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Chair

Mr. James Rajotte

Standing Committee on Finance

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• (0850)

[English]

The Vice-Chair (Ms. Peggy Nash (Parkdale—High Park, NDP)): Good morning, everyone.

Pursuant to Standing Order 108(2), the House of Commons Standing Committee on Finance is now resuming its consideration of tax evasion and the use of tax havens.

I wish to welcome our guests today. First, by video conference from Washington, I want to welcome Mr. Thomas Cardamone, managing director for the Global Financial Integrity organization. Welcome.

Also by video conference from New York, I want to welcome Mr. H. David Rosenbloom, from Caplin & Drysdale. Mr. Rosenbloom is also attached to New York University School of Law as the director of the international tax program. Welcome.

Here in Ottawa, I want to welcome Mr. Peter Gillespie, project director of the Halifax Initiative. Welcome.

In Ottawa, as I'm sure our guests by video conference know, we have all the sitting members of the House of Commons finance committee. The chair, Mr. James Rajotte, has asked to be excused today to attend an event outside of Ottawa, and he has asked me to chair this meeting, which I have accepted. My name is Peggy Nash. I am vice-chair of the finance committee.

I will also need to excuse myself at a later point in the meeting, and Mr. Rajotte has asked Mr. Van Kesteren if he would chair. I understand he has accepted as well.

For our two-hour meeting we'll hear first from our guests. Each will have between five and seven minutes to provide us with preliminary remarks; then we'll have the question and answer session when members of the committee will each have five minutes.

With that, we'll start with Mr. Cardamone, from Washington....

Yes, Mr. Caron.

[Translation]

Mr. Guy Caron (Rimouski-Neigette—Témiscouata—Les Basques, NDP): I simply want to make sure that the participants in the United States have access to simultaneous interpretation.

[English]

The Vice-Chair (Ms. Peggy Nash): Do you have access to simultaneous translation, those of you by video conference?

Ms. Christine Lafrance (Clerk of the Committee, Standing Committee on Finance): Yes, they do.

The Vice-Chair (Ms. Peggy Nash): I understand they do. Thank you, Mr. Caron.

We'll start with Mr. Cardamone, in Washington, and then we'll move on to our following witnesses.

Mr. Cardamone, you have the floor.

Mr. Thomas Cardamone (Managing Director, Global Financial Integrity): Good morning, and thank you for the opportunity to appear before the finance committee today.

My name is Tom Cardamone, and I'm managing director of Global Financial Integrity. GFI is a Washington-based research and advocacy think tank promoting policies aimed at curbing the illegal movement of money across international borders, especially out of developing economies.

It is that issue of illicit money and the mechanisms in the global financial system that facilitate its movement that I'd like to discuss briefly this morning.

Despite billions of dollars in foreign aid being sent into developing economies, many developing countries fail to grow to the point that they no longer need aid. The problem is not that foreign aid is inherently ineffective, but that it is being drowned out by illicit financial outflows.

Our research conservatively estimates that from 2001 to 2010, developing countries across the world lost close to \$6 trillion to illicit outflows. This means that for every \$1 poor nations receive in foreign aid, \$8 in illicit funds leave those countries.

This topic is of particular relevance to Canada because of its long-standing commitment to reducing poverty worldwide. Through CIDA, Canada gives billions of dollars annually to developing countries, yet its contribution is dwarfed by the amount of illicit money flowing out of those recipient nations.

For example, in 2010 and 2011 Canada provided approximately \$34 million in aid to Indonesia. According to our most recent report on illicit financial flows from developing countries, Indonesia lost on average \$11 billion in illicit funds every year from 2001 to 2010.

If this money had remained in Indonesia, countless infrastructure, poverty alleviation, and social welfare projects could have been implemented successfully, reducing the need for future aid.

How does this happen? In developing countries, where governance can be weak, trade-based money laundering, tax evasion, black market transactions, bulk cash movements, smuggling, and corruption are among the mechanisms used to facilitate illicit capital flight. The underground economies of developing countries in general promote weak governance, which in turn cyclically strengthens the underground economy.

As these illicit activities increase, governments have more trouble generating revenues for such important basic services and public investments as schools, hospitals, and roads.

The illicit movement of money from developing countries is actively facilitated by tax havens, which also function as secrecy jurisdictions for criminals, tax evaders, and corrupt public officials. Secrecy services may include anonymous shell corporations and trusts, laws that protect the secrecy of bank accounts, and institutions that will take any business, no questions asked.

Another major source of money leaving developing countries comes from abusive transfer pricing, which is used by multinational corporations, or MNCs, to avoid taxes. Multinational companies use abusive transfer pricing to move revenue offshore, in order to increase profits declared in low-tax jurisdictions, while decreasing profit in the high-tax jurisdictions where they actually earned the money.

This is according to a November 2012 report by the OECD:

While these corporate tax planning strategies may be technically legal and rely on carefully planned interactions of a variety of tax rules and principles, the overall effect of this type of tax planning is to erode the corporate tax base of many countries in a manner that is not intended by domestic policy.

As a first step toward solving this problem, Global Financial Integrity advocates for country-by-country reporting of sales, profits, taxes, number of employees, and costs for all multinational corporations. This method of presenting disaggregated financial statements would shine a light on the massive amount of money that MNCs claim they make in tax havens. Trillions of dollars are kept in tax havens by MNCs in order to avoid paying higher tax rates in home countries. This resulting tax revenue loss hurts both developed and developing countries.

In order to combat corruption in international aid and investment, and ultimately decrease the amount spent on aid, Canada can adopt a few measures.

• (0855)

The United States Foreign Account Tax Compliance Act—FATCA, as it's known—requires banks to find American account holders and disclose their balances, receipts, and withdrawals to the Internal Revenue Service in the United States or be subject to a 30% withholding tax on income from U.S. financial assets held by the banks.

Canada could implement its own version of FATCA, and use it to pressure banks in tax havens to automatically share tax information with Canadian authorities, to prevent cross-border tax evasion by individuals. Automatic exchange of tax information between Canada and the United States has existed for years and works very well.

In order to combat anonymous shell corporations, which are another tool used to hide and launder funds, the government should require that every corporation or trust created in Canada be required to provide substantial beneficial ownership information about the true owners of the entity.

Furthermore, Canada should advocate at the G-8 and G-20 for a strong international beneficial ownership standard. In order to help developing countries immediately, Canada could also consider providing technical tax assistance to its aid recipients. This would help train local authorities while making Canada's aid donations more effective.

Ultimately, we must ask ourselves why so many countries still require foreign aid 50 or 60 years after independence—50 or 60 years after the IMF and World Bank were established. Shouldn't the development challenge have been solved by now? Something is clearly not working.

Developed nations such as Canada should provide the tools developing countries need to help grow their economies. But that can't happen unless there is also demonstrated leadership in the G-8, G-20, and OECD to address the corrosive policies that permit opacity in the global financial system to continue unabated.

Until there is greater transparency in the global financial system, illicit money will continue to be siphoned out of developing country economies by the hundreds of billions of dollars.

The Vice-Chair (Ms. Peggy Nash): Mr. Cardamone, can you wrap up? You have about 15 seconds, please.

Mr. Thomas Cardamone: That's all I have left?

The Vice-Chair (Ms. Peggy Nash): That's all you have left, I'm afraid. But we'll have more time in the questions.

Mr. Thomas Cardamone: Once lost, those funds rarely return to the country of origin. They flow into offshore spaces where they are hidden, laundered, and held for the benefit of a select few. That is not a viable model for development.

Thank you once again. I look forward to your questions.

The Vice-Chair (Ms. Peggy Nash): Thank you very much. Again, we'll have more time in the discussion afterwards.

Now we'll go to New York and to Mr. Rosenbloom.

You have seven minutes, please.

Mr. H. David Rosenbloom (Caplin and Drysdale, New York University, School of Law, As an Individual): I thank the committee for the invitation to make this presentation.

My name is H. David Rosenbloom. I am private a tax attorney and a professor of tax law at New York University's School of Law.

I have specialized for nearly 40 years in international or cross-border taxation. I direct the international tax program at NYU law school, and in the 1970s I was the International Tax Counsel in the United States Treasury Department. In that capacity, I was the chief U.S. negotiator of the 1980 Canada-U.S. Income Tax Treaty.

A colleague of mine, Scott Michel, testified before this committee about a year ago on the subject of offshore banking and undeclared accounts. That topic is a bit different from what I'm going to focus on today, because it's both narrower and broader. The topic of tax evasion and the use of tax havens is much broader than simply offshore accounts and banking. On the other hand, offshore accounts and banking extend beyond tax havens.

So I'm taking the words at face value. I didn't have much guidance on what the committee is interested in, so I prepared my own very succinct views on tax havens. I'm going to offer five observations about tax havens and tax evasion. I'll elaborate on any or all of these if the committee wishes.

First of all, the link between tax havens and tax evasion does not need to be made. It's very clear. As I say in my written testimony, no one is deflecting income to Japan. The money is going from high-tax jurisdictions to low- or no-tax jurisdictions, so I don't think there's any effort needed to be made to make that link.

Secondly, in my view, the responses of the developed world to the use of tax havens for tax evasion has been pretty pathetic. It's ranged from the catatonic, totally passive, to the contributory, helping tax evaders to use tax evasions. I don't think taxation is a game, and I think that most governments in the developed world have not been faithful to their obligation to their citizens in their responses to tax havens and the role they play in tax evasion.

Third, the most difficult aspect of analyzing tax havens is identifying precisely who we are talking about. We all know that some countries have low or no income taxes and that some countries actively seek to entice investment from higher-taxed countries. But there is a range of countries—and I cite specifically in that regard Ireland, Singapore, Luxembourg—that are tax havens in some sense, but that also have genuine economic activity within their borders. And there is a larger group of countries that afford special benefits to foreigners in an effort to persuade them to use these countries as conduits for investments in third countries. Think in that regard of Switzerland, the Netherlands and, yes, in certain circumstances, the United States.

Fourth, I think it is self-defeating for a developed country with a rational tax regime to pretend that all other countries stand on the same footing insofar as it is concerned. There is a difference between Germany and the Cayman Islands. Tax havens need to be dealt with separately, both in the internal tax system and in considering which countries are proper candidates for the status of tax treaty partner.

Finally, I think a systematic review of the rules relating to cross-border activity is called for, with an eye to special rules and a special approach to tax havens. Whether this is in the form of a white list or a black list, or something else, at the end of the day does not matter. The point is that across the board, in internal law and in the treaties, the havens need to be singled out.

No country should be in the business of telling other countries what to do with their tax regimes or what they should look like. I am not suggesting that any country wishing to maintain low tax rates must change its policy or that any other country should be in the business of telling such a country to change its policy.

● (0900)

However, every country has the right, and indeed the duty, to protect its own tax base with rules that fit the real world and not some imaginary or ideological fairy tale. Tax havens exist. They need to be addressed.

Now finally, I am not a Canadian, and although I know something about the Canadian tax system, I am by no means an expert. My comments are general, and of course they're influenced heavily by my background with the U.S. tax experience.

I thank you for your attention and I'm prepared to respond to any questions that the committee may have.

The Vice-Chair (Ms. Peggy Nash): Thank you very much, Mr. Rosenbloom.

Our third witness is here in Ottawa.

Mr. Peter Gillespie, I will pass it over to you, You have up to seven minutes.

Mr. Peter Gillespie (Project Director, Halifax Initiative): Thank you and good morning.

Just as a note, the Halifax Initiative, the organization I am with, is a coalition of Canadian NGOs, labour, and faith-based groups, and we focus on international economic issues.

Personally, I am not a tax attorney. I have spent the last 30 years of my life working with anti-poverty organizations in Asia and Africa, and thus my comments today will focus largely on the role of tax havens in facilitating tax losses from developing countries. Tom has certainly already spoken about that.

I will also comment on the part that Canada can play to promote transparency in international finance.

As my colleague Tom said, tax havens are essentially secrecy jurisdictions, and these jurisdictions enable people or entities to escape the laws, rules, and regulations of other countries.

I know that some of you met James Henry when my organization brought him to Ottawa last November. Mr. Henry conducted a major piece of research into how much individual wealth has been channelled through offshore tax havens. That study estimated that \$21 trillion to \$32 trillion of the financial wealth of individuals from 139 low- to middle-income countries has been channelled tax-free through more than 80 offshore tax havens. This represents tax losses to these countries of almost \$200 billion a year.

Colleagues at the University of Massachusetts have found that \$700 billion fled 33 sub-Saharan African countries between 1970 and 2008. This means that sub-Saharan Africa is a net creditor to the rest of the world, its foreign assets far exceeding its foreign debts of about \$175 billion. A significant proportion of these assets is in the hands of individuals.

In 2007 African high-net-worth individuals had offshore assets of \$1 trillion. As my colleagues have said, tax havens also provide opportunities for multinational companies to reduce or eliminate their tax obligations. By establishing subsidiaries in tax havens, they can transfer profits from high-tax to low-tax jurisdictions. A recent study by Christian Aid calculated that between 2005 and 2007, transfer mispricing shifted \$8.5 billion out of the world's 49 poorest countries, resulting in tax losses of \$2.6 billion over that three-year period.

An African colleague of mine was speaking at a conference this week in South Africa, and he asked, "How is it possible that a company with 3,000 employees in Malawi and three employees in the Cayman Islands can attribute 70% of its profits to the Cayman Islands?"

The deputy finance minister of Zambia said a month ago that most international mining companies operating in Zambia report that they're unprofitable and thus pay no corporate income tax. He reckons that his country loses \$2 billion a year due to profit-shifting. He said, "That money could build a lot of hospitals and schools."

This reality has deadly outcomes for poor countries. It reduces the capacity of poor countries to finance essential public services. It contributes to higher child mortality rates—there's research on that—and it undermines development assistance from countries like Canada.

So we have four propositions, some of which Tom has already alluded to.

First, we believe that a multilateral framework for the automatic exchange of tax information needs to be established, requiring all governments to collect data from financial institutions on income paid to non-residents, corporations, and trusts.

Second, we need to put an end to the secrecy provisions that provide anonymity to individuals and companies. The beneficial ownership, control, and accounts of companies, trusts, and foundations should be on the public record.

• (0905)

Thirdly, we believe—Tom mentioned this—that transnational companies should be required to report all of their financial transactions: sales, purchases, labour costs, financing costs, taxes, and value of assets on a country-by-country basis. This would reduce the ability of corporations to shift profits to low-tax jurisdictions and costs to high-tax jurisdictions. We have made submissions on this issue to the International Accounting Standards Board.

Lastly, we support the call of many developing countries to transform the UN tax committee into an intergovernmental commission, a proposal that Canada has to date opposed. International tax policy has been dominated by the OECD, an association of 34 wealthy countries. Developing countries want an international forum where their needs and interests on tax matters are represented.

We believe that Canada should be a leader in the G-8, the G-20, the OECD, in promoting transparency in finance and in promoting tax compliance. Prime Minister Cameron has said that corporate tax avoidance will be a priority agenda item during Britain's G-8

presidency this year, and we hope that Canada will support and engage in that initiative.

Our proposals are ambitious, but the stakes are high. If these massive outflows from developing countries can be curtailed, it could lead to major improvements in the lives of millions of poor people.

Thank you.

• (0910)

The Vice-Chair (Ms. Peggy Nash): Thank you very much, Mr. Gillespie.

Thank you to all of the witnesses for your testimony.

We'll now move to our first round of questioning, and we'll start with Mr. Rankin.

You have five minutes.

Mr. Murray Rankin (Victoria, NDP): Thank you, Chair.

I want to thank Mr. Cardamone, Mr. Rosenbloom, and Mr. Gillespie for excellent and thoughtful summaries.

With the time available, I've so many questions, I don't know where to start. Perhaps I could pick up something that Mr. Gillespie ended with, and that is the issue of secrecy provisions.

I guess your suggestion was that beneficial ownership should be known on the public record.

I invite Mr. Cardamone and Mr. Rosenbloom to reply as well, if possible as well.

Where are we with secrecy laws? What are the best practices from elsewhere in the world? Are there reforms in the United States or elsewhere we might learn from as we address the whole issue of secrecy?

Maybe I could ask you, Mr. Gillespie, to start.

Mr. Peter Gillespie: Well, I think the tax attorney may have a far more profound answer than I.

Mr. Murray Rankin: All right.

Mr. Rosenbloom, would you be able to comment on where we are with reforms in banks and secrecy, and best practices Canada might learn from?

Mr. H. David Rosenbloom: Yes, of course.

I think there's a long tradition of secrecy of tax information, and there are reasons for it. Tax administration in my country and in many countries depends on achieving a certain level of willingness of the taxpayer to comply with the laws, and it is thought that if secrecy were breached broadly, that would be a deterrent to appropriate compliance.

We had a blip of discussion of whether that kind of thinking was equally true at the corporate level as at the individual level. That came about I would guess about ten years ago. I haven't seen anything on it in quite a while.

My own judgment is that there is probably something to be said for a serious examination at the corporate level, and perhaps at the trust level as well, to making more information publicly available. I think I would be not at all confident that doing that at the individual level would be.... Although it might be equally desired, I think that might have more deleterious effects.

So I think you have to be careful because there are reasons for secrecy. Secrecy didn't just originate for no reason whatsoever. There are tax administration reasons why we maintain secrecy of information generally, but I think they're applied more broadly than is probably necessary.

Mr. Murray Rankin: Mr. Cardamone, do you have any comments on the issue of secrecy and best practices?

Mr. Thomas Cardamone: Thank you very much.

It seems that the discussion is not about public dissemination of tax records but more specifically about public transparency of the ownership of companies and trusts. That's the key point here.

The specific question was, are there best practices? I don't know where there are: certainly not in the United States. It's been estimated that for some two million companies in the United States no one knows who owns those entities. These are probably SMEs. They certainly aren't multinational corporations, of course, but small to medium-sized companies, and when they are incorporated, they are incorporated using an incorporation agency, a buffer between the actual ownership of that entity and the public. No one knows. The state doesn't know who owns the company, and that's a problem.

Viktor Bout is an infamous international arms dealer who was just prosecuted in the United States last year. He had over a dozen shell corporations in the United States, in Florida and Texas, that he used to help launder profits from arms sales around the world. That's just one of numerous examples that I could provide to you of the adverse effect of having this secrecy in...[*Technical difficulty—Editor*]. These are not tax forms we're talking about; it's just who owns the company. I think that's the specific issue we're trying to get at today.

Mr. Murray Rankin: Thank you.

• (0915)

The Vice-Chair (Ms. Peggy Nash): You have 10 seconds, Mr. Rankin.

Mr. Murray Rankin: Does that include their response?

Voices: Oh, oh!

The Vice-Chair (Ms. Peggy Nash): Yes, it all includes their response.

Mr. Murray Rankin: I don't have time.

The Vice-Chair (Ms. Peggy Nash): We'll probably have time for another round.

Mr. Murray Rankin: Thank you.

The Vice-Chair (Ms. Peggy Nash): Mr. Van Kesteren, you're next.

You have five minutes, please.

Mr. Dave Van Kesteren (Chatham-Kent—Essex, CPC): Thank you, Madam Chair.

Thanks to all of you for appearing before us.

We heard some shocking statistics from New York and from Washington. I wonder if you could just tell me again, because I was jotting this down and I think I got somewhat lost in the figures—maybe out of disbelief more than anything else—but did you say that \$6 trillion was lost to developing nations? Was that correct? I think Mr. Cardamone was using those figures.

Mr. Thomas Cardamone: Yes, that's right. Between 2001 and 2010, \$6 trillion in illicit money was siphoned out of developing countries around the world.

Mr. Dave Van Kesteren: Now, of course, we're doing a study on tax evasions, and the focus of our study is on tax evasions that are taking place in this country, so that's taxpayers here, but you raise an interesting point.

We talk about CIDA and our aid to other countries. I serve on the foreign affairs committee. We did a study on how we can become more effective, but in essence what you're saying is that if foreign companies.... We're not suggesting that these are Canadian, although there may be some involved, but we're not suggesting they are. There are companies all over the world. If those companies paid their taxes in developing worlds, there may not be a need for foreign aid.

The Vice-Chair (Ms. Peggy Nash): Mr. Cardamone, we seem to have lost the sound.

Mr. Thomas Cardamone: Yes, it's my fault.

The Vice-Chair (Ms. Peggy Nash): Okay. There we are.

Mr. Thomas Cardamone: Tax payments in the countries where they actually earn the funds would certainly go a long way to helping develop those economies.

I don't want to imply that the \$6 trillion all had to do with corporate tax evasion. That's not what I was saying. The \$6 trillion has...[*Technical difficulty—Editor*]...of sources, such as trade-based money laundering, primarily, where differences in the price in the actual invoices are made to help move money out of those countries, and also through government corruption and other mechanisms as well. I don't mean to...[*Technical difficulty—Editor*]...multinational corporations, although if they did pay tax where they earned the funds, that would certainly help.

Mr. Dave Van Kesteren: This government has recognized the importance and the moral obligation of paying taxes, and we have introduced a bill called the Corruption of Foreign Public Officials Act.

I wonder if I could direct the question to you, Mr. Gillespie. This is a bill to fight bribery and corruption and to further deter and prevent Canadian companies from bribing foreign public officials. These amendments are in keeping with the OECD. I know that the OECD has been very active, as has the IMF, in combatting these illegal actions.

How important do you think continually ensuring that Canada has a strong framework to battle bribery and corruption is, both domestically and in setting a standard that others, especially those in developing countries, can follow? I'm referring to this act that was just introduced.

Mr. Peter Gillespie: I think it's absolutely essential. Having lived in many other places around the world, I see that corruption is a major issue. Certainly in my comments earlier, I was talking about the amounts of money that had disappeared from sub-Saharan Africa, for example. A huge proportion of those funds has simply been stripped from those countries by politically exposed persons, by officials, and has been fed into this system. There is an attempt by the UN and by the World Bank to recover some of these funds, but they only recover about 10%. So the money is lost.

If Canada can be a model for the rest of the world, especially where our corporations are operating, I think that's a wonderful approach.

● (0920)

Mr. Dave Van Kesteren: Mr. Rosenbloom, very quickly, at the last meeting we had, we saw how important it was to administer the law, and in this country, again, we've given the tools to collect taxes.

What do you feel these types of laws...specifically the one I referred to, the Corruption of Foreign Public Officials Act? How can that better this whole air of "injustice", I think we can probably call it, in third world countries?

The Vice-Chair (Ms. Peggy Nash): Be very brief, please, Mr. Rosenbloom. We're pretty much out of time for this round.

Mr. H. David Rosenbloom: Should I respond to that, or no?

The Vice-Chair (Ms. Peggy Nash): Please—very briefly.

Mr. H. David Rosenbloom: Yes.

I think it's important to distinguish the various subjects that have been talked about by all three of us. We're talking about a wide range of related but distinct issues. If the committee tries to do everything, it will end up doing, in my opinion, very little. It really needs to focus.

I approve of any kind of anti-corruption move, but that is a distinct subject from tax evasion.

The Vice-Chair (Ms. Peggy Nash): Thank you very much.

We'll move to Ms. Sgro for the next round of questioning.

Perhaps because we have two of our three witnesses here by video conference, if a general question is asked and you'd like to speak, please just raise your hand and then I'll know you want to get into the discussion and we won't miss you. Thanks.

Go ahead, Ms. Sgro.

Hon. Judy Sgro (York West, Lib.): Thank you all very much for being here. I'm filling in, of course, for Mr. Brison today.

It's a fascinating subject and something that is extremely important to the whole world, I think, when we see that kind of money being filtered and funding something else rather than going into helping a lot of these countries as well as helping our own country.

The OECD brought out the tax information exchange agreements. Is there a way we can strengthen that or that OECD should be strengthening that? What are the strengths and weaknesses of that particular plan, to any of you who are familiar with it?

Mr. Rosenbloom.

Mr. H. David Rosenbloom: I'm quite familiar with TIEAs. I negotiated one on behalf of the Government of Liechtenstein with the United States. I'm a skeptic about TIEAs or exchange of information provisions having a very broad effect, because they tend to be one-off agreements. I don't disapprove of them as such, but they're not going to solve the problem of tax evasion. Once they're in place, they're implemented much less frequently than you would imagine and with much more bureaucracy in the processing of requests and the responses to requests.

The United States took a major step when it applied FATCA, which is a statute that one could debate all morning and probably, from the U.S. point of view, a terrible idea and very offensive to other countries. But nevertheless, it had the effect of getting the world's attention.

Information exchange is all for the good, but again, I actually think that's a separate subject from tax evasion. I think you need to address tax evasion and you have to ask yourself one more thing: whose tax are you trying to stop the evasion of? Are we talking about evading Canada's tax, or are we talking about evading Zambia's tax? Those are very different questions.

The Vice-Chair (Ms. Peggy Nash): Thank you.

Go ahead, Mr. Cardamone.

Mr. Thomas Cardamone: Thank you.

Mr. Rosenbloom is quite correct that once TIEAs are in place, they're very seldom used and it is extremely bureaucratic.

We argue that the world should begin an automatic exchange of tax...[*Technical difficulty—Editor*]...information, and I would assume the OECD would have to initiate this. So it's not upon request. There is very little bureaucracy. It's when that type of information becomes available; it's automatically provided to the country where the...[*Technical difficulty—Editor*]...is a citizen. This is already in place in the EU, with the EU savings tax directives.

So if you are a citizen of France and have an account in Germany, that information automatically...[*Technical difficulty—Editor*]...the German bank to the French tax authority. There is no question about whether it goes or not; it happens seamlessly.

We think it should be expanded to include corporate accounts as well, but it certainly...[*Technical difficulty—Editor*]...as far as TIEAs are concerned.

● (0925)

Hon. Judy Sgro: Thank you very much.

Mr. Gillespie, the Halifax Initiative has been promoting a multilateral approach for some time. Do you think Canada should take this opportunity to show a leadership role in developing that multilateral approach?

Mr. Peter Gillespie: Absolutely. There are many opportunities to do that.

Just to follow up on my colleagues' comments, one of the limitations of tax information exchange agreements is that often a country that is trying to track down information in another jurisdiction has to have a very well-developed case. They have to know the name of the person before they can make their request. No fishing expeditions are allowed, in a sense.

So they are a very, very limited tool, and we have been advocating, you're right, for many years that a multilateral process should be put in place. The European Union has a model that apparently is working, although there are challenges to that model. Switzerland is not part of that, for example.

But yes, I think this is the only approach that's workable.

Hon. Judy Sgro: Are there specific areas there that you think we should be focusing on?

Mr. Peter Gillespie: I don't understand the question.

Hon. Judy Sgro: In a sense, for the whole issue of a multilateral approach, are there any specifics you want to add to that?

Mr. Peter Gillespie: This needs to be debated at the G-20. I hope Canada would take that forward into the G-20.

There's a big debate about the tax agreements in Europe, for example, between the U.K. and Switzerland. There are real concerns among tax activists that in fact what is happening in those—they're called Rubik agreements—is that anonymity prevails. The Swiss government is saying that they will provide almost a withholding tax to the U.K. for British residents who have accounts in Switzerland, but it's all anonymous. The names will not be shared.

The Vice-Chair (Ms. Peggy Nash): Thank you very much, Mr. Gillespie.

Now over to Mr. Hoback.

Mr. Randy Hoback (Prince Albert, CPC): Thank you, Chair.

Welcome, gentlemen. It's nice to see you here this morning.

Again, there are so many things to talk about. When you talk about tax evasion or tax havens, where do you start and how do you focus on one thing?

I think I'm going to talk about the transfer tax. Do you have any advice you can give to us as to how to properly handle that?

When you look at transfer taxes, there are many reasons that companies go about pricing different products in different countries. The assumption that they use cost of production as a tool for pricing is not a fair assumption anymore. You'll see companies that will look at the market in a certain area, let's say in the U.S., and say, "Based on the competition, we need to be priced at this level." They take that same product into Brazil, look at the competition, and say, "Now it can be priced at this level."

What suggestions do you have for us to look at when it comes to transfer taxes and stuff like that?

Maybe I'll start with you, Mr. Cardamone.

Mr. Rosenbloom, I'd be interested in your comments on that, too.

Mr. Thomas Cardamone: It is a very difficult problem to address when you're talking about intangibles like services or software. How

do you price those particular things? It's a growing issue. It's one... [*Technical difficulty—Editor*].

I want to say at the beginning that transfer pricing is a legal mechanism. It's the abuse of that process, abusive transfer pricing, that's the problem.

It comes down to, at this point, the audit teams deciding how aggressive the firm has been and whether it's stepped over the line. It certainly is a difficult... [*Technical difficulty—Editor*]...but I would probably defer to Mr. Rosenbloom, a tax attorney, who could probably talk about it a little bit more clearly than I can.

• (0930)

The Vice-Chair (Ms. Peggy Nash): Go ahead, Mr. Rosenbloom.

Mr. H. David Rosenbloom: Yes, I am quite familiar with transfer pricing. I've taught full semester courses on it for several years. I haven't done it recently, but I do a lot of transfer pricing work myself.

Let me first of all describe what we're talking about. Transfer pricing refers to the price charged between commonly controlled entities. The reason we have a concept of transfer pricing is that when you're dealing with related entities, related persons, there's no market friction. You can't rely on the fact that one person wants to get the most and the other wants to pay the least because they're all under the same economic control, and therefore there is the availability of the possibility of manipulating prices for tax purposes. That's why we have transfer pricing.

Transfer pricing has a two-edged sword to it. Transfer pricing in tax law refers to the verification process and the rectification process. We go in and we verify, and then if we find the price to be inappropriate, we rectify.

I think there's a growing awareness, at least in the United States, that the basic problem in this area is that the world long ago—and with the leadership of the United States, I might add—got into something called the arm's-length method. So in determining an appropriate transfer price, both for the verification and rectification approaches, we ask ourselves what price would have been charged between these related persons if they had been unrelated. That's what the arm's-length method does. It asks, what would have been the price at arm's length?

That's probably the wrong question. We probably need to go much more in the direction of a method that is easier to apply, much less factually weighted and requiring almost an economics Ph.D. to apply appropriately, and go to something that's simpler and does rough justice in the area.

That's a very brief statement. Tons could be said on this.

One of the problems, frankly, in my opinion, is that the United States led the way into arm's-length pricing, and the OECD has become a religious convert in this area. They think that arm's length is just the most wonderful thing.

I think the world is slowly backing away from arm's length and toward a more formulary approach of setting prices between related parties. We can't go all the way to formulary, but I think this is an area that is changing. It is changing for the better, but what everyone needs to do, it seems to me, is engage in the process of rethinking where we've been for probably more than 50 years now. Thank you.

Mr. Randy Hoback: How much time do I have, Chair?

The Vice-Chair (Ms. Peggy Nash): You have about 10 seconds.

Mr. Randy Hoback: I'll leave it there, then.

The Vice-Chair (Ms. Peggy Nash): All right. Thanks very much....

Sorry?

Mr. Guy Caron: Mr. Cardamone wanted to say something.

The Vice-Chair (Ms. Peggy Nash): I think we're out of time. Perhaps we'll capture Mr. Cardamone's other comments in a later question.

Mr. Caron, over to you.

[*Translation*]

Mr. Guy Caron: Thank you, gentlemen, for your very good presentation. Your ability to put this information in layman's terms deserves congratulations. It's a very complex area. I only have five minutes, but I have a lot of questions for you.

My question is for Mr. Rosenbloom.

[*English*]

Mr. Rosenbloom, you mentioned in your five observations.... You were pretty strong in your statement that the response of developed countries so far has been pathetic.

I'd like you to be able to tell me what you think, how you would qualify the efforts so far of the G-8 and G-20 in this matter, because we very often hear that industrialized countries or members of the most developed countries are actually undertaking some important steps in that regard.

So far, what has been done? Is it heading in the right direction? What else should be done from the most developed countries?

Mr. H. David Rosenbloom: I applaud the involvement of political leaders in the whole tax area. I think tax is critical. You can't have a democracy without a functioning tax system, so I'm all for the G-8 and the G-20 being involved.

However, at the current stage, we're in a very highly technical area here. If I had one thing to recommend to this committee in the area under the heading of tax evasion and tax havens, I would say to be very careful about precisely what it is you're talking about. Even in the few minutes we've been talking here, we've talked about multiple subjects. I think developed countries could strengthen their rules in regard to tax havens and protect their own tax bases. That's where my statement was going.

I don't really know Canada's laws, but I know that in the United States there are some very simple things we could do, which we have resisted doing—presumably for political reasons—that would protect the U.S. tax base against tax havens. That's a very different question—I want to be clear, a very different question—from what

we can do to protect the tax base of Tanzania or Zambia. That's an entirely different story, and both of them are probably different stories from exchange of tax information.

All of them are important, but putting them all together in one pot doesn't help to solve any one of them, in my opinion.

• (0935)

Mr. Guy Caron: Separate studies between, say, evasion and tax havens, and then corruption, and then international shelters, and then eventually maybe aggressive tax planning—those are all separate issues.

Mr. H. David Rosenbloom: They're very related—but no doubt they're related—but if you put them all together and try to resolve them all with any one group or single approach, you're not going to end up solving any of them.

It seems to me that a committee of the Parliament in Canada is going to be most able to do something about the Canadian tax system and perhaps operate in an international forum, but those are two different approaches. It does seem to me appropriate to think separately about each of them.

Mr. Guy Caron: I have a question for Mr. Gillespie.

[*Translation*]

You deal with a lot of these issues in your analyses, and I think the Halifax Initiative did a study in 2010 that states the following. The text is in English:

[*English*]

The biggest problem with the OECD approach, however, is that it applies to individuals, not to multinational corporations which are responsible for the majority of tax losses in Northern and Southern countries alike.

[*Translation*]

In the last meeting, we heard from officials from the Department of Revenue.

Can you hear me?

[*English*]

Mr. Peter Gillespie: You keep switching back and forth.

Mr. Guy Caron: I'll say it in English then.

That was a quote from the Halifax Initiative from 2010.

Now, we received at the last meeting public servants from the Canada Revenue Agency and the Department of Finance, who actually said that there was no unbalance, that their approach to individuals and corporations was actually balanced.

What is leading you to actually say—if you are still saying the same thing after 2010—that the approach they have is actually unbalanced?

Mr. Peter Gillespie: I don't think I've ever said that, and I don't think the Halifax Initiative has said that. There are many other groups in Canada that are raising these issues. My organization has really focused on the developing world. We have not commented on Canadian tax administration.

The Acting Chair (Mr. Dave Van Kesteren): You still have another thirty seconds in your turn.

Mr. Guy Caron: Actually, I'll leave time for Mr. Cardamone to respond to what Mr. Rosenbloom said.

Mr. Cardamone.

Mr. Thomas Cardamone: Thank you.

It was a brief comment on the role the G-8 and G-20 are playing, and whether it's been positive or not.

They have made some positive steps forward with something called the entity identifier program that the G-20 has directed the Financial Stability Board to implement. This would create a beneficial ownership for people involved in financial transactions... *[Inaudible—Editor]*...down the road as far as providing more information on who owns legal entities.

The G-20 has also linked the activities that take place in tax... *[Inaudible—Editor]*...haven development in poor countries. So they understand the linkage and the corrosive impact tax havens have on development.

Those are two... *[Inaudible—Editor]*...they've done positively. If they would address country-by-country reporting and an automatic exchange of tax information, I think that would be a long... *[Inaudible—Editor]*...towards where we're trying to get, which is a transparent global financial system.

The Acting Chair (Mr. Dave Van Kesteren): Thank you, Mr. Caron.

Mr. Jean.

Mr. Brian Jean (Fort McMurray—Athabasca, CPC): Thank you very much, Mr. Chair.

Thank you to all the witnesses today.

Mr. Rosenbloom, I'm interested for you to expand somewhat on, first of all, the simple things that you suggest may be a solution for Canada that would, I think, be very similar to what you propose for the United States. As well, perhaps you could define for me, in simple terms, the difference between the formulary approach versus the arm's-length approach, and some of the negative repercussions of proceeding on the arm's-length approach.

• (0940)

Mr. H. David Rosenbloom: Let me start with your second question, because I can do that fairly easily, I think.

Let's say you have two related entities, A and B. A provides some kind of value to B, whether it's goods or services or loaned money, or whatever it provides, and B pays A for that value. What transfer pricing does under the arm's-length method is ask whether the amount that B paid A for that value is the correct amount, and it asks that in terms of "What would B have paid A if B and A had not been related?" That's the arm's-length method.

The problem with that is that it is highly factual, particularly when the value has any kind of intangible element to it. Think of a Toyota Motor Corporation in Japan selling Toyota vehicles into a distributor in Canada. The Toyota brand is worth a huge amount of money, but there's not going to be much information on the arm's-length amount that it's worth. So you're at sea, and it really does require some very sophisticated thinking to analyze whether the price that the Toyota

distributor pays for those vehicles is the correct price, because a large amount of that price is attributable to the brand and the trademark.

The arm's-length method leads you into a factual swamp where countries of the world try to do the best they can.

A pure formulary method, which I don't necessarily advocate but which a lot of people have, would say forget about the price between Toyota Motor Corporation and the Toyota distributor in Canada; let's look at how much is made from the manufacture of the vehicle to the sale. So you factor out the intercompany transaction, you take the total profit of the sale of the vehicles, and then you divide it up by some formula. Some states of the United States have done that. California uses property, payroll, and sales. So they put in the numerator of the fraction, property, payroll, and sales in California, and in the denominator property, payroll, and sales worldwide.

There are problems with that formula. I don't want to overstate how good it is, but it's arguably a lot easier to do than to ask yourself what would Toyota, the distributor, have paid for the vehicles if it hadn't been related to the manufacturer? The arm's-length method, the pure arm's-length method, just leads us into these huge never-ending disputes about facts and it does really require an economics Ph.D. to apply this stuff.

Let me go back to your first question. In my country—again, I cannot speak to Canada—we need rules that separate out the havens. I want to remind the committee that the hardest question here is who are we talking about? I understand we're talking about Cayman Islands and the Bahamas and Bermuda, but are we also talking about Ireland and Singapore? Let's face it, if we are, we're into another political world when we start talking about those countries.

In any event, once we decide who we're talking about, I think there ought to be special rules. We shouldn't have the same transfer pricing rules, whatever they are, for both the Cayman Islands and for France. It doesn't make any sense to me. If you have two developed countries where the related parties are situated, you have a very different situation from that where one of those countries is in a tax haven.

So I think countries ought to examine their laws and provide special rules. Transfer pricing is just one area where you could have special rules that are targeted to tax havens. We could do it in the United States if only we would get a little creative—and of course if our political system was functional.

Thank you.

Mr. Brian Jean: Is there any more time, Mr. Chair?

The Acting Chair (Mr. Dave Van Kesteren): You have about a minute left, Mr. Jean.

Mr. Brian Jean: Mr. Cardamone, do you have any comments in relation to that and what Mr. Rosenbloom has said, particularly in relation to a better methodology than the arm's-length formula? I understand this would include lifting the corporate veil in either scenario, the corporate veil being the economic veil of the country. Is that fair to say?

Mr. Thomas Cardamone: He's right in the sense that the formulary method is being proposed by some, and it's got a long way to go, decades away, to get to it. Something needs to be done between where we are now with the arm's-length method and the formulary method.

That's why we are suggesting that the country...*[Technical difficulty—Editor]*...reporting method provides significant information that would shed some light on corporate activity, so that if it is...*[Technical difficulty—Editor]*...trade between company A and company B, and company B is in a tax haven, everyone will be aware that's exactly what's taking place.

So it's not more regulation on the companies...*[Technical difficulty—Editor]*...transparency on what the companies are doing. That transparency, and the information that's garnered from that transparency, can be quite effective in combatting abusive transfer pricing.

● (0945)

The Acting Chair (Mr. Dave Van Kesteren): Thank you, Mr. Jean.

Go ahead, Mr. Côté.

[Translation]

Mr. Raymond Côté (Beauport—Limoilou, NDP): Thank you very much, Mr. Chair.

I would like to thank Mr. Hoback for addressing the issue of transfer prices because I share the same concern. It's quite interesting.

Mr. Gillespie, I would like to go back to the reference to one of your analyses, the one that my colleague, Mr. Caron, read.

Given that tax losses could be attributed more significantly to multinational corporations, do you have any idea what percentage it might represent with respect to losses due to individuals? Are we talking about something that is double or triple compared to what individuals are losing in tax revenues?

[English]

Mr. Peter Gillespie: Well, thank you. Tom is the expert because Global Financial Integrity in fact has actually estimated this.

Correct me if I'm wrong, Tom, but GFI says that about 60% is related to commercial tax evasion, with lesser amounts related to individuals and corruption. I believe GFI has said about 30% is probably criminal activity.

[Translation]

Mr. Raymond Côté: Thank you very much.

My next question is for Mr. Rosenbloom.

Let's continue with transfer prices. You spoke a lot about this. I think your judgment was very clear in that respect. But I would like to go a little bit further with this topic.

Among other things, you mentioned the case of the Internal Revenue Service against Altera. You judge this type of practice very severely. We aren't talking about legality per se, but how could we qualify this, given that these are, in effect, legal proceedings? Could

we talk about tax avoidance or tax evasion? Is it more a question of behaviour?

[English]

Mr. H. David Rosenbloom: That's a very fair question. In my experience, most publicly owned corporations do not often engage in criminal behaviour in the tax area. What they're doing is by and large legal; the problem is that the laws allow them to take fairly aggressive positions.

The biggest constraint, in my opinion, on publicly traded corporations, and even some private corporations, is reputational risk. None of these folks want to see their names in the *Wall Street Journal*, believe me.

That's the biggest thing going on right now. I will say this: I'm all in favour of more information about ownership of entities. I agree with Mr. Cardamone on that. By the way, the U.S. is clearly one of the worst offenders, partly as a result of our federal system. There's only so much that our federal government can do to restrain the states, and corporate ownership is a question at the state level. That's a whole other subject.

I would make this point relating to two separate subjects. Having all the information in the world about the ownership of entities is not going to solve the problem that the laws are too lenient toward the use of tax havens. We could have complete information on ownership and still face some serious tax evasion—using tax evasion in a very broad sense, to equate it also with tax avoidance.

I don't think we're talking criminality, by and large; we're talking about taking maximum use of the existing laws.

● (0950)

The Acting Chair (Mr. Dave Van Kesteren): You have about half a minute, sir.

[Translation]

Mr. Raymond Côté: That's very short. I'll end there.

[English]

The Acting Chair (Mr. Dave Van Kesteren): Thank you.

Ms. Glover.

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

I want to thank the witnesses as well.

Mr. Rosenbloom, I think you summed up something that I have been curious about for quite some time. Some people think we ought to study this continually and spend money on research and whatnot. I think you summed it up when you said we can do all the research we want, but if we don't have legislation and rules in place, nothing is going to come of it.

Did I interpret your last statement correctly?

Mr. H. David Rosenbloom: Absolutely. This is a rule-based system. This isn't just a lot of concepts and research: we have to have rules.

Mrs. Shelly Glover: I might add that I happen to be a police officer on a leave of absence, so the enforcement part of this I think is important. We had some witnesses here from the RCMP and from CRA talking about how important it is that they have not only the research but the tools and the legislative measures to proceed with the enforcement. So I appreciate that you made that comment.

Some people believe that the more rules we put in, and the bigger the book gets on rules, that's not necessarily welcome. In the case of tax evasion and tax avoidance, though, do you agree that sometimes you just have to have a large number of rules to stay one step ahead of the people who are trying to take maximum advantage of the way the code is written?

Mr. H. David Rosenbloom: Well, yes. Again, I'm influenced by the U.S. experience, but I think we make a huge mistake in trying to put a one-size-fits-all rule out there so that we treat these tax havens the same as Japan. To me, that's tying one arm behind our back.

The other thing we do in my country—I can't speak for Canada—is we systematically starve the tax administration function of resources, which makes it very difficult in a very complex modern world to enforce the laws. That's an independent problem.

If someone wanted to do tax reform in the United States, my first choice would be to give some more money to the Internal Revenue Service.

Mrs. Shelly Glover: Very good. Thank you.

Here in Canada we've added a number of CRA experts on the files, roughly 40% more since we came into power in 2006, so we look forward to continuing in that vein.

Mr. Cardamone, Global Financial Integrity wrote a report in December called *Illicit Financial Flows From Developing Countries: 2001-2010*. One of the recommendations put forward by your entity was, and I'm going to quote it, “harmonizing predicate offenses under anti-money laundering laws”.

In 2010 this government put forward a budget that made tax offences predicate designated offences under the proceeds of crime and money-laundering regime of our Criminal Code. I'd like to get your input. Do you think this is a good measure? It's going to enhance powers of search and seizure, and the ability to retain proceeds of crime.

I'd like to hear from you: do you think we're on the right track here?

Mr. Thomas Cardamone: Yes, very much so. I think that's a wonderful development. It puts another tool in law enforcement's tool box to go after tax...[*Technical difficulty—Editor*]...and it also is in compliance with what the financial action task force in Paris produced in a new set of recommendations just about a year ago that made tax evasion a predicate crime for money laundering.

So it's very much in line with...[*Technical difficulty—Editor*]...and I think it's a great development.

Mrs. Shelly Glover: Excellent. Thank you for that input.

I note that at the beginning of our session here, Mr. Cardamone, we cut you off. I was into what you were saying from your speech.

Do you have more to say? I want to give you the opportunity to finish what you were saying. If you have more listed on your documents, I'd be very happy to hear from you on that.

• (0955)

Mr. Thomas Cardamone: Thanks very much for the opportunity.

I actually only had about 15 seconds remaining in my remarks, so I completed what I was going to say.

I do want to add one thing. Mr. Rosenbloom is correct that there is no one size fits all, and no silver bullet, in trying to curtail illicit flows of money or tax evasion. But the culmination of...[*Technical difficulty—Editor*]...measures that we've been recommending—automatic exchange of tax information, country-by-country reporting, beneficial ownership information—combined will create a...[*Technical difficulty—Editor*]...upon which more transparency will be in practice, and more information that limits the ability of...[*Technical difficulty—Editor*]...and criminal entities from hiding and laundering their money.

Mrs. Shelly Glover: Thank you very much. I appreciate that.

The Acting Chair (Mr. Dave Van Kesteren): Thank you, Ms. Glover. I'm sorry, you're out of time.

Welcome back, Mr. Mai. You, sir, have the floor.

Mr. Hoang Mai (Brossard—La Prairie, NDP): Thank you very much, Mr. Chair.

First of all, thank you very much, all colleagues from the finance committee, for actually looking at this issue.

As well, thank you, Ms. McLeod, for having worked with us in terms of putting this forward, and also for your kind words; I've heard about them.

Thank you to the witnesses for being here today.

I'll start with you, Mr. Gillespie. I'm not sure if it was covered before, but we've brought forward the fact that we need to know how much, for instance, Canada is losing in terms of tax havens, tax evasion. For other countries, the U.S., Sweden, U.K., and Mexico are actually looking at numbers, trying to figure out how much they are losing.

Do you think it's something we should push for, and if so, do you have an amount of how much money we might be losing in Canada in terms of tax havens?

Mr. Peter Gillespie: Let me respond to the second question first.

Before you arrived, I was explaining that my organization really is focused on the international questions, not on Canadian domestic tax law or tax practices.

In response to your first question, when James Henry was here, who you met—he was the lead researcher on an enormous study—he suggested that Canada follow the lead of many other countries to estimate and publish what the tax gap is. Many countries, the United States for example, provide an estimate of what tax revenue authorities think they're missing. So his recommendation was that, indeed, Canada should follow that practice.

Mr. Hoang Mai: Why do other countries do that, and why is it necessary to do that?

Mr. Peter Gillespie: I think this is a public accountability issue. I think citizens should know as much as possible what government is raising in terms of revenues, just like citizens should know what governments are spending those revenues on. I think it's an accountability and transparency issue.

Mr. Hoang Mai: If you go more at the international level, you've looked at the OECD frameworks with respect to the OECD model in terms of reporting. Can you maybe tell us a bit about it, or what the flaws are with respect to—

Mr. Peter Gillespie: The OECD model for...?

Mr. Hoang Mai: In terms of attacking tax havens when we talk about the framework that the OECD has put forth with respect to reporting and agreements.

Mr. Peter Gillespie: We spoke about that earlier, about the bilateral tax information exchange agreements. I think there was a general consensus amongst all of the witnesses that these are fairly weak instruments.

We have made the point that a much more robust approach would be a multilateral information exchange, modelled perhaps on the current model in the European Union. As I was explaining, these bilateral agreements are rarely used and frankly not very useful. They've been seriously criticized by virtually everybody I know.

Mr. Hoang Mai: Thank you very much.

Mr. Rosenbloom.

Mr. H. David Rosenbloom: I have a specific suggestion that might actually make some sense for you to think about. I think it would make sense in this area—and probably other areas, but let's limit it to this—for a relatively limited group of developed countries to get together, maybe on an ongoing basis, to discuss these issues.

We have a lot of tax competition among countries. One of the reasons that the havens are able to subsist is that countries are lobbied by their own entities, which say that they're facing competitive pressures, etc.

So I think it would make a lot of sense—and I'm talking about fewer than ten countries, although I don't name the countries—for countries with similar kinds of issues to get together.

I don't think you can leave this to the OECD. The OECD is expanding its membership, and as it expands its membership, it becomes more and more of a lowest-common-denominator organization. You certainly can't leave it to the UN for the same reasons.

So for the developed countries of the world, to the extent that we're talking about domestic tax evasion, I think there ought to be some kind of organization. It doesn't have to be huge or cost a lot of money, but I think that ought to be an initiative worth taking.

• (1000)

The Acting Chair (Mr. Dave Van Kesteren): Thank you, Mr. Mai.

We now go to Mr. Adler.

Mr. Mark Adler (York Centre, CPC): Thank you, Chair.

I want to thank all of the witnesses for being with us today.

I do have a few areas I'd like to pursue. The first one is about the risk to global financial instability from the use of tax havens.

As we know from the financial crisis of 2008, a lot of the toxic assets of U.S. banks contributed a lot to the subprime mortgage crisis. We also know that a lot of public U.S. debt is held in some of these tax havens.

Could you comment, in light of those two and other similar issues, on the risk to global financial instability, and what that would pose to an economy such as Canada's, which has really excelled and has done very well vis-à-vis G-8 countries?

I'll put it to Mr. Rosenbloom first, and then perhaps Mr. Cardamone could follow up.

Mr. H. David Rosenbloom: I'm not sure I'm qualified to answer that. I'm not an economist, and these macro effects are just things I read about with interest.

The only thing that I would comment on, that your question prompts me to observe, and that is I think quite interesting and worth thinking about, is the effect of huge amounts of money being siphoned out of the United States and into Ireland. Ireland, as we know, has suffered severely in the economic downturn. There was a huge bubble in Ireland.

I think the implications of what the Irish did over the past 15 or 20 years by having low tax rates, which attracted investments from abroad, a lot of them from the United States, is well worthy of study.

Apart from that, in broader terms, I'm not really in a position to comment meaningfully on your question, sorry.

Mr. Mark Adler: Okay.

Tom, do you have any thoughts on that?

Mr. Thomas Cardamone: I'm also not an economist, and this is outside my normal focus, but I do recall that during the depths of the financial crisis in the United States, when banks were being bailed out or banks were acquiring other banks, there was a moment in which liquidity within the banking system almost seized up. There was so much unrecorded risk held offshore by some of these institutions that when they were being bailed out or acquired, it was just a completely opaque system. The bank doing the acquiring was completely unaware of what the risks...[*Technical difficulty—Editor*]...the bank they were buying out.

I think that in itself can probably influence a lot of decision-making on what should be allowed in the future in terms of offshore holdings by major financial institutions and how transparent those holdings are to the public and to regulators.

•(1005)

Mr. Mark Adler: Yes. Agreed.

I'm also interested in FATCA. I know that there were a few unintended consequences of FATCA, and it is really insulting to a lot of other countries what FATCA has seemed to accomplish.

Mr. Rosenbloom, you were speaking before on FATCA. Could you comment on the negative consequences of FATCA and why it is a poor piece of public policy?

Mr. H. David Rosenbloom: Yes, of course.

The worst aspect of FATCA is what it did to the United States. It basically deflected large numbers of our resources into writing these incredibly detailed rules for something that's not going to produce a lot of revenue. It never made much sense to me to take people off corporate tax audits and have them writing rules for the rest of the world.

I also have severe doubts about how FATCA is going to play out. We're going to get tons of information from all over the world, but exactly who is going to read that information? When last I looked, they had one individual up in a warehouse in Detroit looking through our foreign bank account reports.

You know, I just doubt that we'll go on spending all these resources indefinitely on this.

Now, I'm sure you're not focused on that. I think most of the rest of the world is focused on the intrusion into other countries' processes, etc. I appreciate that FATCA's a very.... Nobody ever did a cost-benefit analysis on FATCA. There's a huge amount of cost required of financial institutions around the world, and there's a lot of foreign policy, foreign relations, and negative effects of FATCA, but to me it's kind of a stupid piece of legislation just within the U.S. context.

On the other hand, I want to say—and I'm a late convert to this idea—that it has gotten the world's attention in a way that nothing else previously did.

The Acting Chair (Mr. Dave Van Kesteren): Thank you, Mr. Rosenbloom.

I'm sorry, Mr. Cardamone, we're out of time. Maybe somebody else will pick up on that.

Go ahead, Ms. McLeod.

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

I certainly will open the floor, because I'm very interested, Mr. Cardamone, in what you have to say on FATCA.

Mr. Thomas Cardamone: I think it...*[Technical difficulty—Editor]*...focused the world's attention on this issue. I would warn against prejudging the results and the impact of this piece of legislation.

While it may...*[Technical difficulty—Editor]*...it is purely a transparency request. It's not regulatory. It doesn't tell banks how they should operate, just that they should report the information that they have. It's a very simple...*[Technical difficulty—Editor]*...information exchange piece of legislation. Whether we have the ability at this point to use that information remains to be seen. But that can always be addressed later on.

I think the fact that it...*[Technical difficulty—Editor]*...focused the world's attention on this issue in and of itself is a benefit. I look forward to seeing how it is implemented as time goes on.

Mrs. Cathy McLeod: I would actually like to take the opportunity to build on that thought. I've heard comments from many that there should be this multilateral exchange and free flow. To some degree, I always saw the TIEAs as being precursors to something like FATCA.

Really, can you talk about how this multilateral free flow is different from FATCA so that I can perhaps understand it a little bit better, and what you're envisioning with multilateral free flow versus what the American legislation is trying to do with FATCA?

Does anyone want to tackle it?

Mr. Thomas Cardamone: All that FATCA has to do with is...*[Technical difficulty—Editor]*...holders in foreign banks, and those foreign banks have to report back to the United States Internal Revenue Service. It's multilateral in that any foreign bank that has American account holders in it has to report back to the U.S.

That's a different system from the TIEA arrangement that we were discussing...*[Technical difficulty—Editor]*. Those are bilateral agreements between governments, suggesting that information upon request will be provided.

We're suggesting that there should be...*[Technical difficulty—Editor]*...multilateral approach to government-to-government agreement, much like what is in place with the European savings tax directive.

•(1010)

Mrs. Cathy McLeod: I recognize that TIEAs are bilateral on request. FATCA, then, becomes an automatic one-way. So is the natural evolution not just a multilateral two-way?

Mr. Thomas Cardamone: Are you suggesting that foreign countries would ask American banks to report back to them, when American banks have account holders from those countries? Is that the suggestion?

Mrs. Cathy McLeod: No. What I'm asking is how you would differentiate that in terms of what you were suggesting in terms of multilateral flow of information.

Mr. Thomas Cardamone: FATCA is sort of a step in the right direction. It's not an agreement, of course, between governments, as we're suggesting should be in place, like the European savings tax directive...*[Technical difficulty—Editor]*...a requirement put upon foreign banks to have American account holders.

The Acting Chair (Mr. Dave Van Kesteren): Go ahead, Mr. Rosenbloom.

Mr. H. David Rosenbloom: Actually, I think FATCA is evolving toward an intergovernmental system, because FATCA, as drafted, really doesn't work very well. It's just incredibly intrusive.

The United States has developed several models of intergovernmental arrangements, and it's negotiating currently with more than 50 countries. I think it's probably already negotiated with Canada. I haven't followed it on a day-to-day basis.

This is not contemplated by the legislation. The Internal Revenue Service, commendably, has converted FATCA into more of an intergovernmental arrangement.

As to whether it would work on a multilateral basis, I have some real doubts. It's very expensive for financial institutions to comply with. And if you had to comply with similar legislation throughout the world, with all countries asking banks, I think it would be quite a burden.

On the other hand, you could argue that it's one of the reasons why FATCA is a poor piece of legislation. If you pass a piece of legislation that you don't want to have coming in your direction, that's a suggestion that the legislation had some defects to begin with.

The Acting Chair (Mr. Dave Van Kesteren): Mr. Rankin.

Mr. Murray Rankin: Thank you, Chair.

I'm going to direct this question to Mr. Rosenbloom, taking you up on your comment where you said that you've resisted simple things you can do to protect the U.S. tax base from tax havens.

I know there have been a couple of recent bills in the U.S. Senate: Senator Levin's bill on tax havens, and just recently Senator Sanders has a bill as well.

Are there any things that those might give us, any ideas of best practices to protect our tax base? Are there any ideas from there, or any ideas you have on that subject?

Mr. H. David Rosenbloom: I actually think that what I said earlier, about forming some kind of a group of similarly-minded developed countries, is the most positive thing you can do.

Some countries have blacklists, some countries have white lists. But the bottom line, when I speak of something simple, is developing rules that are targeted to tax havens.

I said this earlier, but let me make it very clear. We have a set of transfer pricing rules that we apply to the entire world. So we divide the world into two parts: the United States and everywhere else. That, to me, is foolish. That means that we need to have the same rule when a transfer pricing situation arises with a tax haven that we have when it arises with Japan. That doesn't make sense to me.

We can be a lot less concerned about transfer pricing abuses between Japan and the United States than between the United States and, say, the Cayman Islands.

When I say "simple", I think we—and I don't say Canada, because I don't know—we ought to take a look at our law with a view to having special rules targeted to the havens. But rather than anything substantive like that, the best procedural step would be to organize a group of countries' technical experts to exchange best practices. I think that would make a lot of sense.

Mr. Murray Rankin: This is a question, then, for Mr. Cardamone.

Back to the question about the transfer pricing, I think a suggestion you made was that on a country-by-country basis we should compel multinational corporations to produce information. Presumably under Canadian law if we were to do that, we would require in our tax act a number of things that must be reported.

But is that enough? Is that just more information that's put on a shelf somewhere, or do you think there should be basic rules in the tax code to address abuses?

• (1015)

Mr. Thomas Cardamone: Certainly there should be rules in the tax code that would address abuses or close loopholes, primarily. I think that's a key thing.

Mr. Rosenbloom suggested before that very few multinational corporations get into legal trouble in the tax area, because they understand what the rules and the laws...*[Technical difficulty—Editor]*...go right up to the line, and many times they don't go over it, but the problem is where the line is.

In effect, legal regulations enable tax avoidance to a significant...*[Technical difficulty—Editor]*. Statutory changes or regulatory changes could be implemented to close those loopholes as they address offshore holdings, tax haven holdings...*[Technical difficulty—Editor]*...go a long way to capturing some of the tax revenue that's due to these governments.

Mr. Murray Rankin: In Canada there's a rule called GAAR, which is the acronym for the general anti-avoidance rules. So you can look at a transaction and, after the fact, assess whether it's over the line of tax avoidance into the line of tax evasion. In our system, the IRS equivalent, the CRA, has the ability to impose taxes if they think it's one of those type of rules.

I don't know if the American system, Mr. Rosenbloom, has something similar to that. But if so, would this be an area that could be expanded to cover inappropriate transfer pricing and the like?

The Acting Chair (Mr. Dave Van Kesteren): You have about half a minute, Mr. Rosenbloom.

Mr. H. David Rosenbloom: I think it's basically separate from transfer pricing. We do not have a GAAR. I'm quite familiar with both the Canadian GAAR, the New Zealand GAAR, and the Australian GAAR. There are problems with GAARs, because although they sound wonderful in general, you still need standards for what is abuse. I mean, the GAAR doesn't exempt you from having to think through the application of the rule in particular cases.

We have economic substance in our law. We have the rule that transactions will be disregarded unless they have economic substance.

It used to be a purely judge-made law. It came out of our courts and was around for probably 60 or 70 years. It was enacted into our Internal Revenue Code in March of 2010 as paragraph 7701(o) of our Internal Revenue Code. We'll see; it's too early to see how that's going to play out.

But I think it is, certainly in your terms, similar to a GAAR.

The Acting Chair (Mr. Dave Van Kesteren): Thank you, Mr. Rankin.

Mr. Del Mastro, welcome. You're on, sir.

Mr. Dean Del Mastro (Peterborough, CPC): Thank you very much, Mr. Chairman.

I want to thank all the witnesses for appearing here today.

Mr. Rosenbloom, I'm very familiar with your work. When I was a university student studying finance and accounting, obviously one of the things we would focus on a lot, especially in senior tax accounting, was tax avoidance.

Lawful tax avoidance is, frankly, something that corporations and individuals practise regularly. Everyone in this room has practised tax avoidance when they claim their basic personal exemption, when they claim charitable tax receipts. When they claim any of these things on their returns, they are in fact practising tax avoidance.

Corporations do the same. I was happy to hear you point out that corporations largely, and I would say overwhelmingly, abide by the tax laws. I watched your last election with great interest, and I heard an awful lot of commentary about corporate tax rates and personal tax rates on higher-income earners in the United States, tax rates on dividend income, and so forth.

One of the examples I heard time and time again is that General Electric, which is a large employer in my riding, earned about a billion dollars last year and paid no taxes. I don't think anybody was suggesting it did anything illegal, but I do think it's an illustration of a tax code that could be, and frankly should be, simplified.

I think if we're going to try to bring this committee back to something that would be an actionable item—because I think you've correctly pointed out that we've touched on so many issues that I'm not quite sure how we would actually put anything into effect—doesn't it make sense if we start from the ground and ask how we actually start with a functional tax system, whereby we can actually have the outcomes we want, if people are concerned about tax avoidance? The U.S. tax code is so complex and there are so many exceptions to the rule that I think that's why you need more people at the IRS, because these rules are complex and wide-ranging.

What would you say to that?

• (1020)

Mr. H. David Rosenbloom: Well, you've said a lot. Let me start out by saying that I have always admired, insofar as I understand it, the Canadian system. It does seem to be a lot better from a policy standpoint, and I've participated in various policy discussions in Canada about the Canadian system.

Our system is no model for anything. Let's be very clear about that. But we have the factor of politics, and of course tax is just a white-hot subject in the United States and has been for pretty much my entire professional lifetime. I have told people that if you put me in a room with seven people of my selection, which would include a number of business people, I could come out of that room with a functioning tax system that would be fair and a lot simpler, but that's not the way our Congress operates and I have no influence on that whatsoever.

You're quite right in your suggestion, in what I take to be your suggestion, that the more complexity you have in the law, the more opportunity there is for tax avoidance. But this hearing is not focused specifically on avoidance generally but on tax havens specifically, and in that area I do have some specific ideas for what the United States could do to improve its performance, even given the Internal Revenue Code as it stands—that is, to address tax havens as a specific subject.

Mr. Dean Del Mastro: You mentioned a couple of times that not all transfers are equal. Obviously I agree with that. Corporations frequently transfer money for investment in various countries; they do so in a way that, again, makes their operations more efficient, and that means they are more effective in hiring people.

I guess the question is this. You've cited a number of different places and asked which countries we are talking about.

Which countries, in your view, are we talking about? I think that's very important. There's a difference between a no-tax and a low-tax jurisdiction.

Obviously there is quite a bit of difference, so where should we be zeroing in on?

Mr. H. David Rosenbloom: That's the hardest question of all.

I think we all know what the clear havens are. They range from the Cook Islands in the Pacific, which is not used much by our people, down to the Caribbean, where there are multiple islands. There are lots of zero- and very-low-tax places in the world.

In my experience, those places are not used so much by corporations. Another distinction that needs to be made here, by the way, is between individual avoidance or evasion and corporate avoidance or evasion. They're really two different subjects.

You're not going to find most of your public corporations steering huge amounts of capital through the Cayman Islands, because they fear the reputational risk among other things. But if you're going to get serious about havens, you have to at least ask yourself what you are going to do about Ireland, what you are going to do about Singapore, what you are going to do about Hong Kong, and what you are going to do about Luxembourg, because those jurisdictions are used by the multinationals and there's a lot of money coming out of the developed countries and going into those.

I think the starting place is to identify what you're talking about, and again, I think it probably is not a great idea for any one country to try to do it on its own. I really think that is a best practices kind of question.

The Acting Chair (Mr. Dave Van Kesteren): Thank you.

Mr. Cardamone, we're out of time, so maybe you can get in on another round.

Next up is Ms. Sgro.

Hon. Judy Sgro: Thank you very much.

Again, the information continues to be very valuable.

I think very often we try to do too much. Focusing specifically on tax havens would probably be the way to go. So as we talk about different ways of just how things can be successful, clearly FATCA gives you some real cause for dismay.

But you also mention the importance of developed countries exchanging information on an ongoing basis. Since 2004 Canada, and the U.S. of course, have been part of the Joint International Tax Shelter Information Centre. I see that you're familiar with it. You have the U.K., Australia, France, China, South Korea, and Germany set to join.

I gather from your comments that this kind of working group is probably the best way to go.

•(1025)

Mr. H. David Rosenbloom: I think something like that ought to be replicated among developed countries, but perhaps not with always the same countries in the group.

My comments reflect a certain feeling that the way in which the OECD has been going, which has been to broaden its membership, makes it less useful to a developed country than it used to be. I've said that many times recently.

I would like to see working groups get together in a much less formal way, because my concern is competition among countries. I think countries competing with each other will drive down tax rates, particularly corporate tax rates, to the point that countries are going to starve themselves of revenue.

Hon. Judy Sgro: Mr. Cardamone, do you want to add anything to that? Is that the way we need to go?

Mr. Thomas Cardamone: I think he's right. There is a race to the bottom as far as tax rates go, and it is something that needs to be addressed on a multilateral basis.

The G-8 is a perfectly good place to try to do it. That's not the only place, of course, but it's always better to...[*Technical difficulty—Editor*]...these things on a multilateral basis than any one country, no matter how large they are, trying to go it alone.

Hon. Judy Sgro: That's been mentioned a couple of times. Maybe that is an avenue for us to go.

Mr. Gillespie, the role of the UN on this committee that they have, the one with experts on international cooperation on tax matters; we know that's an important issue, but what additional mandates should they have. and what resources do you think that committee needs in order for it to have any teeth and any success in the direction it's going in?

Mr. Peter Gillespie: Well, the G-77 plus China have proposed for a number of years that.... Essentially, it's a committee, and they have proposed that it become a commission with representation from different interests around the world. They feel that the OECD does

not represent their interests. They also feel that the tax committee currently is dominated by developed countries and that it should be more democratic and representative.

I'm not sure I agree with Mr. Rosenbloom's assertion that there should be a small group of countries getting together to try to sort out all of these difficulties. I think there needs to be a democratic process where all interests are at the table. One of the most contentious issues, of course, is the OECD's transfer pricing guidelines, which developing countries do not see as workable or in their interests.

Developing countries feel that the current system restricts their taxing rights. So they want to be at the table and they want to have a say. Now, that's already happening in small groups. I mean, the BRICs are debating these, of course, and coming up with different proposals. However, I think it's really important there be a forum, a space, where developing countries can feel their interests are being asserted.

Hon. Judy Sgro: The bigger the group, the harder it is to come to any kind of real consensus, other than having meetings and meetings and meetings for the next 20 years and resolving nothing.

Mr. Peter Gillespie: Sure, but African countries are facing similar issues, so we don't need representatives from every African country. African countries are experiencing today, and for years, this problem of tax competition. A multinational mining company can come into a country like Zambia and negotiate.... In fact, in the case of Zambia, they negotiated several years ago royalty rates that were ridiculous: 0.06%.

The power that these corporations wield is driving tax rates down all through Africa. I think there are common interests that can be at the table without having everybody at the table.

The Acting Chair (Mr. Dave Van Kesteren): Ms. Glover.

Mrs. Shelly Glover: Thank you very much.

I just want to clarify a couple of things.

Mr. Rosenbloom, I'm going to focus on some of the comments you made about TIEAs, because of course this government has moved forward in implementing them—I believe there are nine, now. Though they are just bilaterals at this point, in the absence of a multilateral agreement, I believe they have allowed us to recoup some of the tax information that has allowed us to recoup revenues.

I just want to make sure that when you were talking about TIEAs earlier, and saying that you really don't agree with them...which was odd, because you negotiated one. I just want to make sure that you agree that in the absence of the multilateral, a TIEA in place bilaterally is still better than nothing.

•(1030)

Mr. H. David Rosenbloom: Oh, of course. I didn't say I don't agree with TIEAs. My remarks were directed at the fact that I think they have limited impact because of the way they're generally implemented. They also have....

Sorry?

Mrs. Shelly Glover: I'm sorry; I was just going to say that they do lead to the ability to retain that information that we otherwise wouldn't have access to. So then we do have the ability as a government to go after that tax that has been foregone, right?

Mr. H. David Rosenbloom: Yes, of course. Again, I don't know, even in my own country, what the experience has been, but my suspicion is that the number of requests that go out under any given TIEA in a timeframe, within a year, say, is pretty limited.

I think TIEAs are more important symbolically than they are practically. They're not going to end the tax haven problem. Let's put it that way. The countries that want to maintain tax haven processes.... Some of them actually have tax treaties beyond TIEAs. They have exchange of information provisions in tax treaties. I don't think that really gets to the heart of the matter. They have low tax rates. They attract investment from developed countries.

So I'm not against TIEAs in any way, shape, or form. I just think they're a relatively small part of the overall picture if we're talking about tax evasion and tax havens.

Mrs. Shelly Glover: But they're better than not having them at all. I just wanted to make sure I have that from you.

Mr. H. David Rosenbloom: Oh, yes, of course.

Mrs. Shelly Glover: Mr. Cardamone, you talked an awful lot about standardization. I know G-20 had a leaders commitment, a leaders declaration on standardization. I'm just going to read the quote for committee from the leaders declaration. It says:

We welcome the OECD report on the practice of automatic information exchange, where we will continue to lead by example in implementing this practice. We call on countries to join this growing practice as appropriate and strongly encourage all jurisdictions to sign the Multilateral Convention on Mutual Administrative Assistance.

Would you comment on why it's important that this be adopted and how you think it's going to help curtail tax evasion?

Mr. Thomas Cardamone: I think it could curtail tax evasion if countries actually follow what the G-20 suggests they do, which is to sign multilateral agreements. The G-20 countries have put that line in the sand. They understand the value of multilateral automatic information exchange agreements...*[Technical difficulty—Editor]*... comes down to political will. The question is if governments are willing to stand up and say, yes, we want to be part of this type of a system, and we're going to say it publicly, and we're going to do everything we can to implement it...*[Technical difficulty—Editor]*... between what the G-20 suggests and what governments actually do.

Mrs. Shelly Glover: Very good.

Mr. Thomas Cardamone: You need the first to get the second.

Mrs. Shelly Glover: I absolutely agree.

In leading up to G-8 now, of course, what has happened in G-20 is important. So I think we're trying to get to the same result, which, as all of you have suggested, is a group effort from countries to try to come up with some standardization on the ability for us to move forward to deal with this.

Do you think one country can make a significant change in combatting the tax haven problem? I've heard clearly, I think, that international cooperation is required, but do you think there is something that you haven't mentioned yet that a single country can

do that would have a significant impact, or is it just that we have to negotiate with our fellow countries to get this significantly improved?

Anyone who would like to answer can.

Go ahead, Mr. Cardamone.

The Acting Chair (Mr. Dave Van Kesteren): We have limited time, so can I ask you to answer that in half a minute? Thank you.

Mr. Thomas Cardamone: Sure.

I think it's a combination of mechanisms that are going to push this agenda forward to curtail tax evasion. It's not only the multilateral...*[Technical difficulty—Editor]*...legislation in a particular country that can show leadership internationally.

So I think it's both things. As an organization, we promote both things. Not only do we talk to international bodies such as the G-8, the G-20, and the OECD, but we also talk to individual governments about what they can do in their own specific...*[Technical difficulty—Editor]*...one can influence the other, and an individual country can actually have a larger impact on what a multitude of governments do collectively.

• (1035)

The Acting Chair (Mr. Dave Van Kesteren): Thank you, Ms. Glover.

Mr. Mai.

Mr. Hoang Mai: Thank you, Mr. Chair.

I have a question for Mr. Cardamone.

With respect to transfer pricing, some have suggested that multinational corporations should report on a country-by-country basis on all their transactions, such as labour cost, number of employees, finance costs like third-party and integral transactions, profits before taxes, provision for taxes, and taxes actually paid.

What is your position on the type of information we should have in terms of reporting on a country-by-country basis?

Mr. Thomas Cardamone: We fully support that recommendation on country-by-country reporting by multinationals. We think the impact on the companies themselves would be relatively low...*[Technical difficulty—Editor]*...given the information that would be provided to tax authorities, investors, as well as the general public. This information is already held by the corporations. It has to be a component of their consolidated global financial statements, so all we're asking is that this information be disaggregated by country.

Again, in and of itself, it does not stop abusive transfer pricing or tax evasion, but it is a mechanism, and hopefully, in concert with the other four or five...*[Technical difficulty—Editor]*...we make on transparency, it would provide an architecture upon which more information can be gained, and the ultimate...*[Technical difficulty—Editor]*...curtail the illicit flow of money and tax evasion.

Mr. Hoang Mai: Can you give us examples? Are there any countries that are actually pushing that forward or that have actually implemented such a reporting requirement?

Mr. Thomas Cardamone: There's no government that has requested or past legislation that would implement a country-by-country reporting standard. *[Technical difficulty—Editor]*...being discussed in a global sphere. The OECD is talking about it; other multilateral institutions have talked about it. It has gained quite a lot of...*[Technical difficulty—Editor]*...traction in two years. It remains to be seen if the political will is going to be put in place to actually get it implemented or not.

Mr. Hoang Mai: What would be the reason not to? Is there any pushback from companies? What's your view on that?

Mr. Thomas Cardamone: Any change is uncomfortable, no matter whether you're talking about taxes or...*[Technical difficulty—Editor]*. Companies don't want to provide the information because they've never had to before. Many claim that it's an onerous financial burden on the company. That remains to be seen. I don't know...*[Technical difficulty—Editor]*...demonstrated by any company or not.

The important part of this is that it would be, if it's implemented as we suggest, a global standard so there is no one company or no one...*[Technical difficulty—Editor]*...unduly burdened by this. It would be all multinationals in all countries that would be required to do this.

So it's a matter of a relatively new idea beginning to get some political traction and some wider understanding, and hopefully, in the years to come we'll actually see a country-by-country...*[Technical difficulty—Editor]*...in place.

Mr. Hoang Mai: Thank you very much.

This is a more general question. For reporting income, what are the most popular tax haven jurisdictions used by either Canadian corporations or foreign multinational corporations?

Anyone?

Mr. Thomas Cardamone: I don't know if there's any one particular haven used by American corporations, but we do know that 83 of the top 100 American corporations do have operations in tax havens. So it is a fairly widely...*[Technical difficulty—Editor]*...mechanism to shift profits overseas.

The Acting Chair (Mr. Dave Van Kesteren): Mr. Gillespie.

Mr. Peter Gillespie: My response also relates back to Mr. Del Mastro's earlier question.

The Tax Justice Network came up with an analysis, which they called a "financial secrecy index". What they did was create a statistical formula to analyze the scale of jurisdictions around the world and the secrecy elements of those jurisdictions—whether they have signed agreements, whether secrecy is legally endorsed in those jurisdictions. The top five jurisdictions were Switzerland, Cayman Islands, Luxembourg, Hong Kong, and, interestingly, the United States, especially states such as Delaware, Nevada, and others. So those were the top five jurisdictions in that assessment.

• (1040)

The Acting Chair (Mr. Dave Van Kesteren): Thank you. That's all the time for your round.

We are going to have time for one more question session. That would be Ms. McLeod.

You are up for about four minutes.

Mrs. Cathy McLeod: Thank you, Mr. Chair.

I really appreciate that this has been a great, wide-ranging discussion. I think it is important to note that, although we have flagged some very interesting issues around other countries such as Zambia, really our focus is domestically Canada and how we can protect our own system. But I certainly appreciate those very important comments made regarding other jurisdictions.

One of the things I did hear that I think all three witnesses agreed on is the talk about the ownership of entities and having better disclosure. I guess my question to all three of you might be this. Transparency seems to be important. One, are there any other jurisdictions that do require that kind of transparency? Two, as a follow-up to that, I would expect there are probably some times and some very legitimate reasons why corporations use this kind of structure, and it's nothing to do with the tax havens, etc., so I'd really appreciate some brief comments in terms of that particular recommendation that seems quite common.

Mr. Cardamone, do you want to start?

Mr. Thomas Cardamone: Sure.

There is no really good reason to keep the ownership of an entity secret. No one benefits from dealing with an entity where you don't know who is on the other end of the transaction. So...*[Technical difficulty—Editor]*...good example of why the ownership information should be kept secret from anybody.

We understand the desire and the need for privacy...*[Technical difficulty—Editor]*...concerns, maybe tax returns or financial dealings of the entity itself, but there is a difference between that type of privacy and the...*[Technical difficulty—Editor]*...that they were actually talking about, the fact that for these entities there is no linkage anywhere that tax authorities or law enforcement can use...*[Technical difficulty—Editor]*...the beneficial owner of many of these companies.

So I think this is the issue: it's a secrecy without a reason for it.

The Acting Chair (Mr. Dave Van Kesteren): Go ahead, Mr. Rosenbloom.

Mr. H. David Rosenbloom: First of all, I think the principal problem that I am aware of in the United States with entities and their ownership is probably Delaware, which allows for companies to be owned with bearer shares. There has been a lot of complaint about that.

One of the problems I have in addressing this question is that you really do need to focus, in my opinion, on whether you are talking about individuals or corporations, because the problems are really quite different. Also, when you cite leading jurisdictions, as the Tax Justice Network has, again, I think the problems are very different between corporations and individuals.

I'm all for transparency. Whether we can achieve it in the United States, given our federal system, is a serious question. There are going to be restraints on how far the federal government—I'm sure this is true in Canada too, although I'm not an expert on Canadian law—can go in telling a state of the United States what it has to do in incorporating an entity. I don't think it's as easy as all that.

I will say this about the United States, and then I will turn it over. What people commonly forget is that even with regard to the entities in the United States in Delaware that are owned with bearer shares, the United States is not transparent, but those entities are paying tax. Believe me, they are paying tax. They are not avoiding U.S. tax.

The federal government has access to the information, and if it wanted to, I believe it would have access to the owners of those entities, if it wanted to. It's a burdensome process to get that revealed.

The real problem is the bearer shares that are issued by corporations in certain states, Delaware being the leading one.

•(1045)

Mrs. Cathy McLeod: Is there time for Mr. Gillespie?

The Acting Chair (Mr. Dave Van Kesteren): You have about half a minute.

Mrs. Cathy McLeod: Well, then, I think we're pretty well at our end. Thanks.

The Acting Chair (Mr. Dave Van Kesteren): I think that concludes our meeting.

I want to thank those who have contributed—Mr. Cardamone and Mr. Rosenbloom in Washington and New York, and Mr. Gillespie right here in Ottawa. This has been an excellent study. I think we could have probably gone on a little longer, but time demands that we march forward.

Next Tuesday we will meet here. We will be meeting with Governor Carney from the Bank of Canada.

With that, I would like to adjourn the meeting. Thank you.

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