreement. The third is the Agreement on Internal Trade.

Defence as an entity is excluded from both the World Trade Organization agreement and the North American Free Trade Agreement for this type of purchase. However, in the Agreement on Internal Trade, there is a requirement that DND respect the provisions of that trade agreement on the basis that it is an internal trade agreement and that we want to ensure that we meet its objectives of encouraging competition among Canadian suppliers and across Canada.

I should like to take a moment to discuss briefly one of the aspects of the trade agreements that has been raised at various points in the discussion on this particular procurement, and that is, whether or not the fact that we have already purchased 15 search and rescue helicopter is sufficient grounds to allow us to go sole source with the maritime helicopter on the basis that we would have a common fleet or commonality.

It is important to realize that, even though the Agreement On Internal Trade specifies some areas in which we can sole source and allows compatibility in certain areas under Article 506, it expressly does not allow for us to buy more of a major system just because we have one. Believe me, we have tried to do that from time to time. The recourse mechanism for suppliers who feel they have been hard done by is the Canadian International Trade Tribunal. In every case, it has told us that we cannot use commonality to support buying more of a major system. We can use it to buy spare parts on a sole-source basis and to ensure that we have maintenance of inventory, but we cannot use it to justify going out for a sole source, even to expand the fleet of search and rescue helicopters or to buy the same types of helicopters. It has been an area of some discussion.

The bottom line on this issue is that under our trade agreements we have an obligation to compete this requirement and go forward. If there are elements of commonality and cost savings, then through the bidding process the bidders will have an opportunity to take advantage of possible cost savings by spreading their activities across Canada's overall asset base.

As well as the trade agreements, we also have the Treasury Board policy on contracting and the government contract regulations that apply to maritime helicopter procurement. In essence, all of these have very similar provisions with respect to the requirement to compete and the requirement to maintain a fair and equitable process for Canadian companies with a recourse mechanism if they feel aggrieved.

Turning to the procurement strategy itself, Mr. Williams has mentioned in discussing some of the best practices with me in the getting-it-right environment some of what we are doing with respect to the procurement strategy. The slide on page 15 recaps the key elements that comprise our current helicopter strategy. We will compete, and I explained why we were competing it. We are looking for off-the-shelf helicopter mission systems. This means that we are not paying for developmental costs at all. We are looking for the lowest price compliant evaluation methodology. We are looking for IRB targets that are equivalent to the size of the purchase and which emphasize the high growth areas, as well as small business. We are looking for certification at the time of contract award. This, in fact, is a proxy for ensuring that, indeed, we are buying off the shelf, and it is a risk mitigation matter. We do not want to get to the end of the contract delivery time and find that we have a helicopter that cannot meet the certification requirements.

Mr. Williams talked about the prequalification process, which is another one of our risk mitigation approaches. It ensures that we are getting what we need when we reach the end of the bid process and that companies have an opportunity to ensure that they do not make little mistakes along the way that would knock

them out. In this type of approach, if the helicopter manufacturer's mission systems providers do not meet the mandates, they are automatically out of the competition, which would mean we could move to a very small field very quickly. Therefore, this pre-qualification process is highly innovative. Thus far, we are pleased with how it is going. We are having a lot of one-to-one dialogue with the companies with a lot of exchanges of information and I think a growing of knowledge as we move forward.

A key element in our risk mitigation and on the procurement strategy is that we are running the in-service support contract requirement with the overall purchase. In fact, we are running two separate competitive processes. We will end up at the end of the day with four contracts. There will be one contract for the helicopter and one for its 20-year in-service support. It same applies to the mission systems contract and to the mission systems in-service support. However, we will be evaluating the vehicle and the in-service support along with the necessary ship alterations as one package for the lowest price compliant, along with acceptable terms and conditions and acceptable regional benefits for the country. The same applies to the mission systems.

Turning to the next page, we have spent some time on the procurement strategy, which is consistent with contracting policies regarding best value. The Treasury Board contracting policy requires us to ensure that we have the best value.

Traditionally, in Canada, as well as in many other countries, lowest price was the norm. It was how you evaluated all of your bids, if you went competitively. In Canada, we have stretched that to say that we are looking for the best value or, if appropriate, the optimal balance of results for the Crown and the Canadian people that allows us to take into account in complex procurements the combination of price, technical merit and quality as determined by the contracting authority prior to the bid solicitation. We have publicly informed the bidders exactly how we will make our evaluation so that they know what to expect. We then evaluate according to this process. If we do not, then they have forums of recourse to ensure that they are treated fairly.

The pre-qualification process in this case allows us to go with a lowest price compliant methodology. The prequalification period allows us to check with the companies to see what it is they are offering to us against our specifications to ensure that it will do what we are looking for and have the functionality we are looking for. It then becomes a matter of price. Combined together, we are confident this gives a best-value approach for the Government of Canada.

The following page expands on that. It is more focused on the fact that, because we have built in in-service support as part of the pricing evaluation, we will ensure that the helicopter and mission systems manufacturers will not come forward with the bottom of the barrel or shoddy goods, because they know their price has to take care of it over the lifetime of the helicopter. We are pushing this together so that the bidders will have to make the tradeoff in the balance between quality and short-term price. Again, it is another risk mitigation strategy that we have been following.

We have structured our procurement strategy to try to meet all these sometimes conflicting requirements in which we operate of meeting the trade agreement requirements, the government regulations, DND's needs, ensuring that there is benefit for Canadians across the country and that we are being fair, open and competitive.

With that, I will turn it back to Mr. Williams to speak about what we are now seeing as the bidders come forward.

Mr. Williams: Thus far, four companies have come forward for elaborate discussions. EH Industries is a division of Agusta/Westland, which is 50-50 owned by Finmeccanica of Italy and GKN of the U.K.

- (1540)

Eurocopter, created in 1992 from the merger of Aerospatiale-Matra in France and Daimler Chrysler in Germany, is now 100 per cent owned by EADS, which is the European Aeronautic Defence and Space Company. Sikorsky is a subsidiary of the United Technologies Corporation of the U.S., and NH Industries', which is responsible for the program management and marketing for the NH90 helicopter, main partners are from France, Italy, Germany and Portugal.

The next few slides give you pictures of those particular helicopters. The companies submitted them; therefore, they are as true as they can be to the current product.

On slide 24, I will mention the potential bidders for the mission systems. You will see that there are 11 companies that have currently indicated interest. Four of these mirror the actual bidders themselves on the frame. The others are probably well known to everyone here.

I would observe that during the last few months Boeing has indicated that they will be working extensively with EH Industries, and CDC has similarly indicated that they will be working with Sikorsky.

Ms Billings: I will provide information on where we are in the project. The government announced on August 17, 2000, that we were going forward with the Maritime Helicopter Project. We issued a letter of interest to industry on August 22, 2000, the following week, and the responses came from industry on the October 9, 2000. Mr. Williams has gone over those companies that have indeed responded and are actively playing with us. We had a far greater response than we had expected in the mission systems side. Therefore, it took us some time to digest what we had and to assess it against what we were proposing.

On the letter of interest, we were proposing to let industry know *grosso modo* what we were buying, how we were proceeding and what the process would be. We asked them to come back to us with comments as to price cap, timing and the procurement process, as well as to indicate who they were, where they were from, and their willingness to engage and to be seen as

[Ms Billings]

a prime candidate. We have done this in a very innovative fashion.

We put it all up on the Web. We have a pointer from the electronic bidding system, MERX, which goes from that Web site over to the ADM Mat site where there is an entire site on the Maritime Helicopter Project. All these documents are on that site. We have now put up the response by the government to the letter of interest. We put that out on May 16, 2000. We indicated those companies that had responded and those that we viewed as being able to meet our specifications.

There was one helicopter-based vehicle manufacturer that, in fact, did not meet the capability requirements for which we were looking, and there was one company that offered two helicopters, one of which did not meet the basic capabilities for which we were looking. We indicated that we would be dealing as prime contact with those companies and that other interested companies that might want to be part of the Maritime Helicopter Project should make their own arrangements to deal with those companies. We were very pleased with the response and the interaction we had with the letter of interest.

The letter of interest did confirm that we were going ahead as we had planned. Although we had many comments on many different aspects of the procurement structuring on the two competitions, the certification date and other things, on balance, the government viewed its procurement approach as robust and able to carry the weight of the requirements.

Shortly after the LOI response was posted on the Website, we moved out with what we call the draft of the "Basic Vehicle Requirement Specifications," and started engagement with the companies on these. There has been intense bilateral activity all summer with Sikorsky, EHI, NHI and Eurocopter with respect to how they see themselves against these basic vehicle requirements. We have had a lot of comments, and we are still in the process of assessing those and in dialogue with the companies. In some cases, as was mentioned, we have rolled back.

I should mention that our basic template has always been a military statement of operational requirements. It was noted that it could not be altered, regardless of whether a company would have liked for us to drop something that would give them an advantage. It was immutable. We did find while translating the statement of requirements into the BVRS that we did, in fact, have some movement. In those cases we assessed whether we should adjust the BVRS. In some cases, companies know that we are adjusting, and in other cases, they do not, and they will not know until we go out with the next draft of the BVRS, which we expect to be moving out early this November, very shortly.

Following that, we expect to go out with the draft pre-qualification letter, which will lay out the pre-qualification process because we would like companies to have a chance to get back to us on whether they think that process is workable and to ensure that they understand exactly how it operates.

On several pages, we are laying out the next steps. We are working on the statement of work and the terms and conditions documents that will be part of the formal request for proposals, which will go out next year. As we finalize those in draft, we will put them on the Web site and ask for comments. We will be rolling out components of the RFP in draft stages for comment and input. We are looking to start releasing these documents later this month or early November.

We will continue the interaction with industry until the release of the final RFP. This is a highly unusual approach for us. Generally, we lock down quite tightly. Normally, when we are in a draft stage, we have a very formal process for communication with industry where everyone knows what everyone else has said and what we have responded back to them. We are encouraging more of an open dialogue as we go forward on this one.

The pre-qualification process will continue until about a month before we expect the bids to be submitted. We expect the final RFP for the procurement to be released early in 2001 with a contract awarded late in the year, about eight months later.

I hope that this presentation on how we are proceeding will have given you a good introduction into the procurement strategy, DND's requirements, the process that we are following and where we are in that process at this time.

Senator Lynch-Staunton: Thank you, witnesses, for your presentation. It is complete and most informative, although highly complex. I hope that we understood most of it. The jargon is sometimes slightly different than that to which we are accustomed.

I must say, with no reflection on our two witnesses, how disappointed that some of us are that the government has not accepted that this Committee of the Whole go into the subject matter in a more full and complete way than it is allowed to do now. It is very well to hear two qualified officials from two departments entertain us on the background to the process, but it also would have been equally informative to hear from witnesses who have some problems with that process and who may find flaws in it. I do not know whether we here are equipped to find such flaws, assuming there are flaws. Even our witness would have to agree that it is not a perfect bidding process.

That being said, I hope that after today the government will reconsider its veto of further witnesses and be more flexible in the work of this committee, if it is to continue, in order to allow an overall appreciation of a highly complex and, I must say, controversial bidding process, one which has led to certain accusations from potential bidders regarding their possible exclusion and one which has led to accusations of political interference and other insinuations that none of us like to hear. As well, I think all of us would like to have those matters clarified. I am not too sure whether our witnesses today could help us in that regard.

We are here because of a decision taken by the government in November, 1993, to cancel a contract awarded one year prior, as was mentioned at the beginning of the presentation.

• (1550)

I address my question to both witnesses. I do not know which one of you is more qualified to answer. Both of you may want to have some input, and that would be fine.

Was there any consultation by the government of the time with either the Department of National Defence or the Department of Public Works, or both, before the cancellation of the contract was announced?

Mr. Williams: I joined the Department of Public Works after that decision had been made.

Ms Billings: I replaced Mr. Williams in his position, so neither of us were in our current responsibilities.

Senator Stratton: These are credible witnesses.

Senator Lynch-Staunton: This is the problem we will have. To understand the situation we are in now, it is best to have an appreciation of the situation that brought us to today. Can you tell us if the decision to buy the EH-101 was considered by both departments to be the right decision?

Mr. Williams: To repeat, I was not privy to the decisions made to buy or to undo the contract at the time.

Senator Lynch-Staunton: Surely, when you got into this new bidding process, you must have consulted others. You refer to that period in your presentation, so you must have gone back into the files and read some of the assessments and recommendations. Did that period not influence what we are doing today, or has that information been completely neglected?

Ms Billings: When the procurements were structured and the processes were run in the late 1980s, the process followed was one that delivered what the government and the officials at the time deemed best for the purposes at that point. For what we are running at this point and for each major procurement, we start afresh. We certainly look at processes that have been run before, what has worked and what has not worked. Our objective in this one is to run a fair process that will acquire a helicopter that meets DND's requirements as currently articulated.

Mr. Williams: I would add that the world is dramatically different post-1994. In 1994, 1995 and 1996, we had the development of the international trade agreements and the IT to which Ms Billings referred. That puts a considerable legal framework around how we do our business today. That legal framework has been applied to both the acquisition of the search and rescue helicopters and to the acquisition of the MHP.

Senator Lynch-Staunton: We should not get sidetracked by legal arguments. We are trying to find out if this bidding process will lead to acquiring the best helicopter possible for the objectives that we want it to attain.

I question the decision to cancel based on a number of experts who commented on this at the time and who were delighted with the government's decision. One such expert was Rear Admiral Richard Waller. I do not know whether he is still active. At the time, he was Commander, Maritime Forces, Pacific. He is the sort of person I would like to have as a witness here. He is a practical helicopter man who could give us views beyond the views of those who are responsible for the bidding process. He had practical experience with helicopters. At that time, in talking about the EH-101, he said that the forces chose that helicopter because it was the only one in the world out of the development stage that would meet all our requirements.

Was that conclusion, made by him and others, an accurate one?

Mr. Williams: Certainly, the search and rescue helicopter, without question, met our operational requirements. As we have said, the forces have outlined clearly and absolutely in their statement of requirements what they expect to be delivered to them from this procurement. We have said it over and over again: We have not modified one comma, one letter, from that statement of requirements. We will deliver to them, without any question, a product that meets their operational needs.

Senator Lynch-Staunton: Is the military statement of requirements at present the same as it was in the lead-up to the EH-101 contract?

Mr. Williams: Thankfully, no. The requirements of today are dramatically different from the requirements in the early 1990s. The forces did what I hoped they would have done: They started with a clean piece of paper, analyzed the world as it affects us today, and tried to develop specifications to meet the needs of today. I commented briefly on the revolution in military affairs. That is with us today. The need to fight and do battle in litoral waters is a huge difference from before. This particular product was developed with today's needs in mind, not based on requirements that are 10 or 15 years old.

Senator Lynch-Staunton: Can you elaborate on that? What is the difference between your definition of "war" today and what it might have been 15 years ago?

Mr. Williams: The environment in which we are operating today, as is evidenced by the current battle, very often requires our task forces —

Senator Lynch-Staunton: Sorry, what current battle are you speaking of?

Mr. Williams: Our forces are now leaving to go to the Persian Gulf.

Senator Lynch-Staunton: What does that have to do with the bidding process?

Mr. Williams: Your question was about how today's environment is different.

[Senator Lynch-Staunton]

Senator Lynch-Staunton: No, my question is how your definition of "war" today differs from the definition 15 years ago.

Mr. Williams: Today, we are trying to equip our soldiers with equipment that allows them to do battle, potentially, in a litoral water environment near seashores, as opposed to in blue waters in the middle of the ocean. That kind of environment requires or necessitates different kinds of threats to our men and women. When you are closer to shore, you have the potential for machine gun attack. Different kinds of missiles can come at you from the shore. We want to equip our new helicopters with sensor systems that can protect our people in today's potential environment. That is what we are trying to do.

Senator Lynch-Staunton: You are saying that cancelling the previous helicopter was a good decision because it was not designed for today's definition of "war" by your explanation. Should we not then conclude that the definition of "war" 15 years from now may be different from the one you have been given today and, therefore, we will have another obsolete piece of equipment on hand?

Mr. Williams: Sir, I am not making any comment at all on the decision to cancel.

Senator Lynch-Staunton: You already said it was a good thing.

Mr. Williams: I did not say the previous decision was good or not good. I simply pointed out, in response to your question, that the environment in which this statement of requirements was prepared is today's world. We have done a strategic look-forward to prepare our mission systems for the future. By building in the long-term contract, we are hoping to get upgrades to the systems as necessary in order to take advantage of changes in technology to meet future needs as well, but there is no guarantee. Certainly, we are better equipped with today's mission systems to meet the needs of today than we otherwise would have been.

Senator Lynch-Staunton: That, to me, is a very incomplete and vague answer. These helicopters were designed at the time to go on frigates; is that not correct? Our frigates out there now have Sea Kings that are not quite obsolete but which are not as reliable as they should be. Some call them obsolete; some call them dangerous. They require 30 to 40 hours of maintenance before they can have one hour of flying time, which, by the way, you have not factored into your costs.

Mr. Williams: In fact, I have. I will come to that in a moment. First, while the helicopters that we are currently employing may not be as effective as a sensor system, let there be no doubt that we would not send them to be used by our men and women if they were not safe. We are spending a lot of money on the Sea Kings; that is absolutely true, but in terms of reliability and safety, they certainly have that.

The cost of maintaining our Sea Kings today — in the order of \$100 million — is not that dissimilar from the cost we expect to spend on the new helicopters which will be newer and more sophisticated. The effect will balance out.

• (1600)

Senator Rompkey: Inherent in both the presentation and the questioning is a comparison of then and now — “then” being the Cold War period and “now” being the present environment in which we live. It is worth putting on the record that the role of the Canadian navy then and the role of the Canadian navy now is quite different.

The Canadian navy from the Second World War on was an anti-submarine navy. The platforms were designed with that objective and that mission in mind. That was the mission of the Canadian navy. If we have learned anything post-1994, certainly post-September 11, it is that the submarine is not the biggest threat that we face. Clearly, a platform designed in the 1980s is not the kind of platform that would be needed in the 1990s and beyond. It is worthwhile to underline that point because it is fundamental to our discussion. Perhaps our witnesses could comment further on that.

It is clear that some redesigning of the specifications had to be done and is being done now. How is the process implemented from this point?

There has been much discussion about how the contracts will be awarded. There are some who say that one contract would be preferable, and there are those who say that two contracts would be preferable. Indeed, there is precedent for two contracts. As the witnesses said in their presentation, the original contract was to have been split between EH and Paramax, with Paramax acting as the systems integrator. Clearly, there is a precedent for splitting the contract; indeed, there have been other such instances.

I want to provide the witnesses with an opportunity to speak to that issue and to clarify the contract issue because it has been a subject of much discussion. How is the contract to be awarded and what are the merits and demerits of splitting the contract? In that context, it would be worthwhile for us to know how that process benefits Canadian industries because industrial benefits across the country are important to all of us.

Canada has produced many excellent high-tech firms, some of which are based in this area. Some of them are becoming very important throughout the world. In the contract process, how does that benefit Canadian firms, both here and elsewhere in Canada, that may want to bid?

Ms Billings: When we were developing the procurement process, we looked at all the variants and all of the pros and cons of how we might structure the process. There were advantages and disadvantages to every procurement process that we analyzed. In terms of the two-contract approach, though, we were looking at the fact that there were no domestic helicopter manufacturers for maritime helicopters. In many cases, “teaming arrangements” were established with partners that were not necessarily Canadian.

We looked at the possibility of holding two competitions instead of one, specifically geared to the fact that more mission systems companies could come forward to compete as potential prime integrators. Had we gone with the one-contract approach, these companies might have been blocked out.

We received 13 respondents to the letter of interest, or LOI, including all the mission-based vehicle manufacturers who offered themselves as prime contractors. One of those companies dropped out when their vehicle did not meet the capability requirements, and another respondent withdrew recently, deciding to opt out as a subcontractor.

On the list, honourable senators, you will see a number of Canadian companies or subsidiaries of foreign companies with an active presence in Canada. Those companies see themselves more actively able to bring to the potential helicopter manufacturers the advantages of working with their company. In some cases, these are companies with no exposure to the prime manufacturers on the vehicle side. This was a key factor in how we looked at structuring the competition.

Certainly, there is increased risk in managing the two competitions, which essentially makes the federal government the prime contractor. To mitigate that risk, and we addressed this first in the LOI, we would be asking the company that wins on the mission systems side to take on the role of prime contractor. That company would then work with the base vehicle manufacturer to develop a working arrangement, a new agreement, so that they can act as one, with the mission systems company being the integrator. We are using that mechanism to mitigate our risk.

Mr. Williams: I should like to add one point. You referenced the previous contract and the way in which it was structured. That goes back to our point that we must look at each procurement individually. The decision to have the contract split was based on a competition that focused on two developmental products, which were high-risk initiatives. Allowing one company to be the prime company would impose, because of the risks, very significant incremental costs on the Crown. Rather than absorb those high risks, it was decided that we would take on that leadership role of prime contractor — split the two and act as prime contractor.

All of this is to say that each and every contract has to be looked at individually. The fact that we will have two rather than one, while different, does not necessarily make the process better or worse.

Senator Rompkey: Is it fair to say that splitting the contract opens things up and provides more room for Canadian firms to become involved as partners or to compete, particularly on the mission systems?

Mr. Williams: Yes, it is.

Senator Rompkey: There has been much discussion about the fairness of the process. The comment was made that there have been accusations, but is it not true that all bidders have complained? If all bidders are complaining, does that not underline the inherent fairness of the process?

Ms Billings: All the bidders are trying to position themselves so they have the advantage to win. All have expressed concerns about various aspects of the process. Minister Eggleton remarked that if we annoyed them all equally, then we must be doing something right.

All of the products are somewhat different, and all of the bidders see themselves differently against the procurement process. They are all trying to work to their own advantage. However, we are optimistic that they will all see their way into entering the pre-qualification process and that we will have viable bids from all of the companies.

Mr. Williams: Honourable senators should recognize that we are inviting comment. We want industry to talk to us now, and we want to ensure that we understand what industry can deliver. This may surprise senators, but we were surprised by some of the things industry could and could not do, as opposed to what we read from their brochures. Therefore, we need to talk and to understand. When that is done, we will invite comment and debate.

We are talking about a huge multi-billion dollar program. The initial acquisition is \$3 billion. When long-term support is added, the total will be upwards of \$5 billion. I would be surprised if industry did not aggressively try to position itself in the best possible way. Not to expect that would be wrong. They all do it and they all should do it.

However, it is up to us to ensure that, at the end of the day, the integrity of the process is maintained and that our men and women who serve in the forces receive the product they deserve.

Senator Rompkey: My next question flows from the initial mission statement. What was needed then and what is needed now? There has been some discussion about operational requirements and, specifically, about the number of engines that are required. In the past, perhaps there was a different requirement because of the range of the aircraft or the missions that had to be performed. It is worthwhile underlining again that the Canadian navy used to be an antisubmarine navy. The ships had a certain range and, therefore, certain mechanical requirements in terms of how many engines were needed, how powerful they had to be and so on. Today, the mission has changed somewhat.

• (1610)

The Chairman: Senator Rompkey, I am sorry to interrupt, but your 10 minutes are up. You will be put on the second round.

Senator Forrestall: The exercise we are engaged in is, obviously now to many of you, a very complex one. While from time to time I may have sounded frustrated over the last two or three years with a variety of leaders of the government in the Senate, it is understandable.

I want to again go back to the very beginning, because this is an exercise in stonewalling. I have no other explanation for it other than that. I am prepared to bet it will take another five

years, and I would be delighted to see whether I continue to win. I want to go back to the beginning of this mess. Having lived in Dartmouth, Nova Scotia; and having played basketball at Shearwater, I grew up with men and children whose parents were military aviators who flew helicopters and other planes. Mainly, however, they flew helicopters. Sikorsky kept hundreds and hundreds of men safe in the air and kept their families content and not worried on the ground. That is not true today. They are very worried, to tell you the truth, because they are still flying an unreliable aircraft. All that we on this side of the chamber want is not some low price piece of equipment that will fall far short of the requirements that are needed. Lowest cost suggests just that. Best value to Canadians does not suggest that. It suggests something entirely different. I want to find out where this crept into the jargon and why the Prime Minister cancelled the contract. I want to find out why, or did he just do it on his own? When was the first decision taken to replace the Sea King? What year?

Mr. Williams: Sometime in the 1980s. I am not sure.

Senator Forrestall: That is a good answer.

Ms Billings: The formal decision was in 1986, I believe.

Senator Stratton: It was 1978.

Senator Forrestall: Try 1978. Was the present Prime Minister not a member of the Liberal cabinet in 1978 through to 1981? When the Trudeau Liberal government made the decision to start the process of replacing the helicopter, was the present Prime Minister not a member of that government? Is my mind failing me a bit? Do you not know the answer?

Senator Robichaud: I think these questions are out of order.

Senator Stratton: We have the wrong witnesses.

Senator Robichaud: They are the right witnesses but the wrong questions!

Senator Forrestall: They are not addressing the question that I am asking. How did we get into this mess?

Senator Robichaud: This is not a mess. However, it is a mess in your mind.

Senator Lynch-Staunton: You are not a witness.

Senator Kinsella: What are you hiding?

The Chairman: Honourable Senator Forrestall, please continue your questioning.

Senator Forrestall: I wish you would ask the government's deputy house leader to keep his side comments to himself so that I can continue.

The Chairman: Do not worry, he is not eating into your time. Please continue.

Senator Forrestall: Can you tell me how the statement of requirements developed for the new shipborne aircraft, the NSA? How was the statement of requirements developed in 1984-85? What was the process and procedure followed?

Mr. Williams: I could not begin to answer that. My experience is with the current helicopter that we are talking about.

Senator Forrestall: You do not know how many aircraft companies competed to replace the Sea King in the NSA competition, other than the list of four that you gave us earlier?

Ms Billings: In the late 1980s competition, 10 companies were invited to bid.

Senator Forrestall: Can you name them?

Ms Billings: I do not have the names because only two actually submitted proposals, one being Eurocopter and one being EHI.

Senator Forrestall: Let me deal for a brief moment with Eurocopter. Is Eurocopter a “navalized” piece of equipment? That is, do the rotary blades fold back and does the tail rotor fold? Is it anodized? Is it salt proofed, and so on?

Ms Billings: All the helicopters that will be participating in our competition will have the potential of being “maritimized.” Some are not now, but we are buying a maritime helicopter and that is what our spec will call for.

Senator Forrestall: How do you make an exception for Eurocopter? Do you tell them, “Do it whenever you get around to it. You know that it must be part of the program?” Sikorsky was told that they could not proceed with a piece of equipment that had not yet had full certification. Why two different criteria?

Mr. Williams: In fact, that’s not correct. We have not told industry what they should or should not do. We have continually told industry what we want as a product and how we are going about the process to acquire it, when things have to be certified and how certification must be done. How industry reacts to it is their business. We are focusing on ours.

Senator Forrestall: You are suggesting to me that the posture of the Department of Public Works nationally, under the present rules of engagement, does not preclude Sikorsky’s competing fairly?

Ms Billings: Sikorsky is still participating in the process. We have no indication they will not participate.

Senator Forrestall: It is not material that the vehicle on which they will base their submission or tender has not yet been certified?

Ms Billings: At this point, our requirement is that the certification be available at contract award. The contract award will be some months after the RFP is issued. At that point, it is

up to Sikorsky to have shown that they are capable of having their product certified.

Senator Forrestall: When do you think we will take delivery of the first vehicle, and when will we take delivery of the last vehicle?

Ms Billings: In terms of the delivery date, at this point, we do not have the RFP out. We have a two-bid process. We will be looking at hardening up the time lines once we have a contract in place with the base vehicle manufacturer and when we go forward to select the mission systems integrator. We will then see what type of economies can be made in the timelines and what industry will tell us is deliverable. All of the participants know that we are looking to have a fully mission system integrated helicopter on the ground as soon as possible.

Senator Forrestall: When will that be? You must have some vague idea. We have a colonel telling us that it may now be 2010. The Sea King will have to have been grounded long before that. It is still our helicopter, though.

Ms Billings: It is still highly desirable to have the first helicopters delivered by the end of 2005.

Senator Forrestall: You are the professional here. We are lay people. This is now virtually 2002.

• (1640)

Is it possible to deliver within three years a helicopter that has not yet been started? Do you honestly believe it can be done in three years?

Ms Billings: It depends. I do not want to foreclose on an answer until industry has had an opportunity to come back and give us more definitive information about what is possible for them. In bilateral discussions, we have had many different views of what is possible depending on the scenario that plays out. Therefore, our instruction to industry and our discussion has been that it is highly desirable to have those helicopters delivered at the end of 2005.

Mr. Williams: Notwithstanding when they will start, we are asking for 28 and they will roughly come one a month, so we are talking about two plus years.

Honourable senators would not be surprised to learn, therefore, that we are already making provisions to ensure that our good friends the Sea Kings are airworthy. On an annual basis, we have our airworthiness boards ensure the safety of the helicopters. We also have boards that look after the sustainability of the equipment. The Sea Kings are reviewed on an annual basis. We have recently made upgrades — and senators will see this in the cost charts — to the centre sections, to the gear boxes and to the engines in order to ensure that the Sea Kings have a life extension through the year 2010 and to ensure that they are safe for the men and women who fly them.

Senator Fraser: I, too, wish to thank you for this fascinating presentation, which is particularly helpful for a layperson such as myself.

There seems to be much interest in history here. When you were going through the history, one sentence really struck me. It was when you said that the last time out, 10 companies were invited to bid. You said that only two of them bid and that one of them was disqualified because its bid was non-compliant. The Canadian taxpayer, therefore, was over a barrel at that point, with nowhere to go. There was just one happy bidder. That is what happened.

Mr. Williams: What the honourable senator says is correct.

Senator Lynch-Staunton: How do you know? You were not there. You told us you were not there and did not know anything about the matter.

Mr. Williams: That is why I pointed out the advantage and why we are saving so much money today, unlike the previous time when I was not there. However, I am aware that this was based on the developmental product, which is why the cost was so much higher than it is today. The Canadian taxpayer is not bearing those high developmental costs today.

Senator Fraser: I am interested in the process that you have come up with. You tell us it is innovative, and it certainly sounds innovative to someone from my vantage point. All this pre-qualification discussion surely would help to winnow out the non-compliant folks. I was really struck when you suggested that it is a two-way process. Can one have a two-way learning curve? Obviously industry is learning much about what Canada wants and needs, but you said you were learning a lot, too, and that you had found examples of things that you had thought industry could do, but rather, to your surprise, it could not. Can you give us an example of the kind of thing you are learning as we go through this process?

Mr. Williams: The big focus on the part of industry is the weight of equipment that they are asked to carry. Obviously, if you ask that the equipment is to have a certain amount of endurance and you ask that the equipment is to carry a certain number of systems, the more weight you force them to carry has a negative effect on their ability to deliver endurance in terms of how far they can go and for how long. We have found, to industry's credit, that it was coming up with better and smarter ways of doing things than we were setting out in our specifications. One small example is that we asked for a certain kind of "sonobuoy." That is a device put into the water to provide underwater radar. We were specifying a certain kind of radar. It was pointed out to us, quite appropriately, that new radars in the marketplace today are 100 pounds lighter. By making modifications without tampering with the statement of requirements, we found out that we could reduce our weight by 100 pounds.

Another more significant area is the section of the statement of requirements that deals with performance at what we call an ISA temperature of 15 degrees. The question then asked is: What happens above that temperature? We have done studies that show our men and women operate in environments of at least

35 degrees approximately 25 per cent of the time. The question was: What kind of performance would be required then?

By going through some operations and doing investigations, we found out that in those environments there are typically 10 knots of wind. If you tell industry that the performance can allow for 10 knots of wind, that is the equivalent of saving them 1,000 pounds on their helicopters. It gives them greater capability to deliver our needs.

Another question is this: For how long would a helicopter be expected to hover in place? By changing the duration from 12 minutes to 20 minutes, you again save hundreds of pounds because there is much less fuel by the time the helicopter is hovering.

We found, from talking to industry, creative and innovative ideas that do not impact, alter or change our statement of requirements but allow industry and ourselves to get on the same wavelength. Therefore, when we do go out with an RFP, we can be assured of a vigorous and appropriate competition. At the same time, in many instances, we would say things and they would be wrongly interpreted.

Senator Fraser: What are they learning?

Mr. Williams: They would, in many cases, take the worst case scenario. In reading a sentence, we would specify one way and say that a certain thing would always have to do something. They would say, "No, just in these circumstances." We then go back and reword the sentence in such a way that there can be absolute clarity. By providing the clarity, we ensure that they are in a better position to decide whether or not they want to bid.

This subject matter is very complex and very technical. Industry wants to get it right, as do we. These many months of discussions, therefore, are really an investment; otherwise, we might find ourselves moving forward with an RFP that once we set it in stone, it cannot be changed. If we then find out that people cannot deliver, we must start from square one.

I think the process has been frustrating for some, but when we talk to the project team and industry, they are supportive of the extensive dialogue we have had.

Senator Fraser: In all these discussions, are we yet at the stage of thinking about regional benefits? Is that part of what you talk to industry about?

Mr. Williams: First, it is Industry Canada's accountability, and they will be coming up with a package that they think is appropriate.

As honourable senators know, under human or internal trade, there can be industrial benefits nationally, but they cannot be specified regionally.

Senator Fraser: I see; but I, as a layperson who does not know better, can say that I certainly hope the regions of Canada will get a good look at this.

[Senator Fraser]

Mr. Williams: I think so, and I think industry is pretty smart about all this. While we cannot articulate to experts here and there, as they know what the world is like, in fact, they are aware of our industry competences from coast to coast. Typically, they know what the Canadian government and Canadian taxpayers want.

Senator Fraser: When this is all over and we have awarded the contracts, are we expecting Canadian industry to be better equipped to go out into the export market?

Mr. Williams: One of our prime responsibilities is to facilitate that. There is no question in my mind that by talking to industry, nationally and internationally, our companies in Canada are in a much better position when they successfully compete with us.

I am sure senators are aware that, in the last month or so, we received the wonderful news that one of our Canadian companies, the CDC, was successful in winning a \$4-billion communication contract for the United Kingdom. All of the credit goes to them.

• (1630)

They were successful, in part, because they successfully developed a communications system of over \$1.6 billion for the Department of National Defence. Unquestionably, success with us is a key factor in international success.

Senator Fraser: One of you said at the outset that we have a very good record on defence contracting. You also talked about this being an innovative process. Are our partners following your procedures on this deal or is everyone just hoping that this will work?

Ms Billings: There is a lot of interest among our trading partners to share best practices and learn from one another. Therefore, I would be very surprised if our trading and defence partners were not closely watching what we do. Certainly in the area of marine helicopters there is much interest in what we are looking for and the process we are following.

Senator Fraser: Are you exchanging best practices and information as you go?

Ms Billings: It is less formal than that. There are many meetings and conferences and a lot of information. We do not know who goes on our Web site. Anyone can access our Web site to see how we are proceeding. Whenever we start something like this, we talk to other countries. For example, when we did the recent supply chain project for DND, a very large project on the management of their warehousing and inventory system, we went to our major military partners, among others, to find out how they were doing that. We generally try to keep up to date, in both the procurement and defence fora, on who is buying what and how they are going about it.

Canada is unique, though, in that we have an agreement on internal trade that imposes a discipline on the procurement process internally and for the Department of Defence. There is a

requirement to be competitive and more rigorous that our trading and defence partners generally do not have.

Senator Kinsella: I must confess to our witnesses that I am far more obtuse in these matters than my honourable colleagues. I am learning a new vocabulary and trying to follow the acronyms.

I understand that the first government decision to replace the helicopters was taken by the Trudeau government in about 1978. How much taxpayers' money has been spent in the procurement process from then until today? I am prepared to divide the period into two parts, part one being from 1978 until you arrived in your present positions and part two being from then until now.

In part one, inclusive of the nearly \$500 million spent on the cancellation of the contract signed in 1993 and inclusive of all the person years expended on helicopter replacement since you have been in the ministry, has the procurement exercise exceeded \$1 billion so far? If so, by how much have we exceeded \$ 1 billion?

Mr. Williams: The only numbers to which I can speak authoritatively are those contained in the material we have provided to you. I can only compare the total costs already incurred in purchasing the search and rescue helicopter, including our project team and cancellation costs, with the cost of the helicopter we are about to purchase and with the 1993 one that was cancelled. Those are the only hard figures I have to compare the 1993 expected costs with the amount we currently expect to spend on both the search and rescue and the maritime helicopter.

Senator Kinsella: Your figures do not include the person-year costs.

Mr. Williams: Yes, they do. The project team costs are included.

Senator Kinsella: How much are they?

Mr. Williams: Of the total cost of \$790 million for the search and rescue helicopter —

Senator Kinsella: That is how much has been spent?

Mr. Williams: No. That was the total cost for the whole project, including project costs. If my memory serves me correctly, I believe the project costs of that are about \$200 million. The costs of both of these acquisitions are factored into the costs in the table I have shown you.

Ms Billings: Those costs include defence staff defining requirements and doing technical evaluation as well as procurement staff.

Senator Kinsella: So that is \$200 million plus the \$500 million for the cancellation fees?

Mr. Williams: The \$200 million is part of the cost of the project team currently involved in the acquisition of the search and rescue Cormorant.

Senator Kinsella: Between what dates?

Mr. Williams: From the time the project started, which was probably 1995, 1996 or 1997, until today.

Senator Kinsella: How much was spent from 1978 until 1995? That is the period that would be inclusive of the half billion dollars?

Mr. Williams: I do not have the amount that the Crown may have spent. I can only note that included in the table was \$478 million —

Senator Kinsella: Would it be a fair statement that a lot of Canadian taxpayers' money has been spent so far in the procurement exercise? We have made a major investment in this exercise to date?

Mr. Williams: For sure we are making a heavy investment.

Senator Kinsella: You alluded to the search helicopter. At the time that the government was searching for a replacement for the Labrador helicopter, how many companies competed in the bidding process?

Ms Billings: Neither Mr. Williams nor I were there at that time, but from review of the materials and discussions with others I can say that at that time there was not an agreement on internal trade in place. There was no requirement for the Department of National Defence to compete. The Department of National Defence reviewed the capabilities of various helicopters and components. They had the experience of the competitive process behind them in which only one company had been compliant and the decision was taken to sole source and expand the fleet to 50 EHI helicopters. It was not a competitive process, nor was there a requirement for there to be a competitive process at that time.

Senator Kinsella: On what criteria did the government award the contract to replace the Labrador search helicopters? Was it best value?

Mr. Williams: In 1996-97, when we concluded that competition, that was a best value contract. There were four bidders: Boeing, EH Industries, Eurocopter and Sikorsky. As you know, EH Industries was the winner.

The best value approach was taken at the time for two basic reasons that differ dramatically from today. The first is that there was widely disparate capability amongst very limited competitors. When you have that, then the best value allows you to take the biggest and the boldest, as well as the smallest, and allow them to compete at the same time.

• (1640)

The other key aspect was that the Department of Defence had not, as it now has, clearly and precisely articulated what it wanted. In such a case, you cannot set specific criteria, mandatory or not. What you want to do is let industry bid and,

depending on quote, you make your decision from the highest rated, divided by the price.

Senator Kinsella: As I prefaced my remarks, I am slow at these matters. My notes indicate that four helicopter companies were involved in the bidding, or however these things are done, to replace the Labrador.

Mr. Williams: In 1997, 1998, that is correct.

Senator Kinsella: Thank you. It is my understanding that the Eurocopter Cougar was being considered. If my understanding is correct, why was the Eurocopter Cougar not accepted as the replacement for the Labrador search and rescue helicopter?

Mr. Williams: That was because, in that competition, EH Industries was the winner on the best value approach.

Senator Kinsella: What were the deficiencies with the Eurocopter Cougar at that time that made it unacceptable or more compliant with the criteria used at that time?

Mr. Williams: I would rather focus on the basis, rather than commenting on deficiencies, for particular companies. I would only point out that EH Industries met all of our criteria at the best value approach.

Senator Kinsella: If Eurocopter was not chosen, it would be very helpful to my understanding to ask what was wrong with Eurocopter at that time in comparison with the one that was chosen?

Mr. Williams: I think there are two points. One is that the deficiencies in Eurocopter precluded it from being successful. That goes without saying. There is also the fact that it bears, frankly, zero relationship to today's world. What they bid back then for that helicopter has no bearing on their ability to compete in this one. We are starting from a level playing field and allowing them, through extensive consultations and discussions with us, as all the other bidders have had, to better understand exactly what we want.

Senator Moore: I, like Senator Kinsella, am quite naive in these matters. I am unclear as to the division of work between your respective departments on a project like this. Could you tell me what DND does and what Public Works does? How do you divvy up the decision making and the responsibilities? What are your roles in that process, and what will your roles be when the decision is made? Who looks after the post-decision responsibility and accountability by the successful bidder to ensure it delivers what it says it will do, and that the equipment works like it is supposed to work?

Ms Billings: The two departments do have quite clear and distinct roles. Within the military arm of DND is the total responsibility for defining the operational requirement. We do not even become involved until that operational requirement is approved by the military. Although we might have some discussions informally, that requirement is their responsibility.

When a decision is made by DND to go forward and initiate the purchase, then we will become involved. We will work with DND on whether the statement of operational requirements is easily translatable into the statement of work that will go forward. We decide what the procurement process is, what the options are, how best to develop them, how to deal with the issues of regional benefits, the pricing methodology, the process we will follow, and whether we have a long industry consultation or a short one. We deal with a certain amount of interoperable knowledge, so that we test and challenge each other.

My staff have good knowledge in many of these areas because they buy helicopter and aircraft parts. They deal with the same industry members as DND. They bring knowledge of what is available and how to buy it, and help structure the overall process. National Defence, on its side, also has a lot of experience in our area.

We put teams together who work well together. At the moment we have a fairly large team on maritime helicopters. We have DND staff who work on the translation of specifications into the statement of work. My staff put together the terms and conditions, run the process, and dealing with overseeing the interaction with industry.

When the bids come in, we will be participating largely with DND in assessing whether or not what has been bid is indeed what was pre-qualified and whether it, as a package, meets the specification. We will provide an oversight function and a fairness function.

On my side of the shop, my staff will then be looking at all of the terms and conditions being proposed by the bidders to ensure we have a robust contract that we can implement. We will then take it through PWGSC and through the approval processes which, in a project like this, will mean going to cabinet and to Treasury Board to get a number of hierarchical approvals to allow the process to be approved and the monies to be spent.

Senator Moore: Who actually issues the bid, Ms Billings?

Ms Billings: We do. PWGSC will issue the formal request.

Senator Moore: It is your department?

Ms Billings: It is my department. It is out of the integrated project team that that bid document will be put forward, and it is to my staff that it will come back in a formal manner, but they operate in a connected manner in terms of the assessment. The roles are defined.

When we move into the contract award, it will again be my staff that will award the contract because the authority will be under the Minister of Public Works and Government Services. A project team will administer the project, with the bulk of the responsibility on DND, but with PWGSC there to ensure adherence to the contract. We go forward with DND working within the confines of the contract, with the successful proponent being kept to the terms of the contract to avoid contract creep. There are always, on projects of this size, a million issues, details and questions, and we will be part of that discussion.

Senator Moore: Once the successful bidder has been announced and the decision is made, is the legal agreement between that party and Public Works?

Ms Billings: Public Works acts on behalf of the Crown, yes.

Senator Moore: If DND notices a deficiency in some component later on, will it come to you, and you will go to the supplier to have the situation corrected? Will DND go directly to the supplier?

I do not understand the split of responsibilities.

Ms Billings: In those types of situations, and they do occur regularly, usually the staff of both PWGSC and DND will work together along the line as the deficiencies are identified. There will be discussion as to how best to identify whether there are tradeoffs within the administration of the contract, the regular give-and-take in managing a large project, or whether it is something where we need to have recourse to a contract amendment, in which case my staff would be more involved. They would be intricately involved in terms of the administration of the contract and the delivery of the goods.

Senator Moore: Mr. Williams, I was interested in your remark. I am from Nova Scotia. I am very interested in the regional industrial benefits aspect of this contract and any contract of the federal government of this size. You stated that the IRB matter is an Industry Canada accountability.

• (1650)

When do they get into the mix? When do they indicate — and I do not know if it is your department or Public Works — that they want to see the work spread around; that is, certain percentages go to certain areas of the country? When does that happen?

Mr. Williams: Industry Canada is currently involved. Ms Billings' team and my team are working together on the technical specifications and the terms and conditions. They are working in parallel with industry on an IRB package that would be suitable from their perspective. That is happening even as we speak. In the final document, there will be a section that specifies exactly what industry is expected to deliver from an IRB perspective.

Ms Billings: When we went out with the letter of interest in August 2000, there was a section in it outlining the approach on industrial regional benefits. We were looking for IRBs equal to the value of the contract. We indicated that we would be looking for a mix that recognized the Canadian government's goals for regional development. We identified those areas of the country where there is a need for growth and development. The LOI articulated a number of parameters that companies were expected to meet.

There has been continuing dialogue. We had input and feedback from the companies. We are in the process of working with Industry Canada and the industry to ensure that the package that finally goes out with the formal RFP is one that is biddable and that the companies can see themselves doing.

Senator Moore: When the bidders submit their respective bids to Public Works, do they have to indicate in their bids what they see happening in terms of sharing the benefits?

Ms Billings: Exactly. For example, we would expect them to say whether there are components of the helicopter that they will transfer the manufacture of to Canada, whether they will support the development of small business through venture capital and what they will do to ensure that small and medium-sized businesses can bid. We expect them to lay out in quite a lot of detail the names of companies, the amounts and the components.

Senator Comeau: Welcome, witnesses, to our Committee of the Whole. I should like to return to the past. I am not sure if you were in your present positions when the decision was made back in 1993 to cancel the helicopter project. Were you two there at the time?

Mr. Williams: No.

Ms Billings: No.

Senator Comeau: Who was consulted on the decision to cancel the EH-101 contract?

Mr. Williams: Speaking for myself, I was not there. I have no knowledge as to who was involved in that decision.

Senator Comeau: Are you aware whether the military was involved in any way or whether your predecessors were in any way involved in this decision?

Mr. Williams: I am not aware of who was or was not involved.

Senator Comeau: It appears as if the candidate for prime minister of the day simply took a piece of paper one evening and wrote across it in bold letters, "I, Jean Chrétien, cancel this contract."

Mr. Williams: I said that I am not aware who was or was not involved.

Senator Comeau: Have you made an estimate as to the loss, if any, between the previous contract in which the EH-101 was cancelled and the current series of contracts for the Sea King and Labrador replacements?

Ms Billings: We have not done an outright comparison. However, the earlier contract was a more expensive contract. We have excellent industrial and regional benefits with the search and rescue helicopter. They are more than the value of the contract.

Senator Comeau: I mention this because page 11 of your deck states that you will save \$1.3 billion under your current procurement process. You are telling me that you did not calculate the benefits of the previous regional development contracts. How can you compare the two?

Mr. Williams: This is a comparison, apples to apples, on the costs to the taxpayer of the two programs.

Senator Comeau: Hold it. You are spinning this out. Let us forget the spin. Let us go with value to the taxpayer of the previous contract. You are saying that you did not calculate the benefit to Canada under the previous contract, but that you are saving \$1.3 billion.

Mr. Williams: I am being objective and very specific here. I can only give you those costs that are hard and specific. You are asking me to guess what would have been the industrial regional benefits had a contract been put in place and how industry would have benefited. I do not know the answer to that question.

Senator Comeau: They were there as part of the record. They were there when a certain individual one evening in the midst of an election campaign said, "I will cancel this contract." If you are comparing apples to apples and oranges to ducks, then you have to start with comparable levels. What you are suggesting is that you did not do it.

Mr. Williams: No, I do not think so. I think that I am doing exactly what I should be doing, which is reflecting to you the different costs to the taxpayer. What you are talking about are industrial and regional benefits. Absolutely, there may have been some, but that does not take away from the point that in terms of what the taxpayer would have had to spend, this is what we are reflecting before and after.

Senator Comeau: You are sensing that I am somewhat frustrated. My understanding was that this afternoon we would have witnesses before us who would be able to help us understand what led up to the cancellation of the EH-101 contract in 1993, the subsequent hundreds of millions of dollars that were spent, and the delays in acquiring both search and rescue helicopters and shipborne helicopters, something which affected the region that I happen to think very highly of — that is, the Maritime region of Canada. We wanted someone here today who could answer our questions. What we have, I think, are two technically efficient individuals. I was not looking for purchasing agents. I was looking for the people who made the decisions so that they could help us understand what led up to this situation.

Senator Robichaud: Madam Chairman, this is very unfair to the witnesses.

Senator Comeau: Madam Chairman, we have to pursue this matter further. We were not looking for highly impressive, technical, skilled people, which you are. I happen to agree that you are. However, this is not what we were looking for. I think we will have to come back to this.

I see that I am raising the ire of a few hecklers in the background. If you watch the muppet show, they usually hang from the balconies, but here they are not.

Senator Graham: The truth is tough sometimes.

Senator Comeau: I want to come back to page 11. Did you compare at all the technical requirements of the former EH-101 contract with this current contract? I am talking about the distance the helicopter can fly, for example. Have you placed a cost estimate in there, or did you just compare apples to ducks or apples to oranges?

Mr. Williams: I compared apples to apples. As I said in my comments, the one constant, the one benchmark was the reality of meeting the capability back in 1993 as compared with meeting the capability today. When you look at it from that perspective, the taxpayer will be able to save \$1.4 billion, plus or minus.

Senator Comeau: Hindsight is great.

Mr. Williams: This is not hindsight; this is foresight.

Senator Comeau: We can go back and compare what you compared in the past and say, "Look, September 11 changed all this. Look how bright we are to be able to make decisions today that will affect the next 15 years."

• (1700)

Why do we not postpone the helicopter purchase for another 25 years and see what great decision we make in 25 years? That would be using your logic.

Does the search and rescue helicopter, which is to be delivered soon, have the same distance, instruments and flying capabilities that the previous EH-101 had?

Mr. Williams: I cannot comment on what the EH-101 had or did not have.

The relevant point is that the search and rescue Cormorant helicopter, two of which have been delivered and the rest should be delivered by the end of 2002, meets exactly the specifications of the forces.

Senator Comeau: That is not what this afternoon was to be about. I do not know who arranged this session. We are not getting the answers that we had wanted or needed.

Senator Carstairs: Point of order. We must be clear here. I was asked a very specific question in June which was: Would you have a Committee of the Whole on the procurement strategy for the Maritime helicopter project? This afternoon we are having an excellent presentation on the procurement strategy for Maritime helicopters.

Some Hon. Senators: Hear, hear!

Senator Carstairs: Madam Chairman, it is extremely unfair to the witnesses to ask them to go beyond what this Senate decided in a motion passed in this room on what we would do this afternoon.

Senator Comeau: I am not sure that I understand the point of the leader on the other side. We are trying to get to the bottom of

this question in order to be able to make decisions in future on behalf of the Canadian taxpayers. On a number of occasions earlier, Mr. Williams mentioned that we want to get best value for Canadian citizens.

If a decision were made in 1993 to cancel a huge contract out of the blue, we should be able to go back in time and find out what happened. We should be doing that. We owe it to the Canadian taxpayers not to stick to what the leader on the other side claims to be a very narrow procurement agenda.

Senator Lynch-Staunton: You were offered military witnesses.

Senator Comeau: Why can we not get to the bottom of these issues? What is the other side trying to hide? Open the book.

Senator Robichaud: We have nothing to hide.

Senator Comeau: I have made my point.

The Chairman: The Honourable Senator Wiebe.

Senator Wiebe: I want to say initially that I have certainly appreciated your presentation this afternoon because you are doing exactly what this chamber has requested, and that is to provide an explanation of the procurement process for the purchase of helicopters.

I have realized that it is certainly considerably more difficult to purchase helicopters than to purchase a tractor or a combine, in my case. I am hoping that the people throughout Canada have had an opportunity to listen this afternoon because they will understand that the purchase of something like this is certainly much more complicated than the purchase of a car or a home.

Many questions have been raised this afternoon as to why the Prime Minister cancelled the order in 1993, and why it is important to talk about that. In answer to those questions, if the members opposite will remember, the purchase of those helicopters became a very important issue during the 1993 election campaign. The people of Canada, the taxpayers of this country, instructed the Prime Minister of this country to cancel the purchase of that aircraft. That is exactly why it happened.

Hon. Senators: Hear, hear!

Senator Wiebe: I know sometimes, honourable senators, that it is difficult to accept rejection. Keep in mind that, in the 1996 election, the party that had become a little bit more than a blip on the political radar screen of this country attempted to raise that issue again. Once again, the electorate of this country said, "No." During the last election, they again tried to raise the helicopter issue. Again, the taxpayers of this country said, "No."

The presentation that you have given us today will certainly throw a tremendous amount of light on the complicated nature of this issue.

If I may, I would like to go to slide 13. You mentioned that this procurement policy will reflect terms of the Agreement on Internal Trade, AIT. In those comments, you mentioned something about this agreement allowing you to purchase replacement parts and other things once the decision has been made on the helicopter. However, I understood from your remarks that, because of that agreement, you may be precluded from purchasing helicopters in the future. If your initial decision is to purchase 20 helicopters, and a year later you decide to purchase another 20 helicopters, does that mean that this entire process must be repeated with the same costs involved?

Ms Billings: Essentially, the Agreement on Internal Trade says that we can go sole source to a provider, if we have reason for maintaining inventory, if there is some reason of commonality of maintenance or reason to ensure compatibility with the existing products.

Let us assume that we were going to buy spares or parts to support a helicopter. If we were going out to buy one item, we would likely have a case within the Internal Trade Agreement to argue justification of sole sourcing. If we were going out to buy 20 items, it would be reasonable to say that that is a new buy. That order is big enough to be considered a new purchase and a new opportunity. If there are efficiencies to be made from having more of the same, then the supplier of that particular product can make that case through bidding a lower price, and it could be the winning bid.

It is one of the more complex areas of the Agreement on Internal Trade. It is one where the division between what is suitable grounds for allowing us to go forward on a compatibility basis on a sole source, and what becomes a new purchase and a new opportunity for industry is quite grey. In some areas, it is easy to define; in others, it is difficult.

For example, when we are buying software and computer products, it becomes very difficult to determine that which can be sole sourced on a justifiable basis in order to match that which we already have. In the case of a department that uses Word as a word processing suite, can we buy more on a sole source or do we have to buy competitively?

We have been struggling with these issues in that sector for some time. Certainly, it is a decision point that becomes one of judgment and one where we have many litigation and judicial examples to follow.

Mr. Williams: The thought of having to get another 20 helicopters is a most sobering thought. I hope that I do not have to go through this a second time.

• (1710)

Senator Wiebe: It is expensive to go through this a second time in the event that more helicopters are needed. Does not accountability have a tremendous amount of importance? If you are going to buy 20 more helicopters, I am just using that as a figure, do you not want them to be compatible with that which you have already? Why should all the service people be retrained? Would that not, of itself, overrule some of these trade irritants or trade requirements?

[Senator Wiebe]

Mr. Williams: There was a great deal of discussion, as you will see if you read the statement of requirements. There is a great deal of information on the numbers. This process is not precise. In planning for 28 helicopters, we feel that we have allowed for attrition. We have done many operational research studies and are confident that when looking over the next 25 years, with increased emphasis on front-end training and using simulators, we will have an attrition rate of four or less.

With that in mind, we think that we will have the right number of aircraft. The question then becomes: Will the aircraft have the appropriate system configuration? By bundling 20 years of lifecycle support, we are doing our best to get enhancements and changes and advancements to the software as applicable.

We hope to keep these aircraft as current as possible. The process is not precise. It is time-consuming process, so we want to get it right the first time if we can. When we balance the needs of the forces with the available budget, we think that we have come up with the right balance.

Senator Wiebe: Basically, you are dealing with attrition from a peacetime point of view. These helicopters could have been used in a time other than peacetime. In the event that the attrition rate is higher than suggested, can you not write into the contract the provision of more aircraft so you could avoid this whole process again?

Is there a war clause or a replacement clause? Why go through these time-consuming and expensive processes again to replace what we may need in a hurry?

Ms Billings: As Mr. Williams mentioned, the decision on how many aircraft to order was not worked out on the back of an envelope. It took much analysis and assessment and many challenges within DND and on our part to get that number. If DND were to come forward even now and say that there is an assessed need for more, we would seriously look at building that into the tender we are about to put forward to competitors.

We have not been in a peaceful period over the last 20 years either. Our forces have been on peacekeeping missions in various danger spots with their helicopters, and those experiences were factored into the number that Mr. Williams came up with and the number that DND put forward to us.

Senator Oliver: My questions to the two witnesses deal with their role in the development of the procurement process. Earlier today, in your opening remarks you talked about the best-value approach dealing with lowest price, technical merit, quality and so on.

Before I get into my questions on that matter and on the roles of the maritime helicopter, particularly shallow-water surveillance, tell me about the team that you two represent. Specifically, what is the training of your team? Do you have people who have studied physics, aeronautics, accounting? What is your own background? Are you two the team leaders of the Maritime Helicopter Project? Do you have an outside advisory committee and, if so, who would be on that external advisory committee? What types of people do you have and how often do you meet? Is this your full-time job?

Mr. Williams: I am the Assistant Deputy Minister for materiel for the department. I am responsible for the acquisition of all the goods and services for the military. This is just one of the procurements. I also have international responsibilities with respect to NATO and industry responsibilities as well. This is one of many key files that I look after.

I do have a project leader who is sitting up in the gallery with a big grin on his face. He is one of a project team consisting of 80 people from the Department of National Defence.

Senator Forrestall: Could you tell us what he is laughing at?

Mr. Williams: He is always smiling. He is a happy person.

Our team has 80 people from the Department of National Defence, about 25 people from Ms Billings' department and 25 to 35 consultants. These people come with a broad range of experience. Ms Billings can tell you more about her people, but they are clearly experts in procurement and have good technical knowledge because they have been involved in the business.

Senator Oliver: Are those consultants internal or external?

Mr. Williams: Those are external consultants.

Senator Oliver: Are they all Canadians?

Mr. Williams: They are Canadian consultants from different Canadian companies. In addition, our team members have experience in aeronautical engineering, in systems support, in logistics and training simulation — all the different skills and operational requirements. The vast majority are military, so it is a cohesive team that is trying to move the files forward.

Ms Billings: This is just one of my responsibilities. I am responsible, as the assistant deputy minister, for supply operations, for the purchase of goods and services for the entire federal government over certain levels of delegation. As well as procurement, I have a responsibility for asset disposal, for seized property, for the Canadian General Standards Board, and a number of other activities.

Like Mr. Williams, I have a project leader who is also with us today. He is very experienced in complex procurements with a financial background. He is also a pilot, so he brings an avocation to what he does.

Senator Oliver: What is his name?

Ms Billings: Michel is up in the gallery at this point. He has a very experienced team of procurement officers, including specialists and schedulers in project management, in contract management, in terms and conditions. We have legal advisers as well.

My procurement staff go through a fairly intense training process over two years, and they gradually go on to more complex projects. Michel is one of our more experienced project managers. We have a highly qualified team working together with the consultants that we have brought in.

Senator Oliver: Do you have an outside advisory team apart from these consultants?

Ms Billings: We have a number of outside advisory bodies. We have what is called SPAC, a supply/procurement advisory committee, made up of advisers from across government who bring to bear knowledge of the commodities, the procurement processes, knowledge of the environment we work in, legal issues, and also of the industrial situation. They meet on a periodic basis to advise on key aspects of the procurement process. We also have a number of internal checks and balances as we go forward.

Senator Oliver: In response to questions from two of the senators on this side, Mr. Williams in particular made a great to-do about the fact that things have changed because there is one brand new factor in the procurement requirements for the maritime helicopter role. Mr. Williams said very proudly that we are now dealing with shallow-water surveillance, which completely changes the look and character of this procurement process.

Give me details. What is so unique about shallow-water surveillance? How does it strategically change the procurement of these helicopters? What are the major components of shallow-water surveillance?

Mr. Williams: I emphasized that part when I dealt with the slide regarding roles. Of the different roles shown, that particular one is different from the previous time.

Senator Oliver: You said it was new.

Mr. Williams: Yes, it is new.

Senator Oliver: That is what I am asking about. You said it was new. What is so new about it? How does it change the strategy?

Mr. Williams: Ten or fifteen years ago, as we discussed here earlier, in the Cold War environment, our navy was basically constructed for open-water accountability and responsibility in terms of surface and subsurface surveillance, detection of threats such as submarines, in the middle of the oceans.

Today, we also operate much closer to the shorelines. That presents different threats. Those threats require us to more clearly articulate different measures to address those threats in our statement of requirements.

• (1720)

My point is not that submarines are no longer a threat, it is that there are threats on the shorelines that you do not find in the middle of the ocean.

Senator Oliver: Like what?

Mr. Williams: You can be shot at by rifle fire and other armaments from a land base, so we are equipping our submarines with machine guns that they did not have before and that were not in the previous specifications.

Senator Oliver: Please give me other examples. How much, in monetary terms, does this grand new item you call “shallow water surveillance” mean to the procurement contract? Will there be hundreds of millions of dollars of necessary changes as a result of this new system?

Mr. Williams: It is important to distinguish my comment, which was to point out the new environment, from the overall approach of developing the statement of requirements. The statement of requirements was developed from scratch by the military looking at the environment as it pertained to today and to the future. That requirement is reflected on our statement of requirements, which has not been changed. Ms Billings and I have been moving this forward in terms of the procurement strategy that we thought best reflected the best practices of the day. We have reviewed those and we have discussed them with you.

Senator Oliver: I understood that. However, I was asking only about the shallow water surveillance system. You made such an enormous point of it when you indicated that things are different now than they were in 1939 because we have this grand new system called “shallow water surveillance” and all of the strategies and the design of these new helicopters have to change dramatically. How much, in monetary terms, will this mean?

Mr. Williams: I did not stress it so much. I was pointing out the difference, period. That change, along with the other requirements, is what we are putting forward to industry as a package to try to meet our needs. That is my only point.

Senator Oliver: Am I to read from that that it is not as big a point as indicated earlier?

Mr. Williams: My point has not changed. It is a significant difference from before, and I wanted you to be aware of it.

Senator Oliver: The biggest difference is that you can be shot at from shore.

Mr. Williams: The biggest difference is that you have different threats and you have to accommodate those threats.

Senator Cordy: I would like to thank the witnesses who are appearing before us today to help us work through the procurement process. As Senator Wiebe said, it is a complex process indeed.

I am also from Nova Scotia and I would like to follow up on something that Senator Forrestall mentioned — the Sea King helicopters. In Nova Scotia, there has been a great deal of discussion about the Sea Kings and a wide variety of views have been expressed regarding the endurance of the maritime helicopters and their range. Would you elaborate on the endurance and the range of the Sea King helicopters, since we will have them for a few years?

Mr. Williams: There has been much confusion and misunderstanding about that. The Sea King, as it is configured today, can have endurances in the order of two to three hours. That is how we expect it to perform in its current application in

operations. There has been much discussion about the endurance, and much of it has been centred around comments, improperly taken out of context, to the effect that: If you were to take the existing Sea King and try to put on it all of the systems that we are now expecting to put on our new helicopter, what would be its endurance? In such a case, it would be minimal.

However, we are not doing that. We have taken the existing Sea Kings, and equipped them with upgraded engines and gear boxes. We have installed 7.6 millimetre machine guns. We have also equipped them with infra-red radar to deal with missions on the gulf. We expect them to have endurance of two to two and one half hours or more. as did the HMCS *Charlottetown* in the first six months of this year when it operated in the Persian Gulf.

Senator Cordy: They are able to deal with the rapidly changing environments, which they will face in the North Atlantic.

Mr. Williams: There are search and rescue, logistics and surveillance. While they may not have the most sophisticated and up-to-date equipment, we feel comfortable that they can do the job asked of them at the present time.

Senator Cordy: The split contract allows Canadian bidders to bid on the mission system, which is a great thing. Who will be ultimately responsible for ensuring that the mission system works with the helicopter frame?

Ms Billings: We are putting the responsibility for delivering us a final integrated vehicle on the mission system integrator. We are asking them to enter into an agreement with the helicopter manufacturer — whoever wins the vehicle competition — whereby they will work together with the mission system integrator as the prime.

Senator Cordy: Your delivered product will have to be meshed together.

Ms Billings: Yes. We are asking them to jointly establish and maintain an interface working group, an interface agreement and an implementation agreement for the purposes of managing and controlling the interface between the helicopter and the mission system provider.

Senator Cordy: Mr. Williams, you talked about a full life cycle cost. To the lay person, would that mean a stem-to-stern warranty?

Mr. Williams: That is a good analogy. We want to hold the winner of each part accountable for that part throughout the life cycle. This would then preclude someone who was there only to win in the short term from putting in less than quality parts to keep the bid low, and then not having any accountability for replacing those parts for the next 20 years.

If you know that you will have to replace those parts, and if the total cost will be assessed, you will likely deal with quality in at the front end to ensure over the long term that you save money. It is the long-term approach that we believe is the smart business practice.

Canada has an advantage in that way. In many other jurisdictions, accountability for defence acquisition is separate from defence support. We are fortunate in that we bundle these things together. We find that it helps us in the same way that working with Public Works helps us. In so doing, we can keep the accountability clear and focussed to achieve taxpayer savings.

Senator Cordy: This results in a higher quality, because the people know at the outset that they are responsible for the running of the equipment for a long period of time.

Mr. Williams: That is our hope.

Senator Cordy: Some of the contenders for the helicopter program talked about two engines and some have talked about three engines. Is there a difference? Is the two-engine system not as good as a three-engine system?

Mr. Williams: The easiest explanation is to say that none of our specifications mentions whether two or three engines are necessary or mandatory. Some competitors have three, and some have two. We are focussing on our performance requirements. As long as they meet those requirements — there is one requirement that involves one-engine-operable — we are not concerned whether the winning bidder has two or three engines. That is a crucial point.

[Translation]

Senator Nolin: Mr. Williams, how long have you been with the Department of National Defence?

Mr. Williams: Two years.

Senator Nolin: In the position you now occupy?

Mr. Williams: Yes.

Senator Nolin: Where were you before?

Mr. Williams: At the Department of Public Works.

Senator Nolin: How long did you stay with that department?

Mr. Williams: Four years.

• (1730)

Senator Nolin: And where were you before that?

Ms Billings: At the Department of Public Works, but as CEO of audit services and assistant deputy minister of the group responsible for strategic projects and policy of a Crown corporation.

Senator Nolin: Who decided that each of you would be here today?

Mr. Williams: We thought that we would be in the best position to answer your questions.

Senator Nolin: How were you informed that the Senate requested your presence?

Ms Billings: The invitation was sent to our department. Our deputy ministers decided that we were the persons best able to answer your questions satisfactorily.

Senator Nolin: Did you talk with a minister or political assistant before appearing before the Senate?

Mr. Williams: No, senator.

Senator Nolin: No to both?

Ms Billings: I had a meeting with my minister yesterday, but he did not give me any instructions regarding my appearance.

Senator Nolin: Now, let us examine your slides. One of you could answer the question. I am looking at slide 6. What are the functions of the search and rescue helicopters?

Mr. Williams: The helicopters we purchased have three functions: support, above-water surveillance, and underwater surveillance.

Senator Nolin: I will try to be more specific. Slide 6 refers to a maritime helicopter procurement process. Your predecessors have already acquired 15 search and rescue helicopters. What are the specific functions of search and rescue helicopters? In other words, I want to compare your Slide 6 with a similar sheet for the purchases you have already made.

Mr. Williams: The search and rescue helicopters must be used in Canada. That is their primary function.

Senator Nolin: Could you elaborate a bit? What is done outside Canada?

Mr. Williams: Today, the topic is maritime helicopters. All these functions apply to maritime helicopters. The 15 helicopters we have already purchased look after rescues in Canada.

Senator Nolin: How are they different from these?

Mr. Williams: You can see here the many functions of the helicopters we will be buying.

Senator Nolin: Would it be possible to send us a similar sheet for the search and rescue helicopters?

Mr. Williams: Absolutely, and it is a lot easier to understand.

Senator Nolin: It will be easier to compare slides 6 and 7, the operational requirements of search and rescue helicopters compared to maritime helicopters.

Mr. Williams: The two helicopters are totally different and have totally different functions. This is the real reason for the two separate purchases.

Senator Nolin: I understand all that. I just want to compare oranges and oranges. Could you prepare slides for me or a sheet of Nos. 6, 7, 8 and 9 specific to the search and rescue helicopters so I can compare the two?

Madam Chairman, I would like to introduce the following motion, seconded by Senator Comeau. I move:

That the Committee of the Whole report to the Senate that it requests to meet on one or more additional occasions in order to hear from the following persons:

The Honourable Arthur Eggleton, Minister of National Defence; the Honourable Alphonso Gagliano, Minister of Public Works and Government Services; Lieutenant General George MacDonald, Vice Chief of Defence Staff; Lieutenant Colonel Wayne Smith, Maritime Helicopter Project Office; Colonel (Retired) Lee Myrhaugen, Coordinator of Friends of Maritime Aviation; Mr. Peter Smith, President, Aerospace Industry Association of Canada; and Brigadier General (Retired) Jim Hanson, Canadian Institute of Strategic Studies.

[English]

Senator Taylor: You pretty well have the whole regiment.

Senator Forrestall: So great has your obfuscation been that we need all these people.

[Translation]

The Chairman: Do you have a copy of the motion, Senator Nolin?

Senator Nolin: Yes, Madam Chairman.

The Chairman: Honourable senators, Senator Nolin moves:

That the Committee of the Whole...

Hon. Senators: Dispense.

The Chairman: All those in favour of the motion will rise.

[English]

Those who are opposed to the motion, please rise.

Those who wish to abstain from the voting, please rise.

A Clerk at the Table: Yeas, 14; nays, 34; abstentions, nil.

The Chairman: I declare the motion lost.

[Translation]

Senator Nolin: I would like this to be very clear between us and the witness. You will provide us with four additional sheets so we may compare them?

Mr. Williams: Yes, Senator Nolin.

[English]

Senator Buchanan: I also wish to thank our witnesses for being here, but I have a suspicion they wish they were not here.

Mr. Williams: We are always happy to be involved in the democratic process.

Senator Buchanan: I do not know how democratic this process is. I really do not. I have been around a long time, and this is the most intriguing situation I have seen in 34 years. I am not faulting you or Ms Billings, because you were probably told to be here.

It is interesting to find out from you all about procurement, but I want to know about what happened back in the late 1980s and the early 1990s with the procurement process that was used then, which was so much different than the procurement process you are using now.

I find it intriguing that all I know about the Sea King helicopters is that they fly over my house in Halifax all the time, except when they are down because of mechanical failures, which has happened many times over the last number of years.

I want to know how the Honourable Prime Minister, when he was Leader of the Opposition, was able to go through the whole procurement process of the late 1980s up to 1992 and make the decision that he must cancel the contract because he wanted a new procurement process. That was nonsense.

• (1740)

You will not say it, but you know that it was nonsense. I want to know why the contracts were cancelled in 1993? What military advisers advised that the contract should be cancelled? Did those military advisers agree with what you have said today, that the terms of war have changed so dramatically from 1989 to 1992 that they had to cancel the contract in 1993? The only change I can see are the tragic events of September 11 and the Afghanistan situation, which I do not think the Prime Minister, when he was Leader of the Opposition, could foresee happening nor could the military advisers. As far as shallow-water surveillance is concerned, I have never heard such nonsense in my life.

Go to Shearwater or to Halifax and ask the retired military people what they think of that, and I believe they will tell you.

Senator Graham: Take slide 11 with you. There is truth.

Senator Buchanan: I see. It does not really matter that for years helicopters have crashed and people have been killed. Helicopters have crash-landed and been dumped at sea. Does that not matter? I think it matters greatly, and it matters greatly to the Canadian people.

I should like to know if you are serious when you say the contract was cancelled in 1993 because the terms of war had changed so dramatically.

Mr. Williams: I believe I said this before: I will not comment; I do not know. I was not party to and I was not there when the contract was cancelled. I certainly did not suggest the reason it was cancelled was because of the change in the shallow-water surveillance. My point was that I am reflecting a difference in the environment today compared to back then. I am not making any connection between that and the cancellation.

Senator Buchanan: I am not faulting you. Are you saying that DND officials, the military back in the late 1980s and the early 1990s, were all wrong when they recommended the EH-101s?

Mr. Williams: My comment was and remains that I was not there at the time, and so I will not comment about anything that happened prior to my arrival on the scene.

Senator Buchanan: You and Ms Billings have made mention of people in the gallery, who I have no doubt are fine people. Why are those people not here helping you today? I have no doubt that many of them were here in the late 1980s, early 1990s, and could answer the questions for us. Were any of those people in the gallery present in the late 1980s and the early 1990s and involved in the procurement process of the 1980s and the early 1990s?

Mr. Williams: I cannot answer that. I am not sure when they were or when they were not there.

The Chairman: Order please.

Senator Carney: Mr. Williams and Ms Billings, I wanted to pick up on one of your answers. I have been a minister in three portfolios. If one of my top officials was going to testify on a very sensitive file before Committee of the Whole in the Senate, I would certainly want to know what they were doing and what they would say. Otherwise, I would consider that I would not be doing my job, nor would the official be doing hers or his.

Mr. Williams, when you say that you did not discuss this, what did you discuss and why would you not discuss this issue with your deputy or your minister?

Ms Billings: As I answered, I indicated that I had met with my minister, who was fully aware of the fact that Mr. Williams and I would be here today. The discussions between my minister and me are in fact privileged.

Senator Carney: They may be privileged but so is the role of the Senate. I do not recall ever counselling an official of mine that they could not discuss an issue with the Senate. I never remember doing that.

Ms Billings: We have been fully open to all the questions that have been asked. We have been fully open to answer the questions that have been in our purview to answer.

Senator Carney: Can you explain why you would not have discussed this with your minister?

Mr. Williams, what was your position? Would you actually go and booby trap them on an issue like this, which could happen?

Mr. Williams: My minister was comfortable that I would not do that and that I would speak openly and fairly. That is what he expected me to do and that is what Ms Billings and I have done.

Senator Carney: Is that what you discussed with him?

Mr. Williams: I did not discuss anything with him. I believe he has confidence in me.

Senator Carney: I am sure that confidence is well placed with your appearance here.

The question I want to ask deals with the procurement. Since one of my positions was President of the Treasury Board, I know that this is an extremely difficult and complex issue. The government has held up the Canadian search helicopter project, which led to the Cormorant, and I am grateful that two of them have been delivered. I understand that they are on the West Coast. Why has the government abandoned that process for the Maritime Helicopter Project, if it was such a model and so effective? It certainly made me happy to see those helicopters delivered to the West Coast? Why was that process changed?

I am not interested in shallow-water surveillance. You have answered that question. I am not asking you a question about that.

Mr. Williams: From my perspective, each procurement is different. What we are buying today is a different good or product than what we were buying before. The environment is different; our specifications and budgets are different. To suggest that because we did a procurement one way we ought to continue it is not the right approach.

Ms Billings and I challenge our people to do things better than yesterday, as people will challenge them today to do things better tomorrow. The revolution in military affairs demands that we do things differently. We are trying to work more closely with industry to get it right. We are trying to put in best practices that were not there before. This is expected of us, not simply to say that because we did something one way before we ought to do it the same way today.

Senator Carney: On slide 12, one of your procurement objectives is to comply with legislative and government contracting policies. Treasury Board requirements are not ad hoc. You cannot just change your procurement policy and Treasury Board does not change its policies. I do not think you have adequately answered my question. You are suggesting that you did it one way here and then you decided to do it that way. There are guidelines, contracting policies and legislation. Why did you change from one to the other? Maybe you had good reasons, but what were they?

Ms Billings: Every project is quite different, and even though the earlier project dealt with helicopters as well, they were different helicopters and the times are different. We followed the Treasury Board contract guidelines and the government contracting regulations in each case. The regulations give much latitude for our ability to structure a process in terms of the methodology, the approach, the types of criteria that we will use, the process we will follow, as long as we follow the fundamentals of being fair, open and equitable and as long as we are competitive and do not provide biased specs. We must treat all bidders equally and set our process out fairly and follow it, as we did in the case of the search and rescue project and as we intend to do in this case as well.

Senator Carney: Have you tabled those Treasury Board guidelines? Can you give us the guidelines for our assessment?

Ms Billings: The guidelines are in the public domain. They are on the Public Service of Canada Web site. Essentially, we are governed by the Financial Administration Act, which states that the government can stipulate regulations. Then we have the government contracting regulations, which outline a high level of policy and essentially state that we will compete, except in certain circumstances. The Treasury Board has its contracting regulations which start with a policy statement to the effect that we will provide open, competitive procurement processes, and then it outlines those cases in which we can deviate from a competitive process. It then goes further in terms of defining some of the applications. Those are all in the public domain.

• (1750)

Senator Carney: May we access them?

Ms Billings: Yes.

Senator Carney: You are saying that you were in total compliance in both cases with these guidelines. Mr. Williams, can you comment on this?

Mr. Williams: Yes. At the outset, one of the senators asked, and we did not have an opportunity to answer, why we are going with the lowest price compliant rather than with the best value. That is one of the key differences. I think that, if we had gone best value rather than lowest price compliant, we would be criticized much more. I find it surprising that it is perceived to be bad that we are spending no more taxpayers' money than we must. We are ensuring that we get exactly what we need. This is not a cheap helicopter. It is going to cost billions of dollars. It meets our needs. The fact that we can buy something that meets our needs and not spend more money, seems to me to be a good thing rather than a bad thing. Yet people are suggesting that going best value, which would likely cost taxpayers tens of billions of dollars more for things that we do not need, is a better way to go. We can certainly use that extra money to procure many other things for the men and women in the Armed Forces.

Senator Lynch-Staunton: I want to question some of the figures provided on slide 11.

In the fourth column, entitled "Combined SAR/MHP" there is a total of \$4,367 million. Is that in current dollars?

Mr. Williams: That includes inflation.

Senator Lynch-Staunton: What is the actual cost today?

Mr. Williams: We expect to spend \$4.26 billion.

Senator Lynch-Staunton: Have you factored in inflation?

Mr. Williams: Yes.

Senator Lynch-Staunton: What inflation factor did you use?

Mr. Williams: I do not know the exact percentage, but I can get that for you.

Senator Lynch-Staunton: It should be noted here that the figure has been adjusted for inflation.

Mr. Williams: It is an inflation-to-inflation comparison.

Senator Lynch-Staunton: I know that it is, but it does not say that.

Mr. Williams: That is what the words "budget year" mean, but it should have been clearer.

Senator Lynch-Staunton: We speak basic English here, not bureaucratic English.

Some Hon. Senators: Oh, oh!

Senator Lynch-Staunton: I do not care whether the comparison is favourable or unfavourable to one party or another. The point is to get the best equipment we can within our means.

Some Hon. Senators: Hear, hear!

Senator Lynch-Staunton: It would have been more accurate to include in the comparison the fact that then prime minister Campbell decided to reduce the number of helicopters from 50 to 43. You are showing figures for 50 helicopters. I fault you for that because, had the Conservatives been re-elected, the contract would have been renegotiated to 43. I do not care who looks better as a result, but it would have been more accurate to have done it that way, which would have shown an overall reduction of 16 to 20 per cent.

I would like you to introduce a table calculated in that way.

Mr. Williams: The difficulty with doing that is that no costing was done at the time as to what the cost differential would be. I was trying, in the most objective way possible, to use numbers that cannot be disputed. It is fine to suggest going from 50 to 43, but the implications of that were never costed.

Senator Lynch-Staunton: The briefing notes from the Department of Defence at the time show that there might have been a saving of \$1 billion.

Mr. Williams: That analysis was not done. It was just a hypothetical number thrown out as an example. There was no justification or basis for that number.

Senator Lynch-Staunton: You agree that you are comparing 50 helicopters when, had the government been re-elected, it would have ordered only 43. Therefore, the comparison should be based on 43.

Mr. Williams: I am basing it on what in fact happened, not on what may have happened. There are many differences, as I said at the beginning. The numbers are different; what we are buying is different; and the world is different. My point is very simple: We are saving between \$1 billion and \$1.5 billion for the same capability.

Senator Lynch-Staunton: If everything is different, your comparisons are worthless.

Mr. Williams: The key item that is not different is the capability.

Senator Lynch-Staunton: The world is different; the helicopters are different; the situation is different; the water is shallower, but you are going to make comparisons.

Mr. Williams: Yes, I am, because the capability for the helicopters has not changed.

Senator Lynch-Staunton: The frigates are going into shallow water.

Senator Carstairs: I move that the Chairman do now leave the Chair.

The Chairman: Will those in favour of the motion please rise?

Will those opposed to the motion please rise?

Will those who wish to abstain please rise?

A Clerk at the Table: Yeas, 48; nays, 3; abstentions, 0.

The Chairman: I declare the motion carried.

The Hon. the Speaker: Honourable senators, the sitting is resumed.

BUSINESS OF THE SENATE

Hon. Noël Kinsella (Deputy Leader of the Opposition): Honourable senators, on a point of order, we are approaching six

o'clock. The opposition would be agreeable to not see the clock, if the government is so inclined.

The Hon. the Speaker: Honourable senators, is it your wish that we not see the clock?

Hon. Senators: Agreed.

IMMIGRATION AND REFUGEE PROTECTION BILL

THIRD READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Cordy, seconded by the Honourable Senator LaPierre, for the third reading of Bill C-11, respecting immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or in danger.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, we were at third reading debate on Bill C-11 when we broke for Committee of the Whole. I just want to make a few comments on the bill, after which I know my colleague Senator Andreychuk will make more substantive comments.

I want to draw the attention of honourable senators to the concern that Canadians have under the circumstances that flow from September 11 as it relates to our immigration bill. Honourable senators, members on this side of the chamber are concerned that the Canadian immigration law be fair and continue to be inviting to the thousands of individuals who come to our shores, as has been the history of this great land of ours. They must know that we welcome them. They will come from all corners of the earth. Given the experience of the past number of years, a large number, perhaps the majority of those who come as landed immigrants, will be coming from Asia and not from what some observers describe as traditional source countries for immigrants to Canada.

It is important that our immigration law, as all law in Canada, recognize that even in times of stress, which has been the circumstance since September 11, we not lose the fundamental principles of equality and human rights that have always influenced our welcoming of new Canadians through the Immigration Act.

That point having been made, on the other hand, there are concerns that international terrorists, some of the players, will use in an ill-willed fashion the immigration laws of whatever country. That includes Canada.

I was impressed the other day with the evidence of Mr. David Matas, who was a witness before the Special Senate Committee on the Subject-Matter of Bill C-36. He made the very strong and clear recommendation to the special committee that the definition of "terrorist activities" contained in Bill C-36 should be placed in Bill C-11. That is an extremely important consideration. It would have been helpful for senators if the importance of that recommendation could have been canvassed with the Minister for Citizenship and Immigration, had she appeared before that special committee so that the issue could have been studied.

As honourable senators know, the excellent report of the Standing Senate Committee on Social Affairs, Science and Technology under the leadership of Senator Cordy and Senator Di Nino pointed out a number of concerns that members of the committee had with the bill. However, on this particular point, the suggestion is that regulations will deal with the definition of "terrorist activities" within the context of the Immigration Act.

Frankly, honourable senators, it seems to me that under the circumstances we are in these days it would be far better for us to pause for a few moments — for a few days or a few weeks — to consider whether or not we ought to move such an amendment, at least put into the act that which the Government of Canada has accepted as a principle having placed it in Bill C-36. There is one reference in clause 128 of Bill C-36, I believe, which speaks to the immigration bill. I think this amendment in particular would be well accepted by Canadians who are watching closely what Parliament is doing.

Honourable senators, our principal concern with the bill is that we take our time and consider whether or not it would be in the best interests of Canada, as a result of September 11, to amend that bill rather than to rely on regulations.

With those thoughts, honourable senators, I will enjoy listening to the third reading debate as it progresses.

Hon. A. Raynell Andreychuk: Honourable senators, I was not part of the Standing Senate Committee on Social Affairs, Science and Technology when Bill C-11 was before it. However, I did attend most of the committee meetings and, therefore, wish to make some comments.

First, Bill C-11 deals with something very important to many Canadians. It is not trite to underscore again and again, as our politicians do, that we are a multicultural country. Save and except for our Aboriginal base, we have a base made up of immigrants who came to this country, whether they have been here for two generations or five generations or whether they have recently arrived. Therefore, this bill deserves the greatest of scrutiny. I am afraid that this chamber, and certainly the committee, were pressed into what I think was an unfair and unrealistic timetable to deal adequately with the bill.

The minister and her officials justified Bill C-11, the first massive change and overhaul of immigration and refugee law in Canada in some 25 years. They said that it is framework legislation intended to streamline the immigration and refugee process and that it is necessary for us to act on terrorism as a result of the horrific acts of September 11.

Bill C-11 raises more concerns and questions about immigration, refugees and terrorism than it answers. In comparing the present act to Bill C-11, under Bill C-11 refugees will be facing a much more complex set of criteria and a much more complex process that in the end will not be better for the security of the refugees or for the security of Canadians.

On the immigration side, permanent residents are losing many rights. In my opinion, they are being dealt with unfairly. While

[Senator Kinsella]

perhaps being streamlined the immigration process is very unfair. It is depriving permanent residents of a process that anyone might warrant in any other country and what we in our country should want.

We are depriving permanent residents of due process, some of whom may have lived in this country from the age of two or more. The minister tends to say that permanent residents should go that extra step and become citizens. There are valid reasons why certain permanent residents in Canada do not wish to take out citizenship, and it is not necessary.

• (1810)

Surely, if they have contributed to our society and if they have been formed by our society, we have a responsibility to them. They have certain rights and we should deal with them. In the bill, we are taking away the right of appeal in serious offences. Surely we have a responsibility to someone who is moulded by this society. I do not want to go any further into the evidence, as the very excellent experts that we heard brought this point out in the hearings.

There are some serious concerns about Bill C-11. However, as terrorism is such an overwhelming issue now, we were put in the position of putting at risk some of the other elements of Bill C-11 to allow this bill to take terrorism into account.

Let me read to you what Mr. Benjamin Trister, Chair of the National Citizenship and Immigration Law Section of the Canadian Bar Association said:

There are, however, serious problems with the bill. Although they originate from well-intended policy objectives, the end results in Bill C-11 are often misguided and ill-suited to the policy objectives to which we relate.

We wish to comment on any sense of urgency to pass this legislation in light of the events of September 11. We are aware of comments from public figures suggesting that quick passage of Bill C-11 is needed to provide the government with the tools to fight terrorism. The current act provides powers for arrest, detention and removal of persons who constitute security risks to Canada with paramount weight being given to the safety of Canada over the liberty of the individual.

There is no gap to be filled by Bill C-11 in the area of preventative and pre-emptive detention of security risk. This issue should not be used as an excuse to overlook the substantial shortcomings of Bill C-11, and its impact on permanent residents and fair process. Indeed, in times when national security issues of such import are in play, it is particularly necessary to ensure that process and fairness are protected.

I want to go now to the testimony of Mr. David Matas. Mr. Matas is well known in Canada and elsewhere for his work with refugees and for his work on immigration issues. In his testimony, Mr. Matas stated the following to the committee:

Bill C-11 is a complex bill. It is the first new Immigration Act since 1976. There are many problems in the bill, technical problems as well as big issue problems. It needs a thorough going over. There is a whole new fix on the bill because of the destruction of the World Trade Centre and the terrorist attacks, which means that we must look at this system from different eyes. The Senate, I believe, can do it, given the time.

However, we were not given the time. I will continue reading the remarks of Mr. Matas.

As some of you know, I am a refugee lawyer in private practice. I have an individual perspective on this bill as a refugee lawyer, which to a certain extent overlaps with my concerns that I am presenting on behalf of the B'nai Brith. The legislation is complex. It is detailed. It is multi-step. It is lacking fairness in some respects. It denies international standards in some respects. It drags out proceedings unnecessarily.

Mr. Matas said that the bill is too long, too complex and unfair.

Further in his testimony he stated:

The first problem I have with the bill is that it does not have clear rules about who is removable. It sets up a system of discretion such that some people who are in the category of terrorist, torturers, war criminals and criminals against humanity can be allowed to stay at the discretion of the minister. There is a discretionary section. In my view, none of them should be allowed to stay except if they are removable to torture, arbitrary execution, forced disappearance or death penalty. In those situations, none of them should be allowed to leave. The bill does not say that. It allows removal in situations where there should not be removal and allows them to stay in situations when they should not be allowed to stay.

Mr. Matas further stated:

Part of the message I am trying to get across here is that some of the problems with this bill are much more acute, made more manifest by what has happened at the World Trade Center. We do not have an adequate system of moving terrorists through the system. It is too compartmentalized, too fragmented, too slow. That was a problem before, but I think it is even more of a problem now. It would be foolhardy to ignore the problem and just rubber stamp legislation designed in advance without even looking at the applicability of the current crisis to the legislation.

Mr. Matas later said:

Politically, we can make this bill better in dealing with the problem of terrorism. There are other problems with the bill too but it is not as effective as it could be in dealing with terrorism. Politically that is an important message. I could

understand a new piece of legislation passing quickly through based on what happened at the World Trade Center, such as I might add Bill C-36, and dealing with immigration and terrorism, but I do not see the political value of rubber stamping a bill that was prepared before the World Trade Center event. How can we say that this is the solution? This is an *ex post facto* rationalization. It is not an attempt to deal with the problem.

I have quoted two witnesses, but there were many witnesses. Virtually everyone pointed out that the bill was drafted before September 11, and was not geared for terrorism.

The biggest problem that I see with the terrorism issue in Bill C-11 is that terrorism is not defined. It is absolutely true that we have framework legislation. Framework legislation contemplates a definition in the regulations. The regulations were not before the committee. The witnesses indicated that they are only starting to prepare the regulations, and that they will not be ready until the spring, and perhaps later, as the Chair of the Social Affairs Committee pointed out.

We should have had the benefit of seeing those regulations to know what the definition of terrorism is to be. Witnesses such as Professor Joseph Magnet questioned whether it is fair to delegate down something like the definition of terrorism, and many other aspects. Is there sufficient parliamentary oversight, consistent with principles of responsible government and democracy, of this regulation making power in the social context? We are not talking about some gasoline standards and temperatures at which gas is cracked into a different product. We are talking about fundamental rights of people to be members of our society and our community and to live among us.

Honourable senators, there is delegation of the term "terrorism."

In the committee hearings on Bill C-36, it is fair to say that senators on both sides were concerned about innocent people being tracked as terrorists. We looked at the definition of "terrorist activity" for the purposes of the bill that Minister McLellan brought forward, Bill C-36. When we asked whether in fact the same definition would be used in the immigration bill, Bill C-11, Minister McLellan very rightly indicated that that was not her area.

Minister McLellan came to defend Bill C-36; Minister Collenette came to defend Bill C-36. Minister Caplan refused to come. We heard from Minister Caplan before Bill C-36 was before the special standing committee. We had no idea of the terrorist activity definition or how that omnibus bill would be viewed. Therefore, we were without benefit of having her respond to the questions.

• (1820)

The minister was not called back to the committee because of the shortened time frame. We have no idea whether Minister Caplan will use the same definition of "terrorism" as contemplated by Bill C-36 or whether she will have her own.

The fundamental problem here is that “terrorism” can be defined and redefined without being gazetted, according to the bill. The minister and his or her bureaucrats can exercise absolute discretion without any parliamentary scrutiny.

As a chamber, we have said that we are tired of seeing substantive matters that require parliamentary scrutiny being shoved into regulations. Surely, the thing that strikes terror is the fact that Bill C-11 does not tell us who will be defined as a terrorist. One could say we have an urgency so let us pass Bill C-11, but all the witnesses who came before us said that there is sufficient power in the existing legislation to do pre-screening, which in fact the minister has done. In other words, we can put into custody or keep out of our country anyone who could be a threat to our national security. Bill C-11 does not change that. In fact, one of the witnesses pointed out that the new bill will lessen national security, not strengthen it.

Here we are, with a minister who refuses to come to the Senate to explain her position, a minister who wants more discretionary power placed into regulations, justifying it by saying that it is absolutely necessary for the safety and security of Canadians.

Every witness — and I suggest we should listen to them — said no. There is a sufficient ability to screen and pre-screen and nothing new will happen under Bill C-11. There is sufficient ability for CSIS and the RCMP to put people into custody if they are a national security risk.

Resources will still be missing. We will still be short-staffed. Bill C-11 will not change that. The minister released resources already, before passing Bill C-11, under the existing act.

The Hon. the Speaker: Honourable senators, I am sorry to advise that the honourable senator’s 15 minutes have expired.

Senator Andreychuk: I would ask for leave to continue.

Hon. Fernand Robichaud (Deputy Leader of the Government): I would agree to five minutes.

The Hon. the Speaker: Is leave granted, honourable senators, for a five-minute extension?

Hon. Senators: Agreed.

Senator Andreychuk: Honourable senators, terrorism is a horrible threat. Only one immigrant was able to testify about how difficult it was to get into Canada. He wanted the Senate to know this: Immigrants and refugees are also worried about terrorism, globally and locally. They came to Canada to escape fear and violence, and it followed them.

In the best interests of everyone, we want to target terrorists and no one else. That is the fine work of Bill C-36, but Bill C-11 brings no benefit.

Minister Manley recently said that he will look to the United States and its desire to harmonize the immigration and refugee

[Senator Andreychuk]

process with the terrorist bill. Minister Manley says he will do that. That, to me, is an admission that Bill C-11 solves nothing. The disadvantages of the bill, though, are horrific. Unless we know what the minister will do, unless we can prevail upon the government to pass an adequate overhaul of the existing immigration bill, we will be no further ahead in trying to address terrorism.

MOTION IN AMENDMENT

Hon. A. Raynell Andreychuk: Honourable senators, I fear a public misconception that by passing Bill C-11, we have somehow dealt with terrorism. I therefore move, seconded by Senator Kinsella:

That Bill C-11 be not now read the third time, but be read a third time on a day six months hence.

Hon. Senators: Hear, hear!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion in amendment?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

On motion of Senator Kinsella, for Senator Beaudoin, debate adjourned.

AGRICULTURE AND FORESTRY

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Leave having been given to revert to Notices of Motions:

Hon. Leonard J. Gustafson: Honourable senators, with leave of the Senate, I wish to move a motion authorizing the Standing Senate Committee on Agriculture and Forestry to sit this evening even though the Senate is still sitting.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

EXPORT DEVELOPMENT ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-31, to amend the Export Development Act and to make consequential amendments to other Acts.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Robichaud, bill placed on the Orders of the Day for second reading two days hence.

CANADA-COSTA RICA FREE TRADE AGREEMENT IMPLEMENTATION BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-32, to implement the Free Trade Agreement between the Government of Canada and the Republic of Costa Rica.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Robichaud, bill placed on the Orders of the Day for second reading two days hence.

[Translation]

INCOME TAX CONVENTIONS IMPLEMENTATION BILL, 2001

THIRD READING—DEBATE ADJOURNED

Hon. Marie-P. Poulin moved that Bill S-31, to implement agreements, conventions and protocols concluded between Canada and Slovenia, Ecuador, Venezuela, Peru, Senegal, the Czech Republic, the Slovak Republic and Germany for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, be read the third time.

She said: Honourable senators, this bill marks another important step in the formation of Canada's growing system of tax conventions, which now extends to over 70 countries. Our system is one of the most complete in the world.

• (1830)

Known officially as the Income Tax Conventions Implementation Act, 2001, Bill S-31 would implement tax treaties recently concluded between Canada and eight other countries.

[English]

Honourable senators, five new treaties were signed: one with each of Slovenia, Ecuador, Venezuela, Peru and Senegal. They are historic in the sense that they are the first comprehensive conventions ever signed with these countries and they will provide taxpayers and businesses with more predictable and equitable tax results in their cross-border dealings.

The remaining three conventions, with Germany, with the Slovak Republic and with the Czech Republic, replace existing treaties. The Canada-Germany treaty updates our bilateral arrangements with Germany to make them consistent with current Canadian tax treaty policy, while the agreements with the Czech Republic and Slovakia are the result of the peaceful breakup of Czechoslovakia in 1993.

After that, each country wanted to sign its own tax treaty with Canada, and this presented an opportunity for Canada to update its arrangements with these countries as well.

Honourable senators, as you know, tax treaties contribute to the growth of the Canadian economy. For example, exports account for more than 40 per cent of Canada's annual GDP. In addition, foreign direct investment and inflows of information, capital and technology also impact on Canada's economic wealth. However, there is one particular aspect of international taxation that can have a negative impact on the expansion of our trade and on the movement of capital and labour between countries: double taxation. Tax treaties, including the ones in this bill, are designed to address this issue. I will explain.

[Translation]

One of the fundamental characteristics of our income tax system is that, like most countries, Canada applies tax on the world income of Canadian residents and on the revenue from a Canadian source for non-residents.

When a taxpayer resides in one country and earns income in another, a problem can arise. Without taxation agreements, both countries could end up taxing the same income.

One of Canada's objectives, therefore, consists therefore in negotiating these taxation agreements so as to eliminate obstacles to trade and cross-border investments such as double taxation. The other is to prevent tax fraud or evasion. The question of eliminating double taxation can be treated in a variety of ways in tax agreements.

For example, taxation rights can be divided between Canada and the other signatory according to revenue category. When the two countries agree to split the right to tax an income, the country in which the taxpayer is residing may provide the taxpayer with tax relief for what was paid in the other country where it was earned. A mutual agreement also enables the tax authorities of both countries to deal directly with each other in order to solve other cases of double taxation.

Honourable senators, allow me to now explain how double taxation is eliminated with the tax treaties we are discussing today. As with our existing tax conventions, the treaties included in this bill define how Canada and the eight other parties to these agreements can impose a tax on the income of residents of the other country.

For example, Canada and most other countries collect a withholding tax on passive forms of income earned by non-residents. In the case of Canada, the rate applied when there is no tax treaty is 25 per cent. Each of the agreements mentioned in Bill S-31 reduces the rate of the withholding tax that can be collected on certain incomes by Canada and by each of the other parties to the conventions.

For example, each party sets a maximum withholding tax rate of 15 per cent on portfolio dividends paid to non-residents, while bringing the rate to 5 per cent or 10 per cent, depending on the convention, for dividends between affiliated companies. Also, the maximum withholding rate on interest and royalties is between 10 per cent and 15 per cent, while the maximum withholding tax rate on pensions is set at 15 per cent, except in the case of the convention signed with Venezuela, which provides that pensions will continue to be taxed in accordance with the legislation of each of the two countries.

I indicated earlier that Canada's tax conventions are also designed to prevent tax avoidance or tax evasion. This objective is achieved by promoting cooperation between tax authorities, particularly as regards the exchange of information.

[English]

Before closing, I would point out that the new agreement with Germany provides for mutual assistance in the collection of outstanding taxes. As with similar arrangements that we have in place with the United States and the Netherlands, Canada will now assist German tax authorities in collecting their outstanding taxes, and they will help us to collect Canadian tax owing.

Honourable senators, in considering this bill, I would ask you to look at the broader picture and to keep in mind that each treaty is part of Canada's larger efforts to build goodwill and to create conditions for growth that will improve relations with our trading partners.

As with our existing tax treaties, many positive benefits will ensue for taxpayers and businesses alike. First, taxpayers will benefit from knowing that a treaty rate of tax cannot be increased without substantial advance notice. Second, investors and traders will benefit from the atmosphere of certainty and stability that the mere existence of tax treaties will foster. Third, annoyance with and complexity in the operation of the tax system will be reduced with the elimination of having to pay tax on certain business profits and with the provision of a mechanism to settle disputes. Fourth, an expanded tax treaty network will generate more international activity that will impact favourably on the Canadian economy. The business community, in particular, will welcome the withholding tax limits legislated in this bill and the cooperation that will ensue between Canadian and other tax authorities. Fifth, by far the most important benefit will be the elimination of double taxation that might otherwise arise in international transactions with these eight countries.

[Senator Poulin]

Honourable senators, our tax treaties assure us of how Canadians will be taxed abroad. At the same time, these treaties assure our treaty partners of how their residents will be treated in Canada.

In light of these benefits and the impact these tax treaties will have on Canada's overall economic performance, I urge honourable senators to pass this bill without delay. Enacting this legislation will bring Canada's network of tax treaties to include more than 75 countries.

On motion of Senator Kinsella, debate adjourned.

• (1840)

INTERNATIONAL BOUNDARY WATERS TREATY ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Corbin, seconded by the Honourable Senator Day, for the second reading of Bill C-6, to amend the International Boundary Waters Treaty Act.

Hon. Pat Carney: Honourable senators, this is an appropriate bill to be presented at this late hour because it is a sleeper of a bill. I do not think anyone in this house understands the purpose of this bill, or the Liberals and the government would not have brought it forward.

Bill C-6, to amend the International Boundary Waters Treaty Act, attempts to provide for more effective implementation of the venerable 92-year-old treaty between Canada and the U.S. over the management and use of our shared water resources known as boundary waters.

While the principal objective of this bill limiting bulk water exports is laudatory and is supported by many Canadians as well as the Progressive Conservative Party, the proposed legislation, in my view, could prove the "Law of Unintended Consequences," resulting in an outcome the complete opposite of its stated objective. I will outline my reasons for this analysis later.

The purpose of the amendment to the 92-year-old bill is to prohibit, with certain unspecified exceptions, the bulk removal of water from basins that straddle the border between Canada and the U.S. The prohibition on boundary water removals would apply principally to the Great Lakes, but would affect nearly 300 boundary waters, such as part of the St. Lawrence River, the St. Croix and the Upper Saint John River, Lake of the Woods, and basins of water and rivers in British Columbia.

Let me explain my personal and political interest in the subject of water rights, licences and exports. My first personal interest stems from the fact that my grandparents were homesteaders in the Okanagan. They were the descendants of Irish immigrants. They homesteaded 360 acres on the arid side of the Okanagan valley. Next to the log cabin they built there was a spring called the Pump Bowl. The springs were the secret of success in the Okanagan. Then the time came for my grandfather, old John Joseph, to apply for a licence on this spring. If you know British Columbians and many Westerners, you know that they will say, "Why do we have to do this? My God, the spring is next to the house. We don't have to get a licence." Nonetheless, old John Joseph, who liked his rye whisky, got on his horse, Billy, and went to town to get the licence. However, he got sidetracked drinking with his buddies, and he never got to the office to get the licence, but his neighbour did. That was the end of the homestead. When the old man died, there was no grain in the barn, there were no cattle on the range, there was nothing, because he had no water for his homestead. The whole issue of water licences and water rights has been very important to our family.

My second personal interest in this bill is political because, as minister responsible for the Free Trade Agreement, I was involved in the negotiations regarding Canadian resources and other issues. My chief negotiator, Simon Reisman, my great friend, was an avowed supporter of something called the North American Water and Power Alliance. Those of you who were not born yesterday will remember that this was first proposed in 1964. It was called NAPAWA, and this project contemplated damming virtually every major river in Alaska and British Columbia, including the Yukon, the Skeena, the Tatiana, the Peace, the Churchill, the Mackenzie and the Fraser. The excess water would be diverted into the 500-mile natural depression known as the Rocky Mountain Trench that runs the length of British Columbia, and this trench of water would move down British Columbia. Some of it would go to the Great Lakes and the Mississippi River. The water level of the Great Lakes would rise; hydroelectric generation at Niagara Falls would increase; ocean-going vessels would move up the Mississippi to St. Louis. Most of the water would travel both sides of the Rockies towards the Great Plains, towards Idaho, Texas, California and Mexico. This plan, monumental and breathtaking in its scope, would be the largest engineering project in the world.

My chief negotiator, Simon Reisman, told the Ontario Economic Council and I am quoting here from Canadian Business in 1985, that the U.S. wants Canadian water badly and this could be the playing card that would give Canada its best opportunity to secure long-term access to the U.S. market for Canadian goods, which is what the FTA was all about. He actually said in an interview, "The Americans have a desperate need for water...I think they would go crazy for the idea." He referred to water as the "missing link" in trade talks, and that, instead of the Grand Canal, "This bargaining lever is so great we can get anything we want so long as it is reasonable."

You can imagine that my concern about water and water exports was quite deep. In the Free Trade Agreement, the reference to water is minimal. It is contained in Tariff Schedule

No. 22.01. It deals with waters, including natural or artificial mineral waters, aerated waters, not containing added sugar or other sweetening matter nor flavours. It also states; "ice and snow." This is very ambiguous. I do not know how the phrase, "ice and snow" ever got by me. It was probably added in the detail stage.

I read this bill with great interest. It is, of course, much less ambitious. We are not talking about exporting water down both sides of the Rockies, but it does amend and update the International Boundary Waters Treaty Act.

Senator Corbin said in his speech in this place that, by adopting Bill C-6, the Senate will establish in law "an unambiguous prohibition of bulk water removal in waters under federal jurisdiction, which is a forward-looking action that places the highest priority on ensuring the security of Canada's fresh water resources."

I would suggest, honourable senators, that the opposite could be the case, that Bill C-6 as written could be a step backwards, with the unintended consequence of actually permitting some bulk water exports where no such permission now exists.

If this interpretation of the bill is correct, we will have achieved exactly the opposite of what most Canadians want, which is protection of Canadian freshwater resources.

I will not walk you through all 26 clauses of the bill because Senator Corbin did an excellent job of presenting what is in the bill. However, I will briefly go through it. The first clauses deal with how the act will be amended, including the definitions, the licensing process, the regulatory process, the prohibitions, what would not be permitted. The most important clause is 13.(1), which states:

Despite section 11, no person shall use or divert boundary waters by removing water from the boundary waters and taking it outside the water basin in which the boundary waters are located.

The bill deals with the ministerial powers of suspending or revoking the licence. It sets out penalties. It basically says you cannot divert water from water basins, it defines water basins, and it specifies that there shall be penalties — and quite stiff penalties, Senator Corbin, \$1 million dollars in some cases — on indictment, should one be in contravention of the act.

This bill deals with the prosecution of officers who are seen as a party to an offence under this proposed act. It deals with injunctions, stating that there is a process of seeking and granting injunctions, if someone is suspected of or is in the process of diverting waters under this act.

• (1850)

However, we have several areas of concern with the bill as written, which I will outline. As I say, the 26 clauses are quite straightforward, and Senator Corbin has them on the record. Other concerns may emerge under the scrutiny of the committee process, and I suggest that both Ministers Manley and Anderson, who have jointly spoken to this bill in the other place, be asked to address these concerns in committee.

While I understand that they have heavy responsibilities dealing with Canadian security issues at the present time, I would venture that in our long-term future no issue affects the security of Canadians more than our unimpeded access to and protection of our fresh water resources since water is the most essential element in our survival as human beings.

My first concern is the lack of definition of the term “bulk exports.” It is amazing that this bill prohibits something that it does not define. There is no definition of “bulk exports” in this bill.

What in fact constitutes a bulk “export”? Is it a tanker load of water? Is it a sufficient amount of water to sustain a water pipeline? Is it some fraction, unspecified, of the amount of water in an international basin as defined in the bill? In its definition section, the bill deals only with the terms “boundary waters,” “licence” and “minister.” There is no definition of the term “bulk exports.” This is a serious omission.

When asked to supply a definition, the Department of Foreign Affairs and International Trade advised my office that the definition of “bulk water” will be in the regulations that will implement the bill. In general, a department official told us:

A bulk removal would constitute projects that involve a continuous flow of water or a volume amount that would exceed 50,000 litres per day.

I confess that I really do not know what 50,000 litres a day would be, but that is a working definition.

It will also include a project that will use a pipeline, tunnel or aqueduct to divert water.

Those would be prohibited.

If this definition of the important term “bulk water” has been decided upon, why not include it in the bill itself?

My second area of concern involves the extensive reliance placed in this bill on ministerial powers and ministerial discretion, which of course subverts the very basis of Parliament, which is to scrutinize government proposals, provide alternatives and debate important issues. Surely the issue of Canada’s freshwater supplies, its utilization — and by whom — merits Parliament’s attention.

[Senator Carney]

Senator Nolin pointed out in his intervention with Senator Corbin that Bill C-6 leaves the power to define elements in the hands of the minister through his regulatory power. Clause 21(1)(b) states:

The Governor in Council may, on the recommendation of the Minister, make regulations

(b) defining, for the purposes of this Act, any word or expression used in sections 11 to 26 that is not defined in this Act.

This essentially leaves the core issue — what fresh water is exportable and what is not — entirely to ministerial discretion, beyond the scrutiny of Parliament. Senator Corbin has responded by saying that ministerial power is not absolute power; in making any decision, the minister will have to take into account the outcome of a public consultation process and will consult with stakeholders.

However, these safeguards are not spelled out in this bill. Instead, the government is relying on the generalities of the regulatory process. I should like to remind honourable senators that in that process the regulations go to a special committee of cabinet. They are then published in the *Canada Gazette*. There is a two- or three-week period for public comment, after which the regulations are returned to the special committee. When they are published for the second time in the *Canada Gazette*, they are law. There is no scrutiny by Parliament.

I cannot find in the bill a specific clause that commits the minister to a specific regulatory process that, for instance, would require regulations to be reviewed by Parliament, by provincial jurisdictions and by stakeholders before being implemented. There is a precedent for this process in other legislation, specifically the Canadian Environmental Assessment Act.

Senator Corbin has given assurances that committee members may see draft regulations during our Senate review, but he has not made any commitments that these draft regulations may be changed or altered during the committee stage now or in the future.

It is amazing that other essential elements in this proposed regulation are also left to the regulatory process, beyond a detailed examination by Parliament. These elements include specifying what constitutes a use, an obstruction, a diversion or work. That is what the bill is dealing with. Use, obstruction, diversion or work are, in fact, the actual targets of the bill. Those are left to ministerial discretion to decide.

Also left to ministerial discretion is describing the water basins to which the export prohibition applies. Also left to ministerial discretion are the exceptions which the minister may permit, prescribing the classes of licences and who is eligible to hold them, and the manner in which the applications are to be filed, processed and disposed of.

The arrogance and the arbitrary nature of such ministerial discretionary powers are astonishing. They extend to every single important aspect of the proposed legislation on which the lives and livelihood of Canadians depend. That is why I say I am surprised that the government would bring forward this bill in its present shape.

Bill C-6 has slipped through the parliamentary system largely without comment by the media or the public, soothed by the motherhood arguments presented by its Liberal proponents — and supported by other parties, I must confess — on the need to protect Canada's freshwater resources.

It should be noted that the current act, the venerable International Boundary Waters Treaty Act, does not include the power to make regulations. Clearly, amendments that would provide a specific, transparent and accountable regulatory process would assist us in managing our freshwater resources. However, in our view, it is essential that the bill be amended to ensure the regulations that define and implement the provisions governing freshwater exports within the federal jurisdiction be examined and approved by Parliament.

My third area of concern deals with the possible exceptions to the general prohibition on bulk exports, however they may be defined. Possible exceptions are identified in the Library of Parliament's legislative summary as "water used in the production of food or beverages" or other exceptions specified in the regulations as set out in section 13(4). Remember, this is subject to ministerial discretion only.

Does that mean that Canadian fresh water could be exported to food and beverage manufacturers in the U.S. as well as domestic manufacturers? This raises the issue of whether such water exports create a "tradable good" — that is essential to this argument — subject to international trade laws. Under the terms of international treaties such as NAFTA, Canada would be required to award U.S. and Mexican companies "national treatment." In other words, Canada would be obligated to provide Americans and Mexicans the same access to its fresh water resources as the access provided to Canadians. I remind my colleagues that this is an area that I had a lot to do with in the free trade negotiations.

The government maintains that under international trade law, Canadian governments, federal and provincial, retain full sovereignty over Canadian water in its natural state. This is the approach taken by the three countries that are signatories to NAFTA: Canada, the U.S. and Mexico. The Canadian view is that water in its natural state is not a good and is therefore not subject to trade obligations. I support that view. I have always opposed the so-called export ban on fresh water because it implies that water is in fact a tradable good.

The Office of the U.S. Trade Representative — the American counterpart to our own Department of International Trade — agreed, in a formal submission to the International Joint Commission, which stated:

...water resource management rights belong to the country or countries where the water course flows. We are not aware of any government having challenged this principle in any forum, let alone before an international trade body such as the World Trade Organization. ...the WTO simply has nothing to say regarding the basic decision by governments on whether to permit the extraction of water from lakes and rivers in their territory.

Instead, the Canadian government treats the prohibition of bulk water removal from a basin as an environmental issue necessary to protect the ecological integrity of international boundary basins. That is a good position to take, in my view. However, the NAFTA statement, which supports this view, also states:

• (1900)

Unless water in any form has entered into commerce and become a good or a product, it is not covered by the provisions of any trade agreement, including NAFTA.

It is the word "unless" that troubles me. It implies that if water in any form has entered into commerce, possibly by ministerial decree under the provisions of this bill, the issues of "tradable good" and "national treatment" arise. I hope the ministers and his officials can clarify this issue during the committee process.

Another murky area is the stance of the provinces, which control 85 per cent of Canada's fresh water resources. Environment Minister Anderson, speaking in the other place, suggested that all provinces have either enacted legislation and policies that prohibit the export of bulk water or are planning to do so. Yet, the evidence is otherwise. I understand that B.C., which enacted its own Water Protection Act in 1995, prohibiting the removal of water from the province, has reservations about the federal approach.

Minister Manley echoed the commitment in the other place that "as of today all provinces have put into place or are developing legislation and policies to prohibit bulk water removal." However, only half of the provinces have signed on to the federal accord. Manitoba, Saskatchewan, Alberta, British Columbia and Quebec are the abstainers. It is hard to argue that the provinces are on side when half of them have abstained from signing on.

A federal government priority and focus of the proposed amendments are the Great Lakes, which involve two federal governments, eight American states and two Canadian provinces — Ontario and Quebec. These jurisdictions have been working for more than a year on the development of common standards to manage bulk water removal on the Great Lakes but had not come to any agreement on common standards when the minister addressed the other place on April 26, 2001.

I think that members of the Senate committee would appreciate some clarity from the minister on what these standards are, and an update on progress to date.

A final concern that has emerged in my study so far of this bill deals with the reciprocity of legislation with the Americans, our partners in the International Joint Commission and in the management of boundary waters. Both Canada and the U.S. agreed on a reference to the International Joint Commission to investigate and make recommendations on the consumption, diversion and removal of water from the Great Lakes, which Minister Manley deems the greatest of the shared waters. Of course, since I am from British Columbia, I might dispute that view.

Minister Manley said that Bill C-6 is consistent with and supportive of the IJC's conclusions and recommendations in its final report filed in February 2000. However, there are other important boundary waters and transboundary waters, and as Canada moves ahead in implementing the IJC's report, we would like to know how the Americans are proceeding with their reciprocal responsibilities.

We look forward to hearing more on these vital issues from the ministers, their officials and other witnesses in the next few

months, and we on our side of this chamber will consider recommendations and possible amendments in committee.

Honourable senators, I thank you for your attention, and I urge to you scrutinize this legislation to ensure that it carries out the intent that the government and the Canadian people meant it to achieve.

On motion of Senator Spivak, debate adjourned.

[*Translation*]

BUSINESS OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, since we have had a long day during which we accomplished a lot, and since some committees are sitting right now, I move that the Senate do now adjourn and that all items on the Order Paper and on the Notice Paper that have not been reached stand in their place.

The Senate adjourned until Wednesday, October 31, 2001, at 1:30 p.m.

APPENDIX

**STATEMENT TO THE THIRD COMMITTEE
OF THE 55TH GENERAL ASSEMBLY**

**MR. ROSS HYNES
REPRESENTATIVE OF CANADA**

ITEM 114 (b, c, d, e): HUMAN RIGHTS QUESTIONS

NEW YORK, NOVEMBER 1, 2000

This year the United Nations General Assembly began with the convening of the Millennium Summit — a summit which reinforced the vital role of the United Nations in serving the world's peoples. The Secretary-General spoke of the UN's mandate to protect vulnerable people by finding better ways to enforce humanitarian and human rights law and by helping to build a culture of respect for human rights in all states. As Kofi Annan said, the world's peoples are telling the United Nations that it must do more, and it must do it better.

Human rights are particularly at jeopardy in situations of armed conflict. Ensuring freedom from fear requires the international community to tackle the threat of deadly conflict at every stage in the process - from preventive action in the form of early warning of human rights violations, speaking out and taking action when these violations occur, and taking measures to build sustainable respect for human rights in the aftermath of conflict. The greatest impact of armed conflict is suffered by children. That is why in September we convened the Winnipeg Conference, the first truly global meeting on war-affected children which brought together Ministers, the UN and NGOs to set an agenda and consolidated concrete commitments to child protection. Children should have no part in war, yet today they are among its main victims.

In Sudan, Canada is gravely concerned about the indiscriminate bombing of southern villages by government forces, particularly the bombing of schools and hospitals. The use of child soldiers, the forcible displacement of people from their homes, the forced abduction, forced labour and servile status of women and children is widespread. While we are encouraged by the return of sixteen former Lord's Resistance Army abductees, we urge the government to implement fully its recent commitments, in particular those by the Minister of Foreign Affairs, made at the Winnipeg Conference on War Affected Children. Canada calls on all parties to the conflict to respect their obligations under international human rights and humanitarian law and to safeguard as well the rights of the four million internally-displaced people in Sudan.

More than one year on, the conflict in the Republic of Chechnya in the Russian Federation shows no signs of resolution. Canada believes that the conflict can only be ended through an inclusive, negotiated political solution. Canada remains deeply concerned by the plight of civilians in Chechnya. While the scale of fighting has diminished, civilians remain at risk from Russian and Chechen combatants, terrorism and land mines and unexploded ordnance. We welcome the progress to date on the investigation of allegations of human rights abuses and call on Russia to cooperate more closely with international experts, including the United Nations.

In the Great Lakes Region of Africa, notably in the Democratic Republic of Congo (DRC) and Burundi, gross violations of human rights and international humanitarian law still occur daily. In the DRC, Canada remains deeply concerned by the human rights situation which has been exacerbated by the continuing presence of foreign troops in that country. The Special Rapporteur on the human rights situation in the DRC indicates that the situation has worsened in the territories controlled by the rebels, especially those controlled by the RCD-Goma and its foreign sponsor, Rwanda. The report also denounces human rights violations by the government and by armed militia and armed groups such as Ex-FAR and interhamwe. We reiterate that all parties to the conflicts are responsible for the protection and security of humanitarian personnel in their zones of control. We strongly encourage all signatories to the Lusaka Agreement to respect their undertakings and bring an end to the conflict and to respect the human rights of civilian populations and their obligations under international humanitarian law. Canada further hopes that the leaders of the countries involved in the conflict will honour their commitment recently made in Maputo to withdraw their forces from the present frontlines.

As for Burundi, Canada welcomes the signature of the Arusha Peace Accord but regrets that fighting continues; we call on the rebels to cease their attacks and conclude a cease-fire agreement. Canada remains concerned with the situation of inhabitants in the regroupment camps.

The human rights situation in Afghanistan continues to be appalling. The officially sanctioned treatment of women by the Taliban authorities is unsurpassed in its lack of compassion and is totally unacceptable to world opinion, as is the use of air power by Taliban forces against areas of civilian population. The international community has called on both sides in the Afghan conflict to show respect for the lives of innocent civilians, the absence of which is illustrated by the continued and indiscriminate use of landmines. Afghanistan's role as the world's largest heroin producer and distributor also poses challenges to respect for human rights. The Taliban in particular must recognize that they can have no prospect of fruitful engagement with the outside world unless such policies and practices are radically changed.

In Sri Lanka the longstanding conflict and the serious violations of human rights and international humanitarian law by both the Government forces and the LTTE are yet another depressing example of the terrible impact of war on civilian populations, particularly children. We continue to be concerned that, with very few exceptions, human rights violations are aggravated by delayed judicial action and perceived impunity of their perpetrators.

In Colombia the deliberate targeting of civilians as “military objectives” by illegal armed groups, both guerrilla and paramilitary is the single most serious human rights issue. We fully support the government’s efforts to reach a negotiated settlement to the conflict and underline the urgent need for a humanitarian accord to guide future talks. Canada is concerned about increasing threats and attacks against human rights defenders, the indigenous, and Communities of Peace. We urge the Government of Colombia to implement adequate measures to protect these groups and to bring to justice those responsible for threats and acts of murder. We urge the government to implement without delay an early-warning system to better protect human rights defenders. Flagrant abuses of international humanitarian law by illegal armed groups continue to increase, notably kidnapping, the recruitment of minors, execution of defenceless combatants, and the refusal of access to detainees (de facto prisoners of war).

In other instances, the aftermath of conflict has left countries in a fragile transition period. At this stage, countries can either move forward to build long-term peace or revert to conflict. The ways in which countries choose to tackle issues of impunity, conduct elections, build functioning human rights institutions and cooperate with the international community can tip the balance.

While Canada notes that Ethiopia and Eritrea have largely respected the agreement on cessation of hostilities, we remain deeply concerned by the human rights and humanitarian situation in both countries. We urge Ethiopia and Eritrea to remain fully engaged in the OAU peace process, to fully protect the human rights of the civilian populations within their territories, regardless of nationality, and to fulfil their obligations under international humanitarian law, including providing unconditional access to prisoners of war. We will be contributing to the UNMEE mission authorized by the Security Council, whose mandate includes a human rights unit. Canada welcomes Eritrea’s recent accession to the Geneva Conventions, as well as the recent return to their countries of origin of a number of displaced Ethiopians and Eritreans.

In the Balkans, the situation of ethnic minorities in Bosnia and Herzegovina and the Federal Republic of Yugoslavia, particularly violence against minorities in Kosovo, remain of serious concern.

While respect for human rights in Bosnia and Herzegovina has improved over the past year, including with regard to the return of minorities, progress continued to take place only with considerable pressure from the international community which, in many cases, was responsible for the implementation of key elements of the Dayton Peace Agreement. Other areas of concern include the establishment of transparent and impartial judicial system and cooperation with the International Criminal Tribunal for the former Yugoslavia.

Over the course of the last year, the Federal Government of Yugoslavia repeatedly violated the human rights of its citizens. The Yugoslav judicial system continued to be unfair; dissenting voices — expressed in the media, peaceful demonstrations or the work of NGOs work — were regularly harassed and at times prosecuted. Innocent people were detained on trumped-up charges. The recent departure of indicted war criminal Slobodan Milosevic from power is a very welcome development which we hope will lead to a much improved human rights situation.

In Sierra Leone, the peace process remains stalled. Canada regrets that the demobilization, disarmament and reintegration program, and several other initiatives aimed at establishing an enduring peace have almost virtually stopped. As a member of the Security Council, Canada supports moves to create a Special Court for the perpetrators of crimes against humanity to bring to justice those who bear the greatest responsibility for atrocities, as well as to bring closure to less egregious but still unacceptable acts.

As that of Sierra Leone, the situations in Cambodia, Haiti and Indonesia are illustrative of the importance of combatting impunity. The international community has recognized this in adopting the Rome Statute. The establishment of the International Criminal Court will be a key step in ensuring that we are able bring to justice the perpetrators of the most serious international crimes. Today there are 22 states party and we urge others to ratify as quickly as possible, to ensure the 60 ratifications needed to bring the Rome Statute into force.

We were pleased earlier this year to witness an agreement between the Cambodian government and the UN on the composition and workings of a tribunal through which to address war crimes committed during the Khmer Rouge period. We encourage the Cambodian government to adopt legislation, in a timely fashion, that accords with the UN agreement. An internationally-credible tribunal would be an important step toward replacing a lingering culture of impunity in Cambodia with one in which the rights of individuals are fully respected. Cambodia’s first-ever commune elections will be a welcome milestone on the path toward further democratization. We urge the Cambodian government to ensure that those elections are free from violence.

In Haiti, Canada has noted the holding of the Carrefour Feuilles trial and the advances in the Raboteau trial and encourages the Haitian government to continue its efforts to fight impunity. However, we are still concerned by the situation in Haiti. We hope the Organization of American States’ efforts to facilitate a dialogue between Haitians will result in Haiti correcting the main deficiencies in their legislative elections and taking measures to strengthen democracy. Any other outcome would not augur well for human rights in Haiti and for our capacity to continue our support for Haiti’s democracy and development.

In Indonesia, the resurgence of violence in Aceh, the Moluccas and West Timor continues to be of concern, as does the plight of a million people who have been displaced within their own country. We welcome the Indonesian government's extension to January 15 of the humanitarian cease-fire in Aceh. We encourage the Indonesian government to continue to prosecute those responsible for human rights violations in the different regions of the country. In this regard, we fully support the Indonesian government's intention to establish a human rights tribunal. We hope that the recent integration of the Ministry of Human Rights into the Ministry of Justice will not diminish the importance given by the Indonesian government to human rights questions.

The United Nations cannot fulfill its mandate of protecting and promoting the human rights of the peoples of the world without the full cooperation and engagement of its member states. The primary obligation to protect human rights lies with the State — first and foremost, through respect for international human rights and humanitarian law standards. If governments choose to ignore the wishes of their people and rule by force or by authoritarian dictate, human rights suffer and the UN's mission is frustrated. Rule by law is not the same as rule of law.

The government of Iraq continues to rule by terror, undertaking indiscriminate arrests, imprisonments and executions in order to maintain its hold on power. It has taken no steps to curb widespread human rights abuses, and suspended its cooperation with the previous Special Rapporteur on Iraq of the Commission on Human Rights. Canada expresses its appreciation for the work of Mr. Hans van der Stoep and lends its full support to the new Special Rapporteur, Mr. Andreas Mavromatis. We urge Iraq to engage in a dialogue with Mr. Mavromatis and to issue an early invitation to him in order that he may carry out his mandate. Canada urges the government of Iraq to end the arbitrary detention and execution of political and religious opponents, enforced disappearances, torture, denial of freedom of expression and forced displacement and deportation of Iraqi citizens.

The human rights situation in Burma continues to deteriorate and the prospects for any improvements look bleak. Canada is particularly concerned over the growing pattern of unacceptable behaviour demonstrated by the State Peace and Development Council towards Aung San Suu Kyi and members of the National League for Democracy party. Canada notes, however, that the International Commission of the Red Cross has been allowed to visit prisons in Burma. We urge the authorities to take immediate steps to comply with the recommendations of the ILO concerning the practice of forced labour. Canada welcomes the most recent visit of the Secretary-General's Special Representative and supports his efforts to begin a genuine dialogue involving

the State Peace and Development Council and Aung San Suu Kyi and the National League for Democracy. We reiterate our call on Burma to demonstrate genuine commitment to national reconciliation, human rights and the restoration of democracy by entering into a substantive dialogue with representatives of the pro-democracy movement and minority groups. Demonstrated progress in these areas by the SPDC is indispensable in improving the lives of the people of Burma.

We welcome the policy shift toward greater international engagement by the Democratic People's Republic of Korea as the absence of respect for human rights and fundamental freedoms there has long been a matter of concern. To assist the DPRK to integrate itself better into international affairs, Canada has recognized the DPRK as a state and will engage its government in dialogue to encourage it to implement the rule of law and act in accordance with universal human rights standards.

I started this statement by underlining the challenge all States face in ensuring better implementation of international human rights law. The international framework for human rights remains the treaties. Willingness to ratify international human rights treaties and willingness to accept international scrutiny by the treaty bodies and other human rights mechanisms are all part of building respect for the international rule of law.

We continue to urge China to assign higher priority to the early ratification and implementation of the two major international covenants on human rights which it has signed. We acknowledge China's ongoing commitment to modernising its legal system and increasing the standard of living of its citizens through difficult economic reforms. However, we remain concerned about continuing restrictions on freedom of expression, freedom of association, and freedom of religion, especially in Tibet; the continued application of the death penalty; the harsh sentencing of dissidents; and restraints on the activities of labour unions.

We urge Malaysia to ratify and implement the major human rights treaties. There has been a broad decline in the human rights situation over the past year. This is particularly noticeable with respect to the independence of the judiciary. As well as the conviction of former Deputy Prime Minister Anwar in a trial that was seriously flawed, the ongoing sedition trials of several government opponents and other legal actions, such as contempt of court rulings, have created an environment that stifles dissent and freedom of expression.

However treaties and constitutional provisions are meaningless unless they are implemented. Similarly, political commitments to respect human rights need themselves to be respected.

Canada strongly urges the government of Vietnam to respect the political and religious freedoms set out in its constitution. Canada remains particularly concerned about de facto limitations on religious freedom, especially for practitioners of Buddhist and Christian faiths. Canada welcomes recent amnesties in Vietnam, along with a reduction in the number of offences for which the death penalty may be imposed. We urge the government of Vietnam to take further steps in this regard, including the abolishment of the death penalty for all but the most serious of crimes.

We strongly believe that the military government of Pakistan must establish the economic, political and administrative foundations for the protection of human rights. Full implementation of the government's commitments to the transition to democracy and major national reforms is critical for success. This commitment is essential given the continued egregious human rights violations widespread in Pakistan, such as "honour killing" of women, widespread use of child labour, and the very discriminatory and unjust "Blasphemy Law." Canada acknowledges steps taken in such areas as freedom of information legislation and the establishment of a national commission on the status of women, and we hope that these initiatives contribute to positive reforms in other areas.

Canada is concerned with the increased resort to the death penalty and other forms of cruel punishment in Saudi Arabia, at times for less than the most serious offences and often without the accused having the benefit of access to legal counsel. We note the Saudi Arabian government's readiness to pay greater attention to human rights mechanisms and hope that this, together with the new regulations which have recently been introduced for the legal profession, will translate into an administration of justice in Saudi Arabia which is more consistent with universal human rights standards.

In Iran, President Khatami's plans for a tolerant, law-abiding and democratic society are facing a significant challenge from entrenched authorities hostile to his agenda. Canada continues to hope that the commitment to democratic ideals of Iran's elected officials will be reflected by increased respect for human rights. In particular much more progress is required on the core issues of women's human rights, freedom of opinion and expression, and freedom of religion. Despite some recent positive changes connected with the right to legally register their marriages, we remain concerned by the ongoing discrimination against Baha'is including the imposition of death sentences for practicing their faith. We were disappointed by the lack of transparency and the failure to abide by recognized

international standards of due process of the trials of 13 Jews and 4 Muslims in Shiraz on espionage charges.

Despite its government's rhetoric, we regret to note that there has been no substantial improvement in respect for internationally accepted norms of human rights in Cuba over the past year. Canada remains deeply concerned that individuals continue to be harassed, detained and imprisoned for activities that would be considered normal political protest in any democratic country. As well, we remain concerned about the threatening political message that Cuba's year and a half-old national security legislation conveys. Canada encourages Cuba to open greater space for peaceful political dissent, and freedom of opinion and expression; and to expand its dialogue with the Church and other members of its nascent civil society.

The situation in the Middle East is undermining the human rights of people living in the region. When politics and discourse fail, it is people who suffer. We must not let respect for international humanitarian and human rights principles and tolerance between communities become casualties of the current crisis. From the beginning, Canada has pursued two fundamental objectives, both multilaterally through the United Nations and bilaterally with our partners in the Middle East. Canada wants to see both the immediate cessation of violence and a return to negotiations. We support those efforts which we believe contribute to these objectives. We welcome the commitments made at Sharm el-Sheikh and we call on the parties to respect them. The success of these political efforts will hinge on the ability of all concerned to put the safety, security, human rights and well-being of people first, and in so doing help to bring calm, tolerance and stability.

No country in the world — including my own — is beyond criticism for its human rights record. And no country can argue that it has done everything in its power to fulfill its international human rights obligations or to ensure the fullest possible enjoyment by its citizens of all of their rights. As Kofi Annan said at the Millennium Assembly, we owe it to the peoples of the world to do more and to do it better. At the Millennium Assembly, our leaders endorsed a vision of the United Nations which has the tools to make a tangible difference for people. Canada's participation in this Third Committee debate on human rights situations around the world, as well as our efforts to promote human security — through the Ottawa treaty to ban landmines, our efforts to regulate the flow of small arms, the International Criminal Court, the Winnipeg Conference on War-Affected Children — are all inspired by the wish to live up to this goal.

COMMISSION ON HUMAN RIGHTS

57TH SESSION

**ITEM 9: QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL
FREEDOMS IN ANY PART OF THE WORLD**

**STATEMENT BY MARIE GERVAIS-VIDRICAIRE
HEAD OF DELEGATION OF CANADA**

**GENEVA
30 MARCH 2001**

The United Nations Charter is written in the name of “we the peoples.” Ultimately, the peoples of the world look to the United Nations to act as the conscience of the international community and to speak out on behalf of victims of human rights violations. The Commission on Human Rights plays a key role in the fulfilment of this mandate. The Commission sets human rights standards, it oversees their implementation and it provides an opportunity for frank and open debate about *all* aspects of human rights violations in *all* parts of the world.

We firmly believe that frank debate requires that countries examine not only human rights in other parts of the world but also at home. Human rights are a cornerstone of Canada’s foreign policy because they are a cornerstone of the Canadian constitution, Canadian institutions and Canadian society. But we are not perfect. No state is. We recognize that there have been and there continue to be, human rights problems in Canada and we work hard to rectify this and to listen to the advice of others in this regard. That is why we have a standing invitation to the special mechanisms of the Commission to visit Canada, why we are party to all of the major human rights treaties, and why we participate so actively in the Commission on Human Rights.

The human rights standards set by the Commission on Human Rights are an expression of the international communities commonly-agreed values. Some states, by deliberate acts of brutality or repression, place themselves outside this community of shared values. If governments choose to ignore the wishes of their people and rule by force or authoritarian dictate, human rights suffer and the global community as a whole suffers. Rule by law is not the same as rule of law.

The situation in **Afghanistan** is amongst the worst in the world. The massacre of innocent civilians at Yakawlang in January of this year is an affront to human rights. We join the international community in calling on all sides in the Afghan conflict to respect the lives of innocent civilians. Particularly appalling is the officially sanctioned mistreatment of women and girls by the Taliban authorities. Full respect for the human rights and fundamental freedoms of all ethnic and religious groups in Afghanistan is necessary if the Taliban authorities are to reduce their isolation from the outside world.

The human rights situation in **Burma** continues to deteriorate. However, the United Nations recently announced that the State Peace and Development Council and Aung San Suu Kyi have taken the first steps towards a dialogue. Canada remains optimistic but guarded, awaiting concrete progress as a result of these talks. We are particularly concerned by the pattern of unacceptable behaviour demonstrated by the State Peace and

Development Council toward Daw Aung San Suu Kyi and members of the National League for Democracy party. We urge the authorities to take immediate steps to comply with the recommendations of the ILO concerning forced labour. We note that, despite legislative changes made by the State Peace and Development Council in October 2000, the practice of forced labour, especially in the border areas, continues. Canada welcomes the visits of the Secretary-General’s Special Representative and supports his efforts to entrench a genuine dialogue involving the State Peace and Development Council and Aung San Suu Kyi and the National League for Democracy. We reiterate our call on Burma to demonstrate genuine commitment to national reconciliation, human rights and the restoration of democracy by entering into a substantive dialogue with representatives of the pro-democracy movement and minority groups.

The government of **Iraq** continues to rule by terror, undertaking indiscriminate arrests, imprisonments and executions in order to maintain its hold on power. Canada urges the government of Iraq to end the arbitrary detention and execution of political and religious opponents, enforced disappearances, torture, denial of freedom of expression and forced displacement and deportation of Iraqi citizens. We also urge Iraq to engage in a dialogue with the Special Rapporteur and to issue him an early invitation in order that he may carry out his mandate.

In **situations of armed conflict** or violent civil unrest, the suffering of civilians becomes the most acute and requires a particularly strong response by the Commission on Human Rights and by the international community.

In the case of **Sudan**, it is the lack of progress in the peace process that directly results in the continuation of serious human rights abuses: civilians continue to be bombed and otherwise forcefully displaced from their homes, famine is again looming, women and children are forcibly abducted, humanitarian organizations are attacked, held hostage or denied access to those in need. We call upon the Government of Sudan and all sides in the ongoing civil war to adhere to their international human rights obligations, to respect international humanitarian law, and to engage seriously in good faith negotiations to resolve the conflict. We are concerned about the possible linkage between the development of Sudan’s natural resource sectors and the continuation of the conflict. In this regard, we urge business enterprises active in Sudan to adopt and adhere to practices, (including codes of conduct) consistent with internationally agreed upon human rights and labour standards and to carefully assess their activities in Sudan to ensure they are not directly or indirectly involved in actions that could increase the suffering of the civilian population in Sudan.

Similarly, we remain deeply concerned about the human rights situation in the **Great Lakes region**. In the **Democratic Republic of the Congo**, we note the particular criticism levelled by the UN Security Council at the situation in areas controlled by the rebels, especially those under the control of rebel forces supported by the Government of **Rwanda** and **Uganda**. We call for the full implementation of the Lusaka Agreement and the relevant Security Council resolutions, and more particularly for the unconditional withdrawal of all foreign forces. In that regard, while there are indications that some foreign troops had withdrawn from the front line, we hope for a complete withdrawal of all foreign troops from the DRC so that a just and lasting peace can be achieved for all countries in the Great Lakes region. Canada is also seriously preoccupied by the absence of a cease-fire agreement in **Burundi** and the continued violence perpetrated by all parties against the civilian population. In that regard, we urge the Government of Burundi and the armed factions to negotiate in earnest to arrive at a cessation of hostilities and a cease-fire agreement as soon as possible. We further call upon the Government of Burundi to ensure the rule of law and expeditiously investigate the unclear situation of thousands of prisoners held without charges.

Even in the **aftermath of armed conflict**, it remains difficult to make real progress on the human rights front if a country's security situation remains fragile. At this stage, countries can either move forward towards peace or revert to conflict. The ways in which countries choose to tackle the issue of impunity, build functioning democratic institutions and cooperate with the international community can tip the balance.

Such is the case in **Sierra Leone** where democracy and stability will continue to be threatened until all the provisions of the Lome Peace agreement are adhered to by all parties. Canada remains gravely concerned with the ongoing regional tensions and their impact on the human rights situation in Sierra Leone as well as the humanitarian crisis affecting the Mano River region. However, we are encouraged by the Abuja cease-fire agreement and the stated willingness of the rebels to allow access to UNAMSIL and the Sierra Leonean authority throughout the territory. Canada is further encouraged by the renewed efforts of the Office of the High Commissioner for Human Rights to implement the preparatory phase of the Truth and Reconciliation Commission and the draft Agreement between the Secretary-General and the Government of Sierra Leone for the creation of the Special Court to bring to justice those persons who bear the greatest responsibility for crimes against humanity, war crimes and other serious violations of international law. Ensuring stable, regular budget financing for these initiatives will help ensure their sustainability. Combatting impunity and building democratic institutions are integral to building long-term peace in Sierra Leone.

In other cases peace agreements continue to hold out the prospect for meaningful progress on human rights.

Canada is pleased to acknowledge the signing of a peace agreement between Ethiopia and Eritrea on December 12, 2000. Canadian peacekeepers are deployed

with the United Nations Mission with the objective of helping the Governments of Ethiopia and Eritrea establish a lasting peace and restore a mutually beneficial relationship.

Canada urges the government of **Ethiopia** to intensify its ongoing efforts to promote human rights, urges the removal of remaining restrictions on civil society, media and opposition parties, and applauds the establishment of the Ethiopian Human Rights Council. Canada remains concerned over the continued arrest, detainment, and intimidation of journalists in Ethiopia, reports of mistreatment of ethnic Oromos, and reports of human rights abuses in prisons.

We urge the government of **Eritrea** to continue its collaborative efforts with the NGO community, and support the holding of free, multiparty elections in Eritrea in December 2001. Canada remains concerned about restrictions on religious freedom in Eritrea, including the ongoing persecution of Jehovah's Witnesses by the Eritrean authorities. More generally, we are concerned by continued reports of arbitrary arrest and detention without trial.

The past year has seen some improvement of the overall human rights situation in the **Balkans**. We are encouraged that the new democratic government in the **Federal Republic of Yugoslavia** has stated its commitment to universal human rights standards. We are further encouraged by **Croatia's** ongoing reforms in the areas of good governance and the treatment of minorities, though much remains to be done. The recent formation of an interethnic government in **Bosnia and Herzegovina** holds promise for the promotion of human rights, though again, such changes will require determination and considerable effort.

Unfortunately, reforms are slow, partial and do not extend throughout the region. In many areas, the full realisation of minority rights continues to come under threat. Ethnic violence has been particularly virulent in Kosovo. The rise of ethnic Albanian insurgencies in the Presevo Valley and the Former Yugoslav Republic of Macedonia are disturbing developments as they threaten the stability and progress that has been made in region so far. Such resort to violence cannot be tolerated and must be stopped before the troubles are allowed to spread. However, the governments of the Federal Republic of Yugoslavia and the Former Yugoslav Republic of Macedonia must do their utmost to ensure the protection of civilians. Moreover, governments should address the legitimate concerns of all ethnic communities within their territory. Canada urges all parties and governments to improve conditions for the return of refugees and IDP's. We believe all countries must cooperate with the International Criminal Tribunal for the Former Yugoslavia to ensure regional stability. There can be no lasting peace without justice.

Where peace processes falter, increasing human rights violations are all too often the consequence.

The dramatic deterioration in the **Middle East** has demonstrated all too clearly the fragility of the peace process there and how the respect for human rights can easily fall victim to violence and terrorism. Recent events have proven once again that when politics and discourse

fail, it is people who suffer. Canada has repeatedly called for the cessation of violence and a return to negotiations. Canada believes that the progress made by the Israelis and Palestinians on the core issues of their dispute over the past year must not be lost. The Palestinian Authority and the Government of the State of Israel must refrain from any unilateral actions that could inflame the situation further and must remain committed to dialogue as the only viable way to reach a lasting solution. The success of these political efforts will require all concerned to put the safety, security, human rights and well-being of people first and to recognise that the respect for the human dignity of all people is a fundamental building block in establishing a sustainable peace.

Even in peace time, however, countries are not immune from human rights violations. **Impunity** poses one of the greatest challenges to building sustainable peace and respect for human rights.

In **Côte d'Ivoire**, of particular concern is impunity for state security forces responsible for hundreds of extrajudicial killings. Detentions and extortion are taking place throughout the country, mainly aimed at foreigners from neighbouring countries. Canada joins many other nations in calling for the Government of Côte d'Ivoire to respect their commitments in the areas of governance, human rights and justice.

Canada has concerns about the human rights situation in the Republic of **Togo**; concerns heightened by the conclusions of the UN-OAU international Commission of Inquiry. To achieve any significant improvement in human rights in Togo it is necessary to put an end to the culture of impunity that exists there.

Similarly, the human rights situation in **Zimbabwe** has sharply deteriorated. In the past year, government-condoned violence marred the Parliamentary election process. Most recently the government has harassed the judiciary while tacitly encouraging or condoning violence against its political opponents and the media. The current government has shown repeated disregard for the rule of law, ignoring court orders, the Constitution and the democratic aspirations of its citizens.

Canada is deeply concerned by widespread credible reports of human rights violations by both sides against civilians in **Chechnya** including arbitrary detention, extortion, torture and summary execution. We are disturbed by the difficulty that the international community has faced in verifying such claims. Canada reiterates its call for a quick and transparent investigation of all allegations of human rights violations. We call on the Russian government to increase their funding and support to human rights investigators currently active in Chechnya and to grant increased access to the region to national and international monitors and human rights experts so they can observe the progress of investigations. We call on Russia to facilitate the return of OSCE Assistance Group to Chechnya as it committed itself to do at Istanbul in 1999, and to engage in meaningful dialogue with all the people of Chechnya in order to reach a lasting solution.

In **Sri Lanka**, the conflict continues as the root cause of most serious human rights violations, as well as breaches of international humanitarian law, both by the government and the LTTE. Canada therefore welcomes the efforts undertaken by Norway to facilitate peace talks between the belligerents. We continue to be concerned that, with very few exceptions, members of the security forces who have committed human rights violations continue to benefit from delayed judicial action and perceived impunity. In this regard we find instances, such as the multiple killings of Tamil youth while in the care of government authorities near Bindunuwewa, to be particularly distressing.]

In **Indonesia**, the ongoing violence in Aceh and the Government of Indonesia's hardening of its security approach in Irian Jaya continue to be of concern, as are the detention and prosecution of political activists in these provinces. We remain concerned about the plight of some one million people who have been internally displaced within Indonesia. We welcome the Aceh security agreement reached in Switzerland last February and are encouraged by the recent dialogue at the field level. We are concerned, however, about the government's planned security operations in Aceh and their possible impact on civilians. We also welcome the legislation on Human Rights Tribunals, recently adopted by the Indonesian Parliament. We encourage the Indonesian Government to continue to prosecute the perpetrators of human rights violations, including those responsible for the killings of humanitarian workers. We strongly urge the Government of Indonesia to respect its commitment to hold a special tribunal for **East Timor**, consistent with international human rights standards. The international community has consistently expressed its concern about impunity, and without demonstrable progress on this front, confidence in the positive steps Indonesia has taken to date on other fronts will be undermined.

In **Guatemala** we welcome the commitments made by President Portillo upon his inauguration in January 2000 and his subsequent recognition of Guatemalan state responsibility for a number of past human rights violations, as well as the work being done by the Presidential Commission for Executive Policy in matters of human rights. We are deeply concerned, however, by increasing incidents of threats and physical assaults against human rights and political activists, journalists and judicial officials and witnesses over recent months — these incidents, combined with relatively slow and uneven progress, notably in addressing impunity, in implementing the 1996 Accords, risks undermining Guatemala's significant achievements. We urge the Government of Guatemala to take resolute action in addressing these problems and make clear its determination to respect commitments made under the Accords for the benefit of all Guatemalans.

Mr. Chair, international human rights norms are the standard against which all countries must be assessed and against which all countries will sometimes be found wanting. Cooperation with international human rights mechanisms, willingness to ratify international human rights treaties and enter into constructive dialogue with the Office of the High Commissioner for Human Rights are all part of building respect for the international rule of law.

In **China**, we remain very concerned about: the scale and frequency of restrictions on freedoms of expression, association and religion, especially in Tibet and Xinjiang; the continued application of the death penalty for non-violent crimes; the harsh sentencing of dissidents; and restraints on the activities of labour unions. We welcome China's recent ratification of the International Covenant on Economic, Social and Cultural Rights and urge China to assign high priority to its implementation, but we regret the accompanying declaration which weakened the effect of the ratification. We similarly welcome the Memorandum of Understanding signed between China and the High Commissioner for Human Rights. We look to China to match these two positive developments with the ratification and implementation of the International Covenant on Civil and Political Rights.

We welcome the fact that the **Saudi Arabian** Government is paying greater attention to international human rights standards, as illustrated by its decision to ratify the Convention on the Elimination of All Forms of Discrimination against Women last summer. However, we would hope that Saudi Arabia would lift its reservations on this and other international human rights covenants and that it will cooperate with the mechanisms of the CHR. We also remain concerned with the relatively high incidence of executions and corporal punishment in the Saudi penal system. Detainees and accused should be given better access to legal counsel at an early stage. We continue to hope that the Saudi Government's increased engagement with the international community on human rights issues will translate into respect for human rights in Saudi Arabia which is more consistent with universal human rights standards, particularly in the administration of justice.

We regret to note that there has been no substantial improvement in respect for internationally recognised political and civil rights in **Cuba** over the past year. Canada remains deeply concerned that individuals continue to be harassed, detained and imprisoned for activities that are completely legitimate within the terms of Cuba's own international human rights commitments to its own people. Specifically over the past year, there has been an intensification of measures to control non-violent dissent, including the increasingly frequent use of short-term detentions. Canada encourages Cuba to open greater space for peaceful political dissent, and freedom of opinion and expression; and to expand its dialogue with the Church and other members of its nascent civil society.

In **Iran**, President Khatami's plans for a tolerant, law-abiding and democratic society are facing significant challenges. Canada hopes Iran will accept the UN Special Representative's request to visit, thus showing its commitment to transparency and cooperation with the Commission. The past year has seen a serious attack on the freedom of the press and on political freedoms as scores of reformers have been arrested and convicted by an increasingly politicized Judiciary. Canada continues to hope that the commitment to democratic ideals of Iran's elected officials will be reflected by increased respect for human rights, particularly on the issues of women's human rights,

freedom of opinion and expression, and freedom of religion. Despite some recent positive changes, we remain concerned by the ongoing discrimination against Baha'is for practising their faith. We were also extremely concerned by the lack of transparency and the failure to abide by recognized international standards of due process of the trials of 13 Jews and 4 Muslims in Shiraz on espionage charges.

Where the domestic infrastructure needed to protect and promote human rights is absent or inadequate, the role of the international community in providing technical assistance and ensuring continued monitoring is of critical importance.

In **Colombia**, we commend the recent efforts by President Pastrana to revive the peace process with the FARC and welcome progress in talks with the ELN. However we are gravely concerned by the escalation of the conflict and deteriorating human rights situation, in particular the increased number of killings and other abuses of international humanitarian law by the paramilitaries and the guerrilla against human rights defenders, trade unionists, and journalists. We also condemn in the strongest terms the continued recruitment of child soldiers by the guerrillas. The common voice of humanity calls upon these leaders to cease this horrifying practise which runs counter to even the most minimal standards of decent human behaviour. We call on the Government of Colombia to bring to justice those responsible for threats and acts of murder, and to sever any links with the paramilitary. We strongly support the permanent office of the High Commissioner for Human Rights in Bogota and underline the need for increased financial support to permit the opening of regional field offices.

Canada is worried by the evolution of events in **Haiti**, such as the recent demonstrations and violence, and is fearful of their impact on the prospects for democratic political, economic and social development there. Canada calls on the new Haitian government to ensure respect for human rights, notably in the areas of freedom of expression, impunity, justice, prison operation and the activities of the police. The government has yet to adequately address the problems of the May 21st legislative elections and take measures to strengthen democracy, including through meaningful dialogue with the opposition. Although the presence of UN missions in Haiti has ended recently, Canada hopes for continued monitoring and assistance on human rights.

We urge the military government of **Pakistan** to implement the fundamental political, economic and administrative reforms necessary for the protection and enhancement of human rights. The military government must implement its commitments to the transition to democracy. Serious human rights violations affecting women and religious minorities in Pakistan remain common. Particularly abhorrent are the continued widespread use of child labour and the "Blasphemy Law" which has been used to harass innocent citizens. We commend the government for adopting a National Policy and Plan of Action for the Elimination of Child Labour, and urge Pakistani authorities to fully implement this Plan.

Many concerns remain about the human rights situation in **Cambodia**, including incidents of political violence and threats to individual security during serious armed clashes last November. We urge the Cambodian government to ensure that next year's commune elections are peaceful and to assist the new Special Representative of the Secretary-General for human rights in Cambodia, in carrying out his mandate. We welcome the recent passage of legislation by the Cambodian government that will establish a tribunal through which to address war crimes committed during the Khmer Rouge period. We encourage Cambodian officials to continue working with the UN to ensure that the tribunal is internationally credible.

We commend efforts by the **Vietnamese** government to address corruption and to make improvements in the area of human rights. Results such as allowing several peaceful demonstrations and a recent general assembly of protestant Christians are modest but demonstrate willingness. We remain concerned, however, about the treatment of ethnic groups and limitations on political and religious freedoms, particularly, in the latter instance, for Buddhists and Christians. We encourage the government of Vietnam to make further progress in granting official recognition to religious organizations and in allowing for greater religious and political expression by its citizenry.

Canada continues to be concerned about the human rights record of the **Democratic People's Republic of Korea (DPRK)**. We welcome the DPRK's interest in dialogue through the strengthening of its international relations. Consequently, in February 2001, Canada and the DPRK established diplomatic relations which Canada believes will help better integrate the DPRK into the world community. Canada looks forward to opportunities to discuss human rights with the DPRK.

Mr. Chairman,

Ultimately, the final obligation for respecting human rights rests with us — with member States. And ultimately no government in the world can avoid its responsibility to put in place the policies and institutions to protect and promote the human rights of its citizens. However, our common responsibility — as members of the UN and especially of this Commission — goes farther to address human rights in all parts of the world. As Kofi Annan has said, “too many voices remain unheard, too much pain persists and too many additional opportunities for human betterment are forgone for us to rest satisfied with the way things work today.” No country in the world, and certainly not my own, is beyond criticism for its human rights record. Canada's participation in this debate is inspired by the wish to live up to that obligation and to promote the broadest possible cooperation to that end.

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