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Chair

The Honourable Wayne Easter

Standing Committee on Finance

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• (1535)

[English]

The Chair (Hon. Wayne Easter (Malpeque, Lib.)): Let's come to order.

Before we start the official agenda for today, we do have a request for a project budget, which is basically to look after the costs of this hearing. The budget is in the amount of \$6,000 for the subject matter of Bill S-4.

Does somebody want to move that?

Mr. Robert-Falcon Ouellette (Winnipeg Centre, Lib.): I have a question.

The Chair: Go ahead.

Mr. Robert-Falcon Ouellette: We are studying that right now.

The Chair: Yes, we're studying it right now.

Mr. Robert-Falcon Ouellette: It's for video conferencing. Are we doing video conferencing?

The Chair: No.

The clerk can answer this.

The Clerk of the Committee (Ms. Suzie Cadieux): When we built the budget, we didn't have the final list of witnesses or their availability yet. We usually include one video conference when we are not sure where the witnesses will be coming from.

We'll end up spending less than that.

The Chair: We very much think we'll come in under budget, Mr. Ouellette.

Mr. Steven MacKinnon (Gatineau, Lib.): I so move.

(Motion agreed to [See *Minutes of Proceedings*])

The Chair: Now we turn to the official business of the day, pursuant to Standing Order 108(2), on the subject matter of Bill S-4, an act to implement a convention and an arrangement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and to amend an act in respect of a similar agreement.

We'll start with the Department of Finance witnesses: Mr. Ernewein, Mr. McGowan, and Ms. Smith.

The floor is yours. Do you have an opening statement?

Mr. Brian Ernewein (General Director, Tax Policy Branch, Department of Finance): Yes, thank you, Chair.

My name is Brian Ernewein. I am the General Director of the Tax Policy Branch at the Department of Finance. I am joined by Stephanie Smith, who is the Chief Tax Treaty Negotiator with the Department of Finance, and Trevor McGowan, who is the Chair of our Legislative Drafting Unit.

I have an opening statement, but I haven't proposed to read it. I am happy to do so, if you would like me to read it. If not, I don't propose to. I understand that the clerk has received it and perhaps circulated it to members.

The only comment I would make is that I understand we are here, in some sense, to study the subject matter of Bill S-4. It was considered by the Senate committee last Friday. I don't think it has actually been reported back to the Senate or voted on third reading, but we are happy to take any questions. The subject matter is, of course, a new tax treaty with Israel, an arrangement with Taiwan that would have the same intended effect as a tax convention or tax treaty, and one clarifying change in relation to the tax agreement we have with Hong Kong.

The Chair: Members, we do have an hour with the Finance officials.

There is good information in the paper you handed out. I think there are some people monitoring the committee and what the bill really means, so if you could just give us the highlights, Brian, that might be best, and then we'll go to questions.

Mr. Brian Ernewein: Certainly. That would be fine.

Again, we are here to talk about Bill S-4, which includes two new or revised income tax agreements with other jurisdictions.

Canada actually has one of the most extensive networks of income tax treaties in the world, with 92 treaties currently in force. Of course, there's an ongoing need to update and modernize our network of tax treaties with foreign jurisdictions. That's essentially what Bill S-4 proposes to do with respect to two jurisdictions.

The first part of the bill is a convention between the Government of Canada and the State of Israel for the avoidance of double taxation and the prevention of fiscal evasion with respect to income taxes. The second portion is an arrangement, so-called, between the Canadian Trade Office in Taipei and the Taipei Economic and Cultural Office in Canada for the avoidance of double taxation and the prevention of fiscal evasion. The bill would also amend the Canada-Hong Kong Tax Agreement Act, 2013, in order to add to it, for greater certainty, an interpretation provision.

There is currently no double taxation arrangement between Canada and Taiwan, although it is a significant trading partner for Canada, ranking as our fifth-largest trading partner in the Asia-Pacific region and twelfth worldwide in 2015. In keeping with Canada's "one China" policy, the double tax arrangement with Taiwan has been concluded as an arrangement, as I say, between the Canadian Trade Office in Taipei and the Taipei Economic and Cultural Office in Canada, as opposed to an agreement between sovereign countries. Once implemented, and with the legislation that accompanies the convention or arrangement itself, this bill is intended to constitute a functional equivalent to a tax treaty.

Bill S-4 would also implement a revised double tax convention with the State of Israel to replace the existing tax treaty, which dates back to 1975. This convention has been updated to make it consistent with Canada's current treaty tax policy.

As I mentioned earlier, the double tax convention and arrangement will facilitate cross-border trade, investment, and other activities between Canada and each of its signatory jurisdictions. Our tax treaties are all designed with two general objectives in mind. The first objective is to eliminate tax barriers between two jurisdictions in order to promote bilateral trade and investment. Obviously, removing barriers to trade and investment are paramount in today's global economy. Investors, traders, and others with international dealings want clear information on the tax implications associated with their activities both in Canada and abroad. Equally important, Canadians with business interests or investments abroad want to be sure that they receive fair and consistent tax treatment. It follows that one of the objectives of Bill S-4 is to remove uncertainty about the tax implications associated with doing business, working, or investing abroad.

Bill S-4 would also reduce double taxation and encourage investment by reducing withholding taxes. It would provide for a maximum withholding tax rate of 15% in the State of Israel and the jurisdiction of Taiwan on portfolio dividends paid to non-residents—that is, paid between Canada and Taiwan, or between Canada and Israel. For dividends paid by subsidiaries to their parent companies, the maximum withholding tax rate under these agreements is reduced to 5% in the State of Israel and 10% in the case of the jurisdiction of Taiwan. Finally, on withholding taxes, this bill would also cap the maximum withholding tax rate on interest and royalties at 10% and on periodic pension payments at 15%.

The second objective, generally, of treaties is to prevent tax avoidance and evasion. A key element of Canada's tax treaties is their provisions authorizing the exchange of information relevant to administering domestic tax laws, helping to combat tax evasion. Bill S-4 would allow Canadian tax authorities to do so.

The final point is one on timing. Both of these, the agreement and the arrangement, would apply for the year following the year in which they are brought into force. If the Senate, the committee, and the House of Commons should approve this bill this year, and if it's possible to get the required notices in place between ourselves and Taiwan and Israel respectively, the treaty can have effect beginning at the start of 2017. That would make it important, if it were possible, to have it enacted this year. Failing that, if it should be enacted only sometime in 2017, it would only take effect for the following year.

I'll stop there. Thank you.

● (1540)

The Chair: Thank you very much for that, Mr. Ernewein. I think that was a great overview.

We'll start the round of questions with Mr. MacKinnon.

Mr. Steven MacKinnon: Thank you.

Thank you for being here, and for all of your hard work.

I would like to start off with a few general process questions.

[*Translation*]

How does Canada determine the order in which it negotiates bilateral agreements with a country? There are 92 treaties and you are saying they need to be modernized. How do you prioritize them?

[*English*]

Mr. Brian Ernewein: Thank you for the question. I'll offer a couple of observations, and then I'll turn to my colleague to see if she wants to add any more.

There are a number of different considerations, but most of them are economic-based—that is, the level of investment between Canada and another country is probably the primary driver of whether to have a treaty or not. We seek to prioritize the countries with which we have the greatest investment, or they in us, as treaty partners or for treaty updates.

The age or vintage of our treaty is also a factor, so in the case of Israel, it's a 41-year-old treaty. As a consequence, it's not surprising it's a little bit out of date with respect to current Canadian treaty policy and presumably in relation to Israel as well. That is a factor in identifying our priorities.

The other consideration, of course, is a shared interest. We may be very interested in having a negotiation with another country, but it might not be interested in having one with us, or vice versa. There needs to be that mutual desire for treaty negotiations to get those launched.

[*Translation*]

Mr. Steven MacKinnon: Please tell us a bit about the negotiation process. How is it initiated? Is it when a party expresses an interest to another party?

[English]

Ms. Stephanie Smith (Senior Chief, Tax Legislation Division, Tax Policy Branch, Department of Finance): In general with the negotiation process, as Brian has described, we do develop our own priorities in terms of which treaties we would like to update and whether there are new treaties, as with Taiwan. Typically, the engagement can start in two different ways. It can be at a meeting at the officials level on international issues, where we speak informally with colleagues in the other jurisdictions to gauge their level of interest and also their availability of resources in terms of taking forward negotiations. Sometimes those negotiations commence at a more senior or political level, where there have been discussions or approaches at, for example, bilateral meetings on the sidelines of a G20 or a G7 meeting. The direction would come down to officials that this was seen as a priority and that an approach was made.

Once it's determined that, yes, we will go forward with negotiations, the first stage is to exchange model treaties, or the treaty that we would ideally be looking for. The other jurisdiction does the same with us. We typically would then have some back and forth, at which time there would be a date set for a face-to-face meeting to commence those negotiations. Typically, at the start of one of those face-to-face meetings, we would have an exchange and a general discussion on our respective tax systems so that we ensure that the research we have internally done is correct about the other jurisdiction and vice versa.

Typically, we would proceed through the text of the agreement on an article-by-article basis, leaving open provisions for which agreement could not be obtained on the first go-round. While rare, it is possible to conclude in only one round. It is more typical that there would be a second round, which would take place after some bilateral contact by email, further refining the outstanding issues. There would then be a second face-to-face, at which time negotiations at the negotiators level are concluded. We would domestically move through processes, with a "legal scrub" by Foreign Affairs. That's done on both sides to ensure that the treaties themselves respect legal standards in Canada and the other jurisdiction.

Then we would go through the process of obtaining cabinet approval for signature. There would be a signature. Then we would have, as we have before us today, an implementing bill with respect to the particular treaty, which would allow us to implement it into domestic law and to resolve any conflicts of law that might otherwise occur.

• (1545)

[Translation]

Mr. Steven MacKinnon: Since I have just two minutes left, I will keep it brief.

We have spent a lot of time at the Standing Committee on Finance talking about tax evasion and tax avoidance.

Can you explain how this bill in particular and treaties in general, such as those you describe, help reduce tax evasion and tax avoidance?

[English]

Ms. Stephanie Smith: In general, I think the most important aspect of tax treaties that can help give the Canada Revenue Agency the tools to combat tax avoidance and tax evasion is the exchange of information with another jurisdiction. Both this arrangement and the tax treaty contain the current international standard with respect to the exchange of information on request, and therefore it allows the Canada Revenue Agency to request information that's foreseeably relevant to administering Canada's domestic tax laws.

Second, in particular, these treaties contain mini anti-avoidance clauses—in articles 10, 11, and 12, dividends, interest, and royalties—which ensure that someone can't abuse the treaty by trying to access the benefits of the treaty for a reduced withholding tax on any of those particular items of income.

I think those are the two main aspects of a tax treaty that help fight tax avoidance and evasion.

The Chair: Thank you, Ms. Smith and Mr. MacKinnon.

I'll turn now to Mr. Deltell.

[Translation]

Mr. Gérard Deltell (Louis-Saint-Laurent, CPC): Thank you, Mr. Chair.

Dear colleagues, ladies and gentlemen, welcome to this House of Commons parliamentary committee.

To begin, let me say that our political party agrees with the general principle of creating and updating agreements with our trading partners. Clearly, we are not talking about a blank cheque. We have to do our homework, verify things, and that is what we will do today.

Let us begin with Taiwan. After that, we can talk about Israel.

I would like to know if Japan and China, two important partners and economic players in Asia, are affected by the agreement that you are proposing today in Bill S-4.

Have those impacts been measured and, if so, what is your assessment of them?

[English]

Mr. Brian Ernewein: In terms of the agreements, if we're speaking of the arrangement with Taiwan, that's with respect to Taiwan itself. It does not have application to Japan, China, or any other country, for that matter. The question would be measuring the effects in Canada and in Taiwan in terms of having the arrangement between the two jurisdictions.

• (1550)

[Translation]

Mr. Gérard Deltell: Okay.

If I understand correctly, these two important actors were not involved in the process and it will not have either a short-term or long-term effect on our trading relationships with them.

[English]

Mr. Brian Ernewein: Again, if I could call it a legal matter, the scope of the arrangement with Taiwan is limited to Taiwan. In terms of whether or not there's any sort of indirect effect, such as a choice of investment in Canada over a choice of investment someplace else because of the existence of this arrangement, I hope that happens. It's a positive if it has that consequence. But no, I don't see, apart from those very, very indirect effects, an impact on other jurisdictions or other countries.

[Translation]

Mr. Gérard Deltell: Am I correct in saying that this arrangement with Taiwan is consistent with the Trans-Pacific Partnership Agreement, which was concluded just over a year ago?

[English]

Mr. Brian Ernewein: Thank you for the question. To our knowledge, at least, there's no necessary connection between this and the trans-Pacific partnership. This stands on its own as an agreement in relation to taxation. Other trade agreements could have consequences, but as I say, there's no linkage between the two, one way or the other.

[Translation]

Mr. Gérard Deltell: Thank you, Mr. Chair.

You understand that our questions are intended to reassure people and to tie up all the loose ends. We do not want any nasty surprises. Nor do we want to realize, after agreeing to this, that we have forgotten to look into something. We might realize that our main economic partners in Asia are not happy and are also surprised. If we are fortunate enough to ratify the Trans-Pacific Partnership and what you are asking us to do today makes it null and void, we would not be pleased, to say the least.

Let's cross a continent now and talk about Israel. First of all, you said that this will update agreements dating from 1975. Does that mean that there have been no updates in the trading relationship between Canada and Israel since 1975?

[English]

Mr. Brian Ernewein: I confess to not knowing what, if any, other trade arrangements we have between Canada and Israel and whether they've been in place since before 1975 or since, or have been in place since before 1975 and changed since. This is really focused, again, as with Taiwan, on the tax arrangements or tax agreement between Canada and Israel.

I may ask my colleague to spend a moment to talk about the differences between what the 1975 treaty does and what the new treaty with Israel would do.

Ms. Stephanie Smith: I'll just highlight a couple of the aspects that are included in the convention with Israel, which updates it from the version that was signed in 1975. The biggest changes, probably, are with respect to the reduction of the withholding tax rates to bring them more in line with what Canadian and Israeli policies are today. Generally, over time, there has been a reduction in what those agreed amounts are. The vast majority of the rates in the 1975 treaty were at 15%, and now, in accordance with more current treaty policies, we've reduced the rate for dividends to 5% when it's between a parent and a subsidiary, and to 15% in all other cases.

With respect to interest and royalty, the maximum withholding rate is 10%, but in certain situations that rate has been reduced to zero. The treaty has been updated to include a provision to ensure that any double taxation is relieved in respect of an individual who leaves Canada and becomes resident in Israel. The Canadian departure tax rules would apply in such a situation. Those rules were not in place in 1975. This treaty includes a provision under which Israel agrees to recognize the fact that Canada would have taxed any increase in value of that capital property on...emigrating from Canada. As I mentioned earlier, it also includes a mini anti-avoidance provision in articles 10, 11, 12, and 13 to ensure that it does not facilitate treaty shopping arrangements. It also updates the exchange of information provision to include the international standard for the exchange of information on request.

• (1555)

[Translation]

Mr. Gérard Deltell: I see you have done a very detailed analysis of the legal impact. Have you also done a financial analysis? How great would the economic impact be on trade with Taiwan and Israel?

[English]

Mr. Brian Ernewein: We don't have an analysis of the trade impact. You can't assess, or at least I'm not aware of how one would be able to assess, the reaction of investors to putting in a lower tax regime. We think we can say with some confidence that it would be positive, but we aren't able to quantify it beyond that.

The Chair: Thank you both.

Mr. Champagne, you wanted to make a point there in answer to his question. We'll let you do it.

Mr. François-Philippe Champagne (Saint-Maurice—Champlain, Lib.): I just wanted to provide elements of a response to Monsieur Deltell, my great colleague on the other side, that Canada has double taxation conventions with China and Japan. I just wanted to clarify that issue, because there was a question from the officials as to what could be the impact.

My point is just that we have similar conventions with trading nations in Asia, and I wanted to clarify that for my colleague.

The Chair: Thank you.

Mr. Dusseault.

[Translation]

Mr. Pierre-Luc Dusseault (Sherbrooke, NDP): Thank you, Mr. Chair.

When I read the proposed conventions between Canada and these countries, I did not see a problem initially, because these countries have individual and corporate tax rates similar to those in Canada. When I saw, however, that a tax convention is proposed to avoid double taxation, I immediately thought of the tax convention between Canada and Barbados. There is something that I repeat often and that always seems to surprise people. In 2014, Barbados ranked as the second most important country for direct investments by Canada, after the United States. People wonder why Barbados ranks second.

The most common reply is that Canada has an accord with Barbados to avoid double taxation. The problem is that the corporate tax rate in Barbados ranges from half a percent to 2.5%. I do not necessarily see a problem as regards Israel and Taiwan, because their tax rates are similar to those in Canada.

The title of the bill includes the words “avoidance of double taxation”. Is there not a danger that such conventions or accords concluded with countries that have very low tax rates could in fact lead to tax avoidance, which is what you are trying to combat?

[English]

Mr. Brian Ernewein: Thank you for the question.

We do have a tax treaty with Barbados, as do many other countries. In fact, Barbados is one of the countries with which we have a long-standing relationship inasmuch as it was covered by the first treaty we had with the U.K. until Barbados acquired their own sovereignty. Then we entered into a treaty with Barbados directly.

I think the point you're making is that Barbados has a low tax rate. We don't tax the business income, if it's business income in question, that's earned in Barbados as it's earned or indeed even as it's repatriated. We do of course tax passive investment income earned in Barbados or elsewhere if it's earned by a Canadian, a Canadian individual or a Canadian company, but not business income. In that respect, we're like almost all of the rest of the world with almost the singular exception of the United States, which is going through its own debate as to whether this remains appropriate.

Every other country alongside Canada doesn't tax foreign business income as it's earned or when it's repatriated. I think that decision has been informed, in Canada's case and in other countries' cases, for reasons of competitiveness. If we sought to tax foreign business income of subsidiaries, foreign subsidiaries of Canadian firms, one might reasonably expect there would be a lot less foreign business income earned by Canadian firms.

I think that's sort of the basic premise. It's not the treaty itself that's the issue that you raise. I think it's the domestic decision of Parliament and our domestic law to provide this exemption for foreign business income. As I say, people can have different views about that, but I do think it's consistent with what almost every other country does in the same circumstance.

• (1600)

[Translation]

Mr. Pierre-Luc Dusseault: Thank you.

I would like to move on to a related topic.

There are a few articles in the convention that refer to information sharing, but they are not as strong as the agreements on the sharing of tax information that Canada has concluded with tens of countries around the world.

Why have you not considered including an accord on the sharing of tax information rather than simply a few articles related to information sharing?

[English]

Ms. Stephanie Smith: I think it's the exact same standard that is in the model convention, article 26. In our particular treaties, I think

it's in article 24 in one of them; I'm not sure specifically the article in the other.

One is shorter in length than the other, but they both do the exact same thing in terms of the standard for exchange of information on request, the difference being the exchange of information agreements specifically because they typically were with jurisdictions that had less experience with exchanging information. They are more explicit about some of the rules—for example, what must be contained in a request for information, and all of that is specified. It is not specified in the same level of detail in a double taxation treaty. However, the same basic rules are there in terms of it having to be information that's foreseeably relevant, the requirement to provide that information and not use bank secrecy and domestic tax interest as a reason for not providing the information. Those are both encapsulated in the double taxation treaties, and in fact the standard is the same.

[Translation]

Mr. Pierre-Luc Dusseault: Thank you.

My colleague spoke about the economic benefits, but for my part I would like to talk about the lost tax revenues. An accord to avoid double taxation will mean that Taiwanese and Israeli citizens will not be taxed here.

Have you assessed the tax revenues that will be lost as a result of the agreements that Canada is going to sign?

[English]

Mr. Brian Ernewein: In point of fact, Canada doesn't tax on the basis of citizenship. Again, I seem to be picking on the United States, but it's the only country that actually taxes—with a possible footnote for Eritrea—on a citizenship basis. We tax on a residence basis.

It's true that we try in our tax treaties to have a provision to make sure that in the case where two jurisdictions both claim a taxpayer as resident there are rules to resolve that, to figure out in which of the two countries or jurisdictions the person truly is resident. It's not as though there would be tens of thousands of people in those circumstances, however, who would fall out of the tax net as a result of the treaty changes. As we said in our opening remarks and have touched on since, the tax treaty provides certainty in that respect—rules to make sure we can figure out when a person is resident and where they are resident.

In point of fact, the essential point is that for most taxpayers that answer will be clear. What the treaty does is ensure that there are limits on each country's right to tax and that there's an ability to get a credit, or an exemption, but in the case of shared taxation to get a credit for the tax that's paid in the other country to eliminate double taxation.

The Chair: Thank you both.

Ms. O'Connell.

Ms. Jennifer O'Connell (Pickering—Uxbridge, Lib.): Thank you, Mr. Chair.

Thank you all for being here.

I have a few questions. First, can you elaborate on what the difference is between the “convention” and the “arrangement”? Why is one a convention and one just an arrangement?

• (1605)

The Chair: Don't get into a Trump situation here, if I could advise you.

Voices: Oh, oh!

Mr. Brian Ernewein: You've read my mind, Chair.

The situation with a convention or an agreement is very straightforward. It's an agreement between sovereign states whereby both countries, as countries, are committed internationally to the agreement. Our infrastructure, if you will, and our tax laws are all built around that. When we enter into a new tax treaty or tax convention, it plugs rather neatly, with this implementation bill, into our tax laws.

The one China policy means—I'm trying not to make a foot-fault here—that Canada recognizes the People's Republic of China. As I understand it, Canada takes note of China's position with respect to Taiwan but does not do more than that. I think functionally, as I understand it, that means we don't treat or deal directly on a state-to-state basis with Taiwan. What was done in this case to try to implement a tax treaty-like relationship with Taiwan was to have an agreement or arrangement between the trade offices that each jurisdiction could implement—in Canada's case, that Canada could implement—domestically. So while it might not hold the status of an international treaty, by virtue of the changes or the legislation we have here we can give it the same effect in Canada while respecting our position with respect to both China and Taiwan.

Ms. Jennifer O'Connell: Great. Thank you for that explanation.

To follow up on the questions from Mr. Deltell, what are the benefits to Canadians? I guess to simplify it, you mentioned that the costing is somewhat difficult to do. Is it the fact that, yes, these agreements really in essence go both ways, so it would really encourage investment here to eliminate that double taxation? Perhaps to explain this type of bill to the average Canadian, is this really the benefit as to why Canada would be interested in these types of agreements?

Mr. Brian Ernewein: Well, without trying to quantify it, but speaking to it at a higher level, I think that, yes, it is the case that both Canada and Taiwan or Israel...

Let me simplify my response by just talking about Canada. Canada benefits from being able to invest in the other place with a lower withholding tax or other taxes applying, with greater certainty as to when taxes apply. That's a benefit for our outbound investors. It's also a benefit for people who are working as consultants or the like to know when it is that they might be taxable in the other's jurisdiction and when not. Similarly, it can be a benefit for Canada on inbound investment if the investors in the other country have greater certainty as to what the Canadian rules are that would apply to them. So there are benefits in that respect.

The reason we can't quantify this is that we don't know really the behavioural response. We could take today the amount of interest dividends or royalties paid to Israel, for example, and apply a differential tax rate to it to say that it will cost us such and such an

amount to have a lower tax rate in place, but that really wouldn't tell you the story. It really wouldn't tell you how much additional investment you're going to get as a result of the lower taxes or the greater certainty from having a treaty in place.

Ms. Jennifer O'Connell: Thank you.

Could you just elaborate as to why the amendments for the Hong Kong agreement are part of this bill? Is it just the timing of this, or is there more we should know about those amendments?

Ms. Stephanie Smith: Thank you for that question.

In working on the arrangement with Taiwan, because it was set up as an arrangement and it's not between two sovereign jurisdictions, in order for the Income Tax Act to apply appropriately, we needed to have certain provisions in the implementing act to ensure that it is functionally equivalent to a tax treaty so that the Income Tax Act rules work. It was in reflecting on this that the question of Hong Kong arose.

Now, Hong Kong has been in place for a couple of years. The Canada Revenue Agency has issued an interpretation to make it clear to all Canadians that, yes, residents of Hong Kong and investments in Hong Kong do get the benefits that are accorded to a tax treaty under the Income Tax Act. It has been working just fine. However, we were concerned that perhaps in light of making very particular amendments to address the different situation that exists with Taiwan—because it is a different relationship, with China, relative to the relationship with Hong Kong—we decided that for greater certainty it was appropriate at this time to include similar clarifying amendments with respect to Hong Kong, to avoid any adverse inference being raised from having done the specific...with respect to Taiwan and not Hong Kong. However, nothing in this should be read into as having any change or any difference in respect of the interpretation provision and how it has worked since it has entered into effect in Canada.

• (1610)

Ms. Jennifer O'Connell: Thank you.

To elaborate on Mr. Dusseault's question in terms of privacy, when we talk about gaining information between two countries in terms of addressing tax avoidance, how do we further reassure Canadians that their privacy will be protected? I know you already mentioned, in your response, the requests for that information, but as you can imagine, Canadians doing business abroad want to ensure that if they're doing things properly this information is still being protected under Canada's privacy protection laws. Can you maybe elaborate, to help Canadians doing business abroad, on how they are protected?

Mr. Brian Ernewein: I'll say first of all that the privacy and security of tax information is paramount to us and to other countries. It would undercut the benefits or the utility of a self-assessment system, even domestically, if taxpayers couldn't be assured of the security of their information. It's perhaps doubly important, I suppose, when we're sharing information with other jurisdictions. The Canada Revenue Agency takes great pains to assure itself that for the information it shares under the exchange of information provisions of our tax treaties and our tax information exchange agreements, the other country or jurisdiction with which it has that relationship will use the information only for tax purposes, and has processes and security features in place to protect and secure the confidentiality of that information.

That works both ways. Other countries are also keenly interested in knowing that the Canada Revenue Agency will protect that information as well. I think the CRA holds a good reputation in that respect, but it's a concern on all fronts.

The Chair: Thank you both.

We're going to five-minute rounds.

Mr. Albas is next.

Mr. Dan Albas (Central Okanagan—Similkameen—Nicola, CPC): Thank you, Mr. Chair.

Thank you to our witnesses for the work you do for Canadians. I'll start by thanking you for bringing your comments in both official languages. That's a great courtesy to the committee.

Obviously, Canada works with the OECD on a number of different fronts, and most of these are based on conventions for tax treaties that have been negotiated or articulated at the OECD level. Is there anything in Bill S-4 that is different from the standard tax treaty as proposed by the OECD?

Mr. Brian Ernewein: Let me start, but I may well want to defer to my colleague.

The general answer is that Canada is a member of the OECD and seeks to follow the OECD model. That's essentially the template or text of the OECD model tax convention. It's not that we follow in every respect the tax rates that apply under the OECD model. For example, the OECD might propose a general exemption from withholding tax on interest and royalties, whereas Canada reserves the right to impose a lower rate of tax but a positive rate of tax on such income.

Also, in the negotiations, the other country's position will be taken into account. They might want changes that diverge as well. I can also think of a couple of specific things that Canada seeks as part of its base negotiations. For example, since 1972 we've had a departure tax, a tax applying to people who emigrate from Canada, and it was strengthened quite a lot in 1996. To try to relieve double taxation, Canada has, since 1996, sought to have in all its treaties a provision to essentially step up the tax cost for the person moving to another country so they won't be exposed to double tax in that other country. That's an example of a divergence.

There are a number of those. We basically follow the model. I don't know that I could go through them all with their differences.

•(1615)

Mr. Dan Albas: That's fine.

Are there provisions in Bill S-4 that have not appeared in previous tax treaties?

Mr. Brian Ernewein: We could verify this, but we don't believe so. Stephanie has talked about the anti-avoidance provisions that apply for our withholding tax. Those are not novel; we have those in other treaties.

Mr. Dan Albas: When it comes to the single clause when it comes to the Hong Kong agreement, per se, just updating it so that it's more specific, to me that doesn't seem to be much more than a housekeeping clause. Is that correct?

Mr. Brian Ernewein: We think so, yes. As Ms. Smith explained, with respect to Taiwan, we thought it was necessary to have a provision to essentially provide that Taiwan is to be treated as a country for the sake of making sure that our domestic rules in relation to tax treaties all apply. Having done that, we thought there could be a question arise in relation to Hong Kong. When we did the Hong Kong agreement, we didn't think it was necessary to have such a provision, but having done one with Taiwan, for greater certainty we've proposed the inclusion of one here.

Mr. Dan Albas: What is the difference between an arrangement and an agreement?

Mr. Brian Ernewein: Please don't treat me as being irreverent, but an arrangement is not an agreement. In finding another term that did not imply a contractual agreement, the word "arrangement" was landed on. Beyond saying that it's something less than an agreement, I don't know that I can offer any help.

By labelling it as an arrangement and making changes in the treaty bill to give it the same effect as an agreement or treaty—that was the objective.

Mr. Dan Albas: [*Inaudible—Editor*] dance you're doing here, so I appreciate that.

The Chair: [*Inaudible—Editor*] Dan, but this would have the same legal authority.

Mr. Brian Ernewein: In Canada, as a consequence of the changes being packed in around it, yes, we believe that's the case.

Mr. Dan Albas: [*Inaudible—Editor*] practical matter, though, is dealing with the issues of double taxation, so I do appreciate the answer.

Specifically.... I lost the question I was going to ask. It was a very good question that the analysts had put together.

Oh, yes: earlier, Ms. Smith, you mentioned that you have different provisions internally for saying which of the 92 different countries we should look to modernize with. You said there are some of your own internal criteria. I would hope that GDP would be part of that. Obviously, if we are seeing an increase in exports to a particular market, and as Mr. Ernewein had said earlier, Taiwan is one of our twelve largest trading partners, does trade materially allow that prioritization, or is it by some other criteria?

Ms. Stephanie Smith: Absolutely trade would be one of the criteria that impact the prioritization of negotiating priorities.

Mr. Dan Albas: When we say that there are 92 other different tax treaties, obviously there have been some experiences Canada has had, obviously on emigration out, so it did not create those double taxation issues. What other issues have appeared in the past 20 or so years, or that we've learned as we negotiate these treaties, that are of benefit to Canada? Can you share any experiences of problems that we've seen that need to be corrected or issues that are coming up that new tax treaties need to resolve?

Mr. Brian Ernewein: One that I would speak to we've already referenced, but it's an important one that bears repeating. That's in relation to exchange of information. We've had exchange of information provisions in our treaties for a very, very long time, but they were only on request and they were not covering some of the often-labelled offshore financial centres. We didn't have treaties with those jurisdictions. We didn't have any other way to gather information from those other jurisdictions. About 10 or 12 years ago, there was the advent of the tax information exchange agreements where, notwithstanding the absence of a comprehensive tax treaty, we engaged in and the rest of the world engaged in negotiations to put in these so-called TIEAs, tax information exchange agreements, with those countries. That was a very important development, but it was still information on request, meaning you had to have some sense of there being a particular taxpayer who had an investment in a particular place to know to ask the question, which had its own limits.

More recently, sort of following the U.S. FATCA legislation, which has its own issues particularly because of U.S. citizenship taxation, the OECD and G20 developed this common reporting standard for the automatic exchange of information. We've had the automatic exchange of information with a number of countries, maybe 20-some countries, for the past several years, but the standardized approach for a broader range of countries has been very important. Although the treaty language itself hasn't had to change to authorize this, it has been a very important development.

• (1620)

The Chair: Thank you both.

Mr. Ouellette.

Mr. Robert-Falcon Ouellette: Thank you very much, Mr. Chair.

I was just wondering what would happen if the convention didn't come into effect on January 1. What are some of the roadblocks you might see? For instance, it's also in the Senate, and I understand the Senate is having some issues. So what would be the consequences of that?

Mr. Brian Ernewein: Very basically, it is as I said in my opening remarks, which is that if it were delayed until next year for implementation, then the effective start of the treaty will be the calendar year following. If it actually can be passed this year, and the notices to the other jurisdictions, both sent and received, take place, then both of these, the agreement and the arrangement, can take effect for the beginning of 2017. Failing that, it would be the beginning of 2018 or later.

Mr. Robert-Falcon Ouellette: I'm just wondering why it has come so late in the calendar year.

Mr. Brian Ernewein: Well, the bill was—

Mr. Robert-Falcon Ouellette: Essentially you've given us two weeks, and with what's going on in the Senate....

It's not a criticism, I guess. It's just a question.

Mr. Brian Ernewein: It's a fair question, first of all, to be sure.

The point is that Taiwan was signed earlier in the year. Israel was only signed in September. The bill was tabled, I think, November 1st, and that's where we ended up. I don't have any other explanation than that.

Mr. Robert-Falcon Ouellette: Okay. Thank you.

I was just looking at some of the information provided by the Library of Parliament. Our exports to Israel are diamonds, computer parts, accessories, and newsprint. Exports to Taiwan are coal, lumber, and copper ore. Exports to Hong Kong are gold, ginseng roots, and nickel. Our imports from Israel are medications, diamonds, articles of cement, concrete, artificial stone; imports from Taiwan are electronic integrated circuits, screws, bolts, nuts, hardware, diodes, transistors, similar semiconductor devices; and from Hong Kong the imports are iron and non-alloy steel bars, rods, jewellery, printed books, brochures, directories, and booklets.

This is all very interesting, but you know, we send a lot of our products there. How much will this trade treaty then improve the level of trade? Will Canada have a greater ability to send more of our finished product to countries like Taiwan or Hong Kong or Israel?

Mr. Brian Ernewein: It is important to note that this is not a trade agreement, per se. It's a rule governing the application of taxes in both jurisdictions.

As Ms. Smith acknowledged a moment or two ago, the level of trade between countries matters, but it's actually more of an investment focus. That is to say, when you make investments there's income hopefully generated on those investments. These rules govern how much each country can tax the return on those investments. It can also affect people employed, moving elsewhere, or moving from one jurisdiction to another.

Trade matters, but it's less about trade than it is about investment. Investment can produce trade, but it's a secondary effect.

Mr. Robert-Falcon Ouellette: Based on your experience to date, to what extent have multinational corporations located in Canada, and in countries with which Canada has tax treaties, shifted profits and losses around in those countries in order to reduce the tax burden, both here in Canada and overall?

• (1625)

Mr. Brian Ernewein: That's a very large question. We do cleave to our view expressed earlier that tax treaties are beneficial. I don't mean to qualify that at all. However, there is a concern sometimes, and this is the point that you're seeking to lead to, that there can be tax minimization by multinationals, not just Canadian multinationals but also multinationals from other parts of the world.

Indeed, the OECD has been very concerned by this, and it launched an exercise three years ago on base erosion and profit shifting, which is concerned with that sort of issue on transfer pricing and other matters. They came out with a report in September 2015 that had a number of recommendations to limit treaty abuse, to tighten the rules for transfer pricing, and to introduce country-by-country reporting for large multinationals so as to give each revenue authority a better picture of the sources of multinationals' incomes.

I hope I'm landing on your question. It is a concern in some respects, not necessarily connected to our treaties, although there are some treaty connections and work is being done on that. The Canadian government in its last budget spoke to what it's doing in relation to the so-called BEPS work.

The Chair: Thank you both.

Mr. Liepert.

Mr. Ron Liepert (Calgary Signal Hill, CPC): I have a couple of questions that may be peripherally related to this, but help me out on the rules around residency. What are the rules around residency for where you claim your taxes?

Mr. Brian Ernewein: We're speaking of individuals rather than corporations?

Mr. Ron Liepert: Yes.

Mr. Brian Ernewein: For individuals, very generally it's where you have the closest connections. There are "deemed" rules where if you spend so many days in Canada you may be treated as a resident, or if you're a member of the diplomatic corps you may be deemed to be a Canadian resident. Apart from that, it's all factually based.

Colloquially, sometimes it's where you hang your hat, where you have your driver's licence, your club memberships, where you own your home, and other factors such as those.

Mr. Ron Liepert: If you have equivalency in both countries, you can self-declare?

Mr. Brian Ernewein: You can start with that, and then countries may challenge you on it.

I'll ask my colleague to speak about the special rules, the specific rules we have in both of these treaties.

Ms. Stephanie Smith: As described by Brian, it starts with domestic laws in terms of determining who is a resident for tax purposes. Then you look to the treaty rule, which sets out a general rule on where you are resident. It is possible that you could be found resident in two different jurisdictions, and for that the treaty has a tie-breaker rule that has a number of different steps to take in breaking that tie.

The first one you would look to is where you have a permanent home available to you. Very often that is where the tie is broken. If it's not broken there, it then looks to your economic and social ties to determine where there are closer ties between the two jurisdictions, and then it cascades to a couple more criteria if you can't break the tie with either of the first two. It ensures that you're only getting benefits under the treaty in respect of being resident in one jurisdiction and not in both.

Mr. Ron Liepert: Yes, I understand that. I guess what I'm getting at is that we seem to have....

I happen to come from Alberta, so we get double-whammied. People in the higher-income category get hit provincially and now they're getting hit federally. This is more as it applies to the United States and since the election of President-elect Trump, who is now talking about reducing taxes in the United States. I'm hearing more and more about Canadians with high income who float between the two countries and who are looking at declaring U.S. residence.

In this particular case, if the same thing applied, would it have any impact on these two treaties? If you have individuals who effectively can claim residency in Canada and one of the other countries, is there any impact there as a result of this particular initiative?

Mr. Brian Ernewein: I don't think there are any issues unique to either of these agreements, or arrangement. It is possible for somebody, first of all, to make a claim to be resident in two or more countries. That's probably not something they would generally be inclined to do. It's possible for two or more countries to assert resident status with respect to somebody. What tax treaties seek to do is to resolve the conflict because it's generally not much fun, from a tax perspective, to be subject to full residence tax by two or more jurisdictions. What would happen in those circumstances is that the treaty would seek to produce an answer where you would end up with only one country taxing you as a resident. But in terms of taxpayers trying themselves to assert residence in one jurisdiction or another, it is possible to successfully change residence, and if they take enough pains, they will be able to do that. However, it does require them to give up their home and other connections in order to achieve that.

• (1630)

Mr. Ron Liepert: We've started to see a little bit of that. It was well publicized in the media that Murray Edwards has done that, leaving Calgary and moving to London, England. I'm just wondering whether, as professionals in the tax field, you have any concern about that.

The Chair: [*Inaudible—Editor*] related to this bill, Ron? I kind of don't think so.

Mr. Ron Liepert: It's related to politics in general, Mr. Chair, and that's what we're doing.

The Chair: Mr. Dusseault, you had a very short question. Then we'll go to Mr. Sorbara.

[*Translation*]

Mr. Pierre-Luc Dusseault: Thank you, Mr. Chair.

My response is that anyone can move anywhere, from one day to the text.

In the case of Hong Kong, you said that the bill would be retroactive to June 19, 2013. You can appreciate that we, as law-makers, closely examine why a bill will be retroactive.

Can you tell the committee why you have decided that this technical change will apply retroactively rather than from the time the bill is passed by the House of Commons?

[*English*]

The Chair: Ms. Smith.

Ms. Stephanie Smith: If I understand the question, yes, we have proposed that the clarifying amendment with respect to Hong Kong would have retroactive effect, and specifically that it would come into force June 19, 2013, which is the date that the Canada-Hong Kong agreement entered into effect. Because it's for greater certainty and that's how the CRA had been administering it, we thought it made sense to go back to the date that it actually did enter into force.

The Chair: Thank you for that.

Mr. Sobara, you can wrap it up.

Mr. Francesco Sorbara (Vaughan—Woodbridge, Lib.): Thank you, Mr. Chair.

How long do I have, about two minutes?

The Chair: You have as fast as you can make it.

Mr. Francesco Sorbara: Holy smokes, you're generous today.

I'll just ask two very simple questions. On Bill S-4, in a situation where a company has its headquarters in Israel or Taiwan, would it receive any tax benefits related to its Canadian subsidiaries if Bill S-4 were to become law?

Mr. Brian Ernewein: Yes, potentially it would. If a Taiwanese shareholder of a Canadian company.... If there were such a case and if it received dividends, interest, or royalties from that company, then lower withholding tax rates would apply, unlike in a case where there was no arrangement in place.

Mr. Francesco Sorbara: Okay.

Just generally, why is it so important to have these tax treaties in place, especially for non-residents to encourage them to invest?

Mr. Brian Ernewein: Well, we see a value generally in having tax treaties in place because of the certainty that they provide, as we discussed earlier. In these particular cases, it's helpful for firms to know that they have this lower withholding tax, and other taxes, in place to give them certainty with respect to their investment. We are aware of some firms that are actually contemplating investments, and the treaty or arrangement would influence those decisions. We think it would be a positive thing if they could be brought into force for that purpose.

• (1635)

Mr. Francesco Sorbara: I'll just make a last comment. These tax treaties are important because history and evidence show that they do facilitate trade and investment in each other's countries.

Mr. Brian Ernewein: Thank you.

The Chair: Thank you, Mr. Sorbara.

Thank you to our witnesses: Mr. Ernewein, Ms. Smith, and Mr. McGowan.

We will suspend for five minutes while the witnesses come forward for the next round.

• (1635)

_____ (Pause) _____

• (140)

• (1640)

The Chair: We'll begin by welcoming the witnesses on Bill S-4.

We'll start with Ms. Rebolledo from Export Development Canada.

Go ahead, Ms. Rebolledo.

Ms. Luisa Rebolledo (Chief Asia Representative, Export Development Canada): Thank you very much, Mr. Chairman and honourable members, for inviting Export Development Canada to come and speak to you today. We appreciate your interest in EDC's work as it relates to Canadian exporters and our perspective as it relates to this issue today.

My name is Luisa Rebolledo, and I am the chief representative for Asia at Export Development Canada. EDC is a crown corporation whose mandate is to support and develop trade. This is done by helping Canadian exporters respond to international business opportunities. We provide insurance and financial services, bonding products, and small business solutions for Canadian exporters and investors, as well as their international counterparts.

EDC is financially sustainable and does not receive any appropriation from the government. That's particularly interesting to us, as we paid a \$500-million dividend back to the Canadian government. Many Canadian exporters do benefit from EDC. Almost 7,400 Canadian exporters, of which 81% were small and medium-sized businesses, used EDC's services that facilitated \$104 billion in trade. As it relates specifically to Taiwan, Taiwan is Canada's eleventh-largest trading partner. If you've been to Taiwan, you understand that Taiwan has a very dynamic economy and has a growing middle class, making it particularly appealing to Canadian companies.

Today I come before you to address the benefits that the proposed arrangement on avoidance of double taxation may have for Canadian exporters and how it will make these exporters more competitive when doing business with Taiwan. I should note that I am limiting my comments specifically to EDC's business and to EDC's mandate, and therefore I will allow my partners here to provide their expertise on other parts of the arrangement.

Current tax laws in Taiwan require borrowers to withhold 20% of interest payable on any loan. Practically, that means that Taiwanese borrowers must withhold 20% of interest and give it to the government. As is customary with most loan agreements, when there is a withholding required, the borrower has to gross up their payments such that the bank receives the full interest they are entitled to. From the borrower's perspective, this increases their costs on the interest by 20%. This very much dampens the competitiveness of a Canadian exporter's bid.

The proposed changes in article 11, paragraph 3(a), of the agreement specifically relate to EDC and EDC's activities as they relate to Taiwan. Essentially, when a loan or a credit is guaranteed or insured by EDC, the taxes payable on the interest are subject to Canadian tax laws. Given that EDC is tax-exempt, no withholding tax would be required on those loans.

In addition to making EDC loans tax-exempt, another key impact of the arrangement will be that many cross-border payments, such as dividends and royalties between Canada and Taiwan residents, will attract lower Canadian tax. In effect, this arrangement should reduce the tax costs of repatriating income or profits from Taiwan to Canada. EDC believes this arrangement will help create a friendlier environment for bilateral investment, especially considering the potential for further co-operation in technology, health care, clean tech, sustainable development, and the services sectors that Canadian companies are particularly strong at.

I would welcome any questions after my panel continues.

• (1645)

The Chair: Thank you very much.

Mr. Houlden from the University of Alberta, the floor is yours.

Prof. Gordon Houlden (Director, China Institute, University of Alberta):

Thank you very much, Mr. Chairman and honourable members.

It is my great pleasure to be here representing the University of Alberta, the China Institute, where I'm the Director and Professor of Political Science.

In an earlier life I served as Executive Director of the Canadian Trade Office in Taipei and later as Director General for East Asia, but my comments today are as a private citizen.

[*Translation*]

I can take questions in both official languages.

[*English*]

Since establishment of relations on October 13, 1970, between Canada and PRC, it's not possible for Canada to sign formal international agreements with Taiwan. However, under that formula of those negotiations, which concluded in 1970, there was space retained for commercial and people-to-people contacts. Given that Taiwan has developed subsequently into a very dynamic economy, one of our premier economic partners in Asia, it befits us to do what we can to facilitate that relationship. Others I've heard today, including a former colleague from EDC, have spoken in detail of those arrangements and of some of the facilities that may offer.

One can be reminded it was only in 2014 that our total trade with Taiwan was surpassed by India. The population of India is 50 times the size of Taiwan. So this is a substantive trading partner. It is of relevance to this agreement as well that the number of citizens living in each jurisdiction is also significant. Some 50,000 Canadian citizens live in Taiwan. The Government of Canada estimates that some 200,000 Taiwanese are living in Canada. That's something quite unique developing on that far side of the Pacific, with over 350,000 in Hong Kong, perhaps; and I think at least 100,000 in China, perhaps. We're now getting a situation where those human contacts are very large, notwithstanding the distance.

Of course, on the case of double taxation, Taiwan has already included some 30—I'm not going to read them—arrangements on double taxation with states including Japan, Singapore, Australia, Belgium, France, Netherlands, the U.K., and others. There also have been, and this began in 1979, over 20 arrangements of various sorts

between Canada and Taiwan. Most of these are economic and commercial to bring order, I believe, to this substantive trade.

I recall working in government previously when there was a great gap in the fisheries arrangement in the Pacific. All the internationally recognized states subscribed to the international covenants on fishing, and one in particular, drift-net fishing. Because Taiwan is not a state, they could not join the relevant organization, and there's a great gaping hole there, which we along with others managed to fill through informal relationships. Taiwan is too big and too important to simply leave aside. It leaves a great gap, either with our arrangements in that place or in the international arrangements between states and in the international community.

Beijing, in my opinion, sometimes more and sometimes less has shown considerable tolerance and maturity with regard to foreign contacts with Taiwan where these arrangements do not imply the establishment of state-to-state relations with Taiwan. Therein is that question you posed to one of the previous witnesses, why the term "arrangement" and not "agreement", which generally carries with it an implication of recognition between states.

This "space" is not unlimited, but it has allowed Canada to promote a substantive interest with Taiwan while observing limits on the form of such contacts. In my view, that's the trick: how to get the substance in dealing with Taiwan without violating the form to the point where it creates an impediment in our relations with the PRC.

The tenor of the relationship between Beijing and Taipei is a factor as well. The better those two are getting along, the more space there's been traditionally, the less the Chinese tend to be hyper-sensitive. When those two are not getting along—I fear we're sliding into another one of those phases—the tolerance tends to decline again.

Given the magnitude of Canadian interest in that relationship with an emerging superpower that is the PRC, and the parallel importance of maintaining contacts with the lively democracy that has emerged in Taiwan, both caution and perseverance are warranted.

Thank you, Mr. Chairman.

• (1650)

The Chair: Thank you very much, Mr. Houlden.

Next is Ms. Alepin, as an individual.

[*Translation*]

Ms. Brigitte Alepin (Tax Expert, Agora Fiscalité, As an Individual): Thank you, Mr. Chair.

Ladies and gentlemen, Canadians, my name is Brigitte Alepin. I am a Tax Expert, tax policy specialist, author, and scriptwriter.

Since I was invited on short notice, I will focus on my analysis of the agreement with Hong Kong. I also looked briefly at the agreement with Taiwan. Here are what I consider the most important findings of my analysis.

Since the corporate tax rate in Hong Kong is 16.5%, there must be an agreement to avoid double taxation of the corporate revenues of Canadian businesses in Hong Kong. However, since Hong Kong is a special case, where interest income, dividends, and capital gains are not taxed, and there is no tax deduction at source, we might expect that this convention between the two countries would reflect this, which does not appear to be the case at all right now.

Moreover, the proposed amendment in Bill S-4 must be considered in the context of the existing convention with Hong Kong. The bill provides as follows:

[...] references to a "country" or a "state" are, with such modifications as the circumstances require, to be read as including the Hong Kong Special Administrative Region of the People's Republic of China.

Does that mean that, without Bill S-4, the current agreement between Canada and Hong Kong is not operative? In fact, the terminology used in the bill is not consistent with that used in the Income Tax Act, the Income Tax Conventions Interpretation Act, and the Income Tax Regulations.

Moreover, in Canada, all tax conventions are covered by the prevailing domestic legislation, pursuant to the Income Tax Conventions Implementation Act, 1999. Is this terminology legally appropriate in view of the latter act?

It would be helpful to have a clear answer to this question because, if the amendment proposed in Bill S-4 makes the tax convention between Canada and Hong Kong operative whereas it is not really at present, that means that the amendment proposed in Bill S-4 would be more important than a mere administrative adjustment. In that case, the issues involved would be more complex.

I know that the trade relationship with China is very important to Canada. Bill S-4 simultaneously approves tax conventions between Canada, Hong Kong and Taiwan. In the present circumstances, I think we should be concerned about how China would interpret this action by Canada in the era of the Trudeau government.

As to the added provisions specifically included in Bill S-4 regarding the convention with Hong Kong, I also wonder about the impact of the tax convention with Hong Kong that Prime Minister Stephen Harper himself signed on November 11, 2013. The world has changed since then in terms of taxation and politically. While the tax convention with Hong Kong is open and certain changes are being made to it, Canada should perhaps consider using the opportunity to make sure the agreement complies with the international commitments Canada has made since November 11, 2013.

Consider for example the automatic sharing of information. The current agreement and its protocol provide for the sharing of information at the request of tax administrations only, which runs counter to the commitment Canada made in 2015 to measures for the automatic sharing of tax information and the statements by the Minister of Finance, Mr. Bill Morneau, with regard to information sharing.

That concludes my presentation. I will be pleased to answer all of your questions.

Thank you.

• (1655)

[English]

The Chair: Thank you.

Next is Ms. Taylor from the Department of Foreign Affairs, Trade and Development. She is the director general for North Asia and Oceania.

Go ahead, Ms. Taylor.

[Translation]

Ms. Sarah Taylor (Director General, North Asia and Oceania, Department of Foreign Affairs, Trade and Development):

Mr. Chair, honourable members, thank you for this invitation to appear before you today. I am pleased to be here today to speak to you about Bill S-4, An Act to implement a Convention and an Arrangement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and to amend an Act in respect of a similar Agreement.

[English]

My name is Sarah Taylor. As mentioned, I'm the Director General for North Asia and Oceania bureau at what is now called, because we love to change our name, Global Affairs Canada. Given these areas of responsibility, my remarks today will focus principally on the avoidance of double taxation arrangement between the Taipei Economic and Cultural Office in Canada and the Canadian Trade Office in Taipei.

[Translation]

Why is a double taxation arrangement necessary with Taiwan?

Double taxation conventions or arrangements are specifically used to eliminate tax barriers to trade and investment. Canada has an extended network of double taxation conventions, with 92 in force.

Overall, the entry into force of this arrangement will assist to further solidify Canada's strong economic links with Taiwan by removing tax barriers to cross-border trade and investment.

As the Prime Minister said recently at APEC in Peru in November, "Trade and investment with Asia Pacific economies are critical to our country's economic future and to growing our middle class."

[English]

Taiwan is Canada's twelfth-largest trading partner and fifth-largest trading partner in Asia. In 2015 our exports to Taiwan exceeded \$1.46 billion, and our imports exceeded \$5.46 billion. In 2015 bilateral trade grew year on year by over 14%, from \$6 billion to \$6.91 billion. However, Taiwan is one of the few of Canada's large trading partners not covered by a double taxation convention.

Investment relations between Canada and Taiwan remain underdeveloped, as a result, in the context of Canada's overall inward and outward FDI, or foreign direct investment. According to figures from Statistics Canada, the stock of Taiwanese FDI in Canada stood at \$108 million at year-end 2015. By the same token, the stock of Canadian direct investment in Taiwan at the end of 2015 was \$115 million. This is partly due to the lack of an avoidance of double taxation arrangement, as many Taiwanese and Canadian companies are forced to make investments through an indirect route by going through a third country that already has an existing ADTA. This is a significant barrier to investment, in our view.

[Translation]

Taiwan clearly offers great potential for Canadian investors: it is a vital link to Asian and global supply chains, especially in the information, communications and technology sector, and is used by many businesses as a test site for products aimed at wider Chinese markets.

[English]

We've heard from Canadian and Taiwanese businesses, and they welcome this arrangement, as it will significantly reduce their tax burden and make investing in each other's jurisdictions more compelling. Further, it will support the competitiveness of Canadian companies vis-à-vis companies from other countries that already have a double taxation agreement with Taiwan.

Just very briefly—Mr. Houlden also mentioned it—why has this been concluded as an “arrangement”? In keeping with our one China policy, the arrangement with Taiwan is an arrangement, rather than an agreement, between the Canadian Trade Office in Taipei and the Taipei Economic and Cultural Office in Canada. Canada has arrangements in a wide range of areas with Taiwan—air transportation, agricultural market access, visa exemptions, etc. The arrangement is also consistent with what other countries that have a one China policy have done in their respective double taxation conventions or arrangements with Taiwan. Taiwan has accepted Canada's position to present this instrument as an arrangement.

• (1700)

[Translation]

To conclude, Global Affairs Canada fully supports Bill S-4. It will facilitate trade between and investment between Canada and Taiwan and lead to job-creating investment for our Canadian businesses.

[English]

I would be pleased to take your questions afterwards.

The Chair: Thank you very much, Ms. Taylor.

We'll turn now to Mr. Weston.

John, you're quite familiar with this table and many others around here. The floor is yours.

[Translation]

Mr. John Weston (International Lawyer, McMillan LLP): Thank you Mr. Chair and members of the committee. I am very pleased to be here with you today, albeit in a different capacity.

[English]

I served as the MP for West Vancouver—Sunshine Coast—Sea to Sky Country for eight years, between 2008 and 2015, before being liberated by the electors last October.

Voices: Oh, oh!

Mr. John Weston: I am now practising international law with a firm named McMillan, which has offices in Hong Kong, Vancouver, Ottawa, and other places, but I am confident that the reason the committee invited me is that I resided in Taiwan for 10 years and did business throughout the Pacific Rim. I also had the honour of being one of the first two Canadians who served at the Canadian Trade Office in Taipei, so there is some history there. We've heard, throughout the day, about the arrangements that led to that rather interesting office.

Ironically, when I received your invitation, I was putting the finishing touches on a book, *Seeking Excellence in Leadership*, criticizing the effectiveness and relevance of committees, and here you are, studying something that could not be more relevant to people who want to do business and invest in Taiwan, Hong Kong, and Israel. For obvious reasons, I will be focusing on the Taiwan part of the agreement.

I lived in Taiwan between 1986 and 1997, a very eventful decade. When I arrived, martial law was in force, and when I left, they had an independent judiciary, free elections, free newspapers, freely trading currency, and people who could freely travel to mainland China. Just note the number of times I used “free” in that sentence. It is truly one of the world's most robust democracies.

Voting participation rates in the last five Taiwan presidential elections have averaged over 76%, and they have very high-calibre, well-educated leaders to serve: for instance, in the persons of Ma Ying-jeou, the past president, and Tsai Ing-wen, the current president. She has achieved international fame as the first female president of Taiwan—and, after last weekend, someone who knows how to place an important phone call.

Voices: Oh, oh!

Mr. John Weston: From 2013 through 2015, I headed the Canada-Taiwan Parliamentary Friendship Group, known for its hard work, cross-party camaraderie, and productivity. In that group, we learned the virtues of the type of agreement you are considering today. Such agreements are typical signs of progress between jurisdictions that encourage friendship, free trade, investment, and increased exchange between people.

Let me quickly cover ten benefits I see in this agreement. Deft drafting and careful diplomacy have eliminated the one impediment that delayed this agreement for the 20 years of negotiations it has taken.

One, it encourages trade with a decidedly democratic jurisdiction. Two, it allocates taxing rights between the two jurisdictions so that taxpayers are not subject to double taxation. Three, it reduces the risk of excessive taxation that may arise because of high withholding taxes on payments of dividends, interest, remittances, and royalties paid by a resident of one jurisdiction to a resident of the other. Four, it ensures that taxpayers will not be subject to discriminatory taxation in the foreign jurisdiction. Five, it provides greater certainty to taxpayers regarding their potential tax liability in the foreign jurisdiction. Six, it encourages adherence to the rule of law for people by promoting tax compliance. Seven, it increases tax revenues. Eight, it discourages good Canadians—those of Taiwan background—from renouncing their citizenship. In my experience, Canadians who hold dual U.S. citizenship are renouncing their U.S. citizenship in increasing numbers due to arbitrary and capricious practices by the IRS and the U.S. Treasury Department. Nine, the ADTA paves the way to other promising economic arrangements, including a foreign investment protection agreement and a free trade agreement. And ten, it takes advantage of great timing. There is peace across the Taiwan Strait, so it's easier for Canada to engage with both Beijing and Taipei while adhering resolutely to our one China policy.

In terms of the impact on Canada-Taiwan investment, we've heard about the underperforming rates of investment that are just out of step with the patterns of cross-border trade and the number of people in both places. On two-way investment, the CTOT reports that Taiwan is currently Canada's twelfth-largest trading partner, but we are looking at Taiwan as being only the 40th-largest investor in Canada, so there is much more that can be done in that file.

The CTOT also reports that a number of bilateral investment deals are pending that would benefit from the provisions within the ADTA. They can't be disclosed for reasons of confidentiality, but there is real margin to be had by getting this agreement passed.

The one negative downside has been alluded to by various persons who have testified. This agreement was signed in January of this year and passed by the Taiwan legislature in February. It took two decades to get here, and that is due solely to the concern of offending the one China policy. But the deft drafting includes words such as “territory” and “jurisdiction”, deliberately in there to avoid offending a state-to-state kind of...or proposing that there's a state-to-state kind of relationship here.

The signatories are the two trade offices, not governments directly—another sign of the genius behind this accord. It has been carefully designed to navigate the tightrope that all but Donald Trump require when promoting relations with Taiwan.

In conclusion, this accord is expected to help facilitate increased two-way investment by significantly lowering withholding tax rates. As I related, there are at least ten concrete benefits and no serious downside risks. If the committee and the House can get this through by Christmas, there will be a whole extra year of more value-added investment between the two sides.

I highly recommend that the committee support Bill S-4.

● (1705)

The Chair: Thank you very much, Mr. Weston.

Turning to questions, we'll go through one round. I know that Mr. Albas wanted to lift a motion off the table, and he can do that at any time. So as not to disrupt witnesses, we'll go through the first round, then he can move his motion.

Go ahead, Mr. Sorbara.

Mr. Francesco Sorbara: Thank you, Mr. Chair.

Welcome, everyone.

My first question is to you, Mr. Weston. With your experience in living in Taiwan and dealing with Taiwan-Canada issues, going forward with Bill S-4, if it's implemented and comes into effect January 1, what sectors in both Canada and Taiwan will this deal benefit? Where do you see growth in trade and investment coming from with the implementation of Bill S-4?

[*Translation*]

Mr. John Weston: Thank you for the question.

[*English*]

Traditionally there has been considerable interest in trade and investment in areas like IT, engineering and consulting services, environment-related services, and natural resources. In terms of investment in the two places, it creates an opportunity to capitalize on the really good personal relationships that have developed over the years among people of Taiwanese and Canadian backgrounds.

Really, the sky is the limit in that this is one of the most obvious barriers that would prevent all those many Taiwanese people—we heard between 150,000 and 120,000 people in Canada have a Taiwanese background. They're buying houses, they're sending their children to school, but they're not investing in our country in the ways we would like. There are many opportunities. In the past couple of years, there have been joint ventures involving high tech. They've typically been conducted through intermediary countries. Again, that was required because of the lack of an ADTA.

Mr. Francesco Sorbara: Okay.

To Luisa from EDC, I found it interesting, in the example you used, where you had a 20% withholding tax on interest payables. I think that was the number you had used. What happens if you're a borrower and you have to gross up? I wonder if you can elaborate further on how big an impediment it is to have a flow of capital from one jurisdiction to another.

● (1710)

Ms. Luisa Rebolledo: It does play a significant role in being able to increase trade. You're absolutely right that the current tax environment requires there to be a 20% withholding tax. With this particular arrangement, the withholding tax percentage would go down to 10% for other financial institutions, and go down to 0% for Export Development Canada loans.

When you look at EDC's arsenal of products that we have available to promote trade, there really are three of them: accounts receivable insurance, bonding, and financing. If we look at the history we've had with Taiwan, we've basically done no financing for transactions with Taiwan. All of our deals have been accounts receivable insurance. It's a very good product in terms of...if a Canadian has an export to a Taiwanese company, we insure payment, but a good tool for promoting trade is lending a Taiwanese borrower money to buy Canadian goods. That has been completely lost in this particular market. That is a result of the withholding tax in part, if not in large part.

From our perspective, I think this does have quite a significant role in expanding the trade between the two countries.

Mr. Francesco Sorbara: Okay. Thank you.

To Ms. Taylor from Global Affairs, I do want to ask about how the arrangement with Taiwan is in keeping with Canada's one China policy.

Ms. Sarah Taylor: You may have noticed that more commonly we have ADTAs. The "A" stands for an agreement, so those are formal agreements between two governments. In this case we recognize a single China and therefore we don't have a formal government-to-government relationship with the Taiwanese government on the same footing we would with other governments. As a result, we have arrangements rather than agreements, again, signed between the two offices rather than signed by government representatives.

We have a lot of shared interests with Taiwan, in the commercial area but in other areas as well, so over the years we've set up these various arrangements. We've never seen any concern from the Chinese side that these somehow represent a recognition of the Taiwanese government as a formal government, so both the title and the basis on which we set them up allows us to interact with Taiwan as an important economy and a partner in various areas without implying a formal recognition of the government.

Mr. Francesco Sorbara: Thank you.

Mr. Chair, I'm finished.

The Vice-Chair (Mr. Ron Liepert): Thank you.

Mr. Albas.

Mr. Dan Albas: Thank you, Mr. Vice-Chair.

To all the witnesses, I appreciate your testimony. Thank you for taking the time to be with us here, and for our public servants, thank you for the work you do for Canadians every day.

I'd like to actually start with you, Ms. Rebolledo. We heard earlier from EDC about the importance that your agency has, particularly when we look at the Americans. They basically have restrained themselves by not being able to offer loans at a low level. We heard about some relocation of General Electric facilities to Canada, which is a big score for Canada, so thank you for that.

With regard to the withholding tax, again, you've illustrated a point where just for the loan, that 20% added to that extra investment basically made it less attractive for many people. Would you also say that the extra paperwork that goes along with that, including the fact

that the person making the sale has a requirement to withhold and to deal with the government on that, makes it less likely for someone to do business that could expand our economy?

Ms. Luisa Rebolledo: Certainly a company whose main focus is not finance would find that an additional burden for them to bear, so I believe the answer is absolutely yes, it would be more difficult for them to want to do cross-border finance if they have to do additional paperwork.

Most companies are quite adept at withholding personal income tax. You get your paycheque at the end of the two weeks or whatever, and a certain amount is deducted immediately for a whole slew of different taxes. They are not accustomed to doing that with their financial arrangements, and therefore it becomes a lot easier for them to simply get financing locally rather than going internationally.

However, on an international scale, like EDC, we would actually be able to give them very good financing terms and therefore promote more purchases from Canada.

• (1715)

Mr. Dan Albas: So this tax treaty will also allow EDC to be more effective in drawing in that kind of investment.

Ms. Luisa Rebolledo: Absolutely we would be more effective.

Mr. Dan Albas: Thank you. I appreciate that.

Mr. Weston, thank you for your service to our country. In regard to your comments, I believe you mentioned that there are natural progressions here, and I do really appreciate your explaining the many benefits of dealing with Taiwan, both as an economic power but also as a friendly democratic country.

You mentioned the next steps would be a FIPA or a free trade agreement of some sort. Can you explain what you meant by that a little bit further?

Mr. John Weston: In the course of developing trade and investment between any two territories, it's a natural progression to make it easier to exchange goods and services without punishing taxes. We're doing that by looking at Bill S-4.

A foreign investment protection agreement is something that's been discussed widely in Canada recently because of the agreement with China. It's an agreement that gives equal status to a foreigner who invests in your country who will therefore face no discrimination because of the origin of the investment. The free trade agreement is designed to promote more flow in goods and services. We've seen many of those. You can remind me of the number that were passed under the previous government, which greatly enhanced the prosperity of Canadians.

All of these things are in the interest of Canada and of Canadian people. You mentioned the word "democracy" in your question. Many Canadians like the notion of dealing with other democratic places, and certainly Taiwan has a great track record in that respect.

Mr. Dan Albas: Thank you for your answers.

Ms. Taylor, Mr. Weston has raised the importance of negotiating. I believe in your comments you did also say that it is important to have things like FIPAs and free trade agreements with the various countries. Does your department organize, similar to CRA, as to which countries we should be aiming to have such agreements—I guess the term would be “arrangement”, Mr. Vice-Chair—in place with?

Ms. Sarah Taylor: Just to clarify, I don't believe I did mention either FIPAs or FTAs in my remarks, but they are certainly types of economic agreements that we have with different countries and partners.

Yes, Global Affairs Canada, as the department responsible for our international trade policy, would be the lead department on making decisions about which countries to propose negotiations with and then carrying out those negotiations. Obviously it has to be mutually agreed. We may have interest, but the other partner has to be interested too.

Mr. Weston raised, for example, the FIPA that we concluded a few years back with China. That was one that our department led in terms of the negotiations. So we would have that responsibility. We do also a regular process of review within the department based on a combination of the resources that are available for negotiations and then also what are our priority markets. There would be a constantly updated list of which countries would be the next ones we would want to look at for those kinds of agreements.

Mr. Dan Albas: In keeping with the one China policy, then, wouldn't we just naturally say, “Listen, we have an agreement with China here on the Canada-China FIPA; would you be amenable to taking the exact same terms to expand those things?” I do think that there's a number of provisions in there that help make sure that when Canadians are investing abroad there are some protections.

Ms. Sarah Taylor: I'm not a trade policy expert, so I wouldn't want to get too deep into the details of FIPAs.

What I would say on those is that for those agreements, while we do have some relatively standard language and approaches for FIPA that we will usually use as a starting point, the decision about whether to enter into discussions around a FIPA with any country or market would be based on a look at the Canadian interests in play in that particular country or market. Each one would be looked at on an individual basis.

• (1720)

Mr. Dan Albas: Okay, but would you say there's a significant amount of market activity with Taiwan—enough to look at that?

Ms. Sarah Taylor: I couldn't comment on what constitutes a sufficient amount of activity. I can say, as I mentioned earlier, that it is a fairly significant trading partner for us in Asia. It's our twelfth-largest trading partner overall and our fifth-largest in Asia.

The Vice-Chair (Mr. Ron Liepert): Dan, I have to cut you off there.

Mr. Dan Albas: Okay.

The Vice-Chair (Mr. Ron Liepert): Go ahead, Mr. Dusseault.

Mr. Pierre-Luc Dusseault: Thank you, Mr. Chair.

[*Translation*]

Thank you to the witnesses for being with us here today.

I would like to begin with Ms. Alepin.

Thank you for agreeing to appear on short notice.

Thank you also for the new information you provided today, which could mean the re-opening of the debate on the tax convention between Hong Kong and Canada, in a context in which one might believe that, if the proposed amendment is not made, the agreement itself is inoperative as we speak.

In this regard, I asked departmental officials earlier if they saw any danger in having such tax conventions with jurisdictions with low tax rates, such as Hong Kong. I would like to know if you think this poses a risk. The purpose of the bill, as the title indicates, is to avoid tax evasion. Do you think that, instead of fighting tax evasion, it could in fact increase it? Do you think that some people, in order to pay less tax in Canada, might use these tax conventions as a way of avoiding double taxation? Barbados is an obvious example in this regard.

Do you see a danger in these agreements that would allow taxpayers to avoid paying a certain amount of tax in Canada?

Ms. Brigitte Alepin: Thank you for your question.

Earlier I heard finance department officials answer your question. You had asked whether the current convention between Canada and Hong Kong was fully functional and legal. I know that the Canada Revenue Agency has given its interpretation of this. It said that the convention could apply to transactions between Canada and Hong Kong.

We should question, however, whether the convention in force really complies with international law. International law uses words such as “state” and “country” whereas these words are not mentioned in the current model of the convention.

So we should ask this question since we want to be clear on what we are talking about right now. Is it a minimal technical amendment or something that allows for the full operation of the convention with Hong Kong?

If that is the case, having seen how China can react to certain recent decisions in the United States, we have to consider how China will react to this. Would Canada be simultaneously approving two tax agreements, that is, an arrangement and an agreement with Hong Kong and Taiwan?

I know we are being careful not to offend China by being mindful of the wording of the agreement with Taiwan. We are being careful not to suggest that Taiwan is a country. I understand all that, except that Hong Kong and Taiwan are fiscally competitive with China, so much so that in trading with China it is standard practice to go through Hong Kong.

So I think we have to understand the conventions so we can agree and legislate on the tax treatment between Canada, Taiwan and Hong Kong, which are fiscally competitive with China. It is as though a Canadian province or a U.S. state decided to separate and became a major fiscal competitor.

Today we are talking about agreements that other countries would conclude given that those governments had just separated. So we have to be mindful of these issues. As I said in my remarks, I know relations with China are very important to Canada. From what my colleagues said, I understood that people are quite comfortable with China's reaction, but your question was worth asking. It is important.

• (1725)

Mr. Pierre-Luc Dusseault: To get back to what is probably tricky diplomatic ground for Ms. Taylor, I understand that the negotiations were conducted by the Canadian Trade Office in Taipei and the Taipei Economic and Cultural Office in Canada. Technically, these are not negotiations between two governments, but between two non-governmental institutions.

Is this merely a facade? Did the governments actually negotiate the agreement between Canada and Taiwan through these institutions?

Ms. Sarah Taylor: I will answer your question and, if I may, I will also pick up on some of what Ms. Alepin said about China's possible reaction.

Our current relationship with Taiwan is somewhat complicated. The agreement was in fact signed by the two offices. The staff of the Canadian office in Taipei are from the government of Canada. They are Canadian public servants, primarily from our department, but also from other departments. Similarly, the staff of the Taipei office in Ottawa are from Taiwan's foreign affairs department. So they are officials from the two governments.

As to the personnel, there is not much difference. There is, however, a legal difference owing to the fact that it is an arrangement and that it is signed by the offices. These offices are organizations that have already been mutually accepted. In our case, we accept the presence of the Taiwanese office in Ottawa. This office has a certain legal status in Canada as an organization working in Canada. On the other hand, we do not accept the Taiwanese foreign affairs department in the same way. This is why the document was signed by the two offices. From a strictly legal point of view, there is a difference.

As to China's reaction, I have two comments.

First, I would say Taiwan is a bit different from Hong Kong. The situation is always a bit trickier with Taiwan. From China's point of view and ours, Hong Kong is indeed part of the People's Republic of China. The only difference is that it is a separate customs territory.

Moreover, China accepts that Hong Kong and Taiwan are members of APEC, a multilateral organization whose members are economic members rather than countries. So China has already accepted the principle that Hong Kong and Taiwan can operate in a multilateral, international context as economies rather than countries.

In both cases, we already have that type of agreement with China. The change with Hong Kong is really a technical change. As to Taiwan, we are proceeding with something that we already have in place with China. In our opinion, China's reaction should not be a problem. If we had done the opposite, if we had made an arrangement with Taiwan first, that might have caused a problem.

• (1730)

Mr. Pierre-Luc Dusseault: Thank you.

[English]

The Chair: Thank you both.

We'll come back to witnesses following Mr. Albas.

Mr. Albas, you wanted to move a motion. That is your right.

Mr. Dan Albas: Thank you, Mr. Chair.

I'll be brief. I do appreciate the patience of our witnesses today. This is time-sensitive.

I so move:

That the Standing Committee on Finance undertake a study on Bill C-240 An Act to amend the Income Tax Act (tax credit—first aid) on December 8, 2016;

That Members of the Committee as well as Members who are not a member of a caucus represented on the Committee and independent members should submit their proposed amendments to the Clerk of the Committee no later than Tuesday, December 6, 2016 at 3:30;

That the findings of this study be reported to the House.

I'm prepared to make a brief argument for it. We do have some openings over the next few days, both this week and next week. This bill received a tremendous amount of support in the House. I think we should try to cap this off before the end of the year.

Certainly, if members opposite don't believe that this Thursday is the right day but want to propose a day next week, perhaps the following Thursday, I'm more than open for amendments to that fact. I just want to make sure our committee can report back to the House on a timely basis, as I think there is a tremendous amount of support for the bill.

The Chair: The motion is on the floor. Is there any discussion?

Mr. Dusseault.

Mr. Pierre-Luc Dusseault: Sorry, what is Bill C-240? Was it adopted by the House?

Mr. Dan Albas: It's Mr. May's bill on a tax credit for first aid.

The Chair: It's Bryan May's private member's bill.

Anyone for, anyone against...?

Mr. Liepert.

Mr. Ron Liepert: It just seems to me, if anyone at the table is voting against this, they owe it to their constituents to suggest how we fill our meeting time over the next two weeks. If they don't have suggestions on what we should be studying over the next two weeks, then I suggest they should be supporting this particular motion.

The Chair: Mr. Dusseault.

Mr. Pierre-Luc Dusseault: So I guess the bill was referred to our committee?

The Chair: Yes.

Mr. Pierre-Luc Dusseault: Then why is it not part of the agenda for the next meeting?

The Chair: It was referred to the committee and it has to be reported back to the House by March 23, 2017. At the steering committee meeting we had, we thought we would discuss it in the new year. I believe that was it. In any event, if someone wants to discuss it earlier, that's their choice.

The motion is on the floor. Are there any other points?

All those in favour of calling this bill under the terms of the motion? Opposed?

(Motion negatived)

The Chair: We'll get back to the witnesses.

Mr. Ouellette is next on the list.

Mr. Robert-Falcon Ouellette: Thank you very much, Mr. Chair.

Thank you very much for coming. I'm not going to ask a lot of questions, because I think we already dealt with quite a number of them.

I was really quite surprised, obviously, by Mr. John Weston's experience in Taiwan.

It's very interesting that you lived there, and you had the experience where you got to see it move from a dictatorship into a functioning democracy.

I was also really surprised by Prof. Gordon Houlden's remarks around how it's become our twelfth-largest trading partner, and the fifth-largest in Asia for Canada.

I just feel that at the end of the day, a strong Taiwan, a prosperous Taiwan, probably leads in the long term to a strong China. They don't have to be mutually exclusive things, but they can interact. It makes China, I believe, a stronger place in order to do business. I'm not an expert on either China or Taiwan, but if I were looking for a place where I could do business, for a smaller location that would give some greater understanding of how Chinese people think, their values, and how to do business, that might be a good location to start, and then perhaps to the mainland later on.

To Mr. Houlden and Ms. Rebolledo, by increasing trade and opportunity with Taiwan, what would be the impacts in the long term for Canada regarding trade and exports?

• (1735)

Prof. Gordon Houlden: Thank you very much.

It's a tricky question. PRC has been the dominant, most buoyant partner for the last 30 years. By my estimate, investment into Canada from China is 600 times greater than that from Taiwan. It's whole multiple orders of magnitude greater, and that's not going to change overnight.

Taiwan has a static population. Its economic growth rates are modest, and that's actually one of the causes, in my view, of the change of government recently: dissatisfaction, particularly among young people, over economic prospects. That said, this can help, and these sorts of arrangements are much appreciated by the Taiwanese government and the Taiwanese people.

You're quite right that Taiwan is.... When in government, when I ran our office in Taiwan, we had urged Canadian companies to operate in Taiwan. Beijing is formidable in that you have dozens and dozens of large cities, and provinces that are a multiple size of countries. Taiwan is a place with considerable respect for the rule of law. Most recently, in the last 20 or 30 years, perhaps 20 years, let's say, there is respect for intellectual property rules that wasn't the case in the early days. It is the case now. It's a safe place to do business by comparison with the PRC, which has a remarkably dynamic economy but just tougher to penetrate, much more difficult. Taiwan is a nice safer way station for Canadian companies to cut their teeth.

Hong Kong, to some extent, is as well. There are maybe a couple of hundred thousand Taiwanese in Canada, and two million or more on the mainland. Most of that capital that flows out of Taiwan doesn't come to Canada or North America, it goes to China where Taiwanese companies build massive factories, particularly in the electronics consumer products industries. Partnership with a Taiwanese company can have multiplier effects if you work on a broader Asia platform, so it is attractive.

What has to be done, though, is sequencing. There was a question about a free trade agreement, for example, with Taiwan, and that's wonderful, but generally I would think that would be a risky exercise if you hadn't already concluded one with China. China does watch very carefully. Right now, thanks to President Ma Ying-jeou, we're at the end, perhaps, of a honeymoon period between Taipei and Beijing. Already just based on the commentaries generated by President-elect Trump, we're seeing a stiffening of Chinese attitudes towards Taiwan. I don't know if that will continue or not, but I'd say there's a prospect that this will be the case.

So yes, do business with Taiwan, but keep an eye on Beijing, because they have a relevance to what you can get away with and what you can do in Taiwan.

Ms. Luisa Rebolledo: I have just a minor point to add.

A lot of Canadian companies use Taiwan as a springboard to other Asian countries, not only mainland China but all of southeast Asia. This is a huge, lucrative market for Canadian companies. Just by population itself, Canada is dwarfed by what's going on in Asia. So this is a huge opportunity for Canadian companies. It's also a destination that is accustomed to receiving export, and continue to "on-bound" it to the rest of Asia.

I think that is also an important component to the discussion.

The Chair: Thank you.

Mr. Robert-Falcon Ouellette: Thank you very much.

The Chair: We'll turn to Mr. Deltell.

Mr. Gérard Deltell: Thank you, Mr. Chair.

[*Translation*]

Ladies and gentlemen, welcome to this House of Commons parliamentary committee.

My first remarks are for Ms. Alepin.

You were here earlier when we heard from the first group of witnesses. We asked them, among other things, whether Bill S-4, which includes a new agreement with Taiwan, Hong Kong, and so forth, could impact our relationship with China and Japan, our two most important partners and the two economic powerhouses of Asia. Those witnesses did not appear to have any concerns in this regard whatsoever, but I believe you said it could have an impact on China.

I know that some colleagues have already asked about this. In your opinion, are there any yellow lights or flags that should be raised regarding certain aspects of this bill that could unfortunately have a negative impact on our relationship and trade with China in particular?

• (1740)

Ms. Brigitte Alepin: Thank you for your question.

Time will tell how China will react. The tax regime in Taiwan and Hong Kong seems to be more favourable than the one in China. In Hong Kong, for instance, dividends, interest income and capital gains are not taxed. No tax is deducted at source. This is a more advantageous regime than China's.

We are now concluding agreements with these jurisdictions which are fiscally competitive with China. In the past, people were not offended, for instance, when a country started being a fierce fiscal competitor to another country in the area. Is this viewed favourably in today's world, in 2016? Could there be reactions if we conclude agreements with territories or jurisdictions that compete with China fiscally? Time will tell. For now, I don't think we can discuss this or these important agreements without asking this question.

Similarly, in the agreements currently under consideration, with Taiwan and Hong Kong, for instance, regarding information sharing, the protocols clearly say, as does the agreement with Taiwan, that information sharing should not be considered—not the exact wording—as automatic.

As we just said, this is 2016 and I have questions about this. I wonder why that is specifically included in the protocol, although we know very well that, recently, the two Canadian governments appear to have made a commitment to the automatic sharing of information.

As to the sharing of information, does that mean that Canada has slightly less restrictive agreements with Hong Kong and Taiwan than it does with China? What will the future hold as to the sharing of information? That is hard to say right now, but these are very important questions.

Mr. Gérard Deltell: Thank you, Ms. Alepin, for raising these concerns. It is my understanding that we can nonetheless proceed, while keeping a careful watch on our relationship with China, specifically as regards the sharing of information

[English]

Mr. Weston, welcome again. This is your House of Commons, and we're very pleased to see you here again. As Mr. Liepert said a few minutes ago, thank you so much for serving our country these past years, and thank you for serving it again here at this committee.

Mr. Weston, you heard Madam Alepin expressing some reservations about the relations we could have with China based on this bill.

What are your thoughts on that? Do you think it could be difficult, on thin ice with China, with this bill?

[Translation]

Mr. John Weston: Thank you for the question.

Over the past 20 years, as we negotiated this accord, this was the greatest obstacle. Moreover, this accord is not a treaty or an agreement. If there were reasonable problems, we might in fact pause to reconsider. There is no reasonable obstacle, however. Reading the accord carefully, we see that the words “jurisdiction” and “territory” were deliberately used to prevent problems with China.

• (1745)

[English]

Second, the way the accord is set up between the two trade offices is clearly meant to send a signal that this is not an affront to China.

Third, there is a famous leader—your leader—who said not so long ago that love is better than anger, if I remember correctly. It's better to encourage people to voluntarily pay their taxes than to pay them angrily or against their sense of justice. By removing double taxation, we are encouraging people in both places to adhere to the rule of law. We're encouraging them to do business with one another. We're encouraging people who are already good friends to increase the level of the friendship.

To me, many bills that come before this place are very difficult and hard to decide upon, but this one seems very, very clear. Without reserve, I would say that this makes sense for the people you represent: all Canadians.

[Translation]

Mr. Gérard Deltell: Thank you for your answer, Mr. Weston, and thank you also for answering in French.

Mr. John Weston: Thank you very much.

[English]

The Chair: Thank you both.

Mr. Grewal.

Mr. Raj Grewal (Brampton East, Lib.): Thank you, Mr. Chair.

Thank you to all the witnesses for coming today.

Ms. Taylor, I just want to pick up on the fact that it's an arrangement and not an agreement. That's fine, but just on the legal implications of it...as in, have they ever been challenged before on any of the other issues, on any of the other arrangements we have with Taiwan?

Ms. Sarah Taylor: Not to my knowledge, no. I'm checking with colleagues who have a longer historical memory on this than I do, but as far as I know, no. As I mentioned earlier, we have a whole series of arrangements with Taiwan on a wide range of subjects, and I don't believe any of them ever created any problems.

Let me also respond to part of the earlier conversation about whether China might be concerned about the displacement effect of our having an ADTA with Taiwan. I've heard the Chinese complain about a great many things in relation to Taiwan. I've never, ever heard them complain, to us or anyone else, about our doing business with Taiwan. If they were say, "Oh, we don't like this, because it might mean that Canadian investment goes into Taiwan that otherwise would have gone to the PRC", then it would be a first. I've never heard them make that argument before.

Given how integrated Taiwanese and Chinese value chains are, I think there isn't a direct displacement effect. I think in some instances it's a complementary effect, so it might actually benefit China-Canada economic relations as well.

Mr. Raj Grewal: Overall it has been positive testimony for getting Bill S-4 passed before the end of the year. Does anybody have anything negative to say, or any reservations, in terms of why we should hold off on doing this? You can respond by saying no.

The Chair: Professor Houlden?

Prof. Gordon Houlden: I yield to the government representative. I'm out of government.

Go ahead, Sarah.

Ms. Sarah Taylor: From our perspective, no, we're very comfortable with this going forward.

The Chair: Professor Houlden, do you want to add to it?

Prof. Gordon Houlden: I will. I confess that I was Sarah's first boss many years ago when she first joined the Department of Foreign Affairs. I worked on Taiwan for a long time, as many of the people here at the table have done. I'm in my 30th year of Canada-China relations, and I think I have a fairly good feel for what's doable and what's a bridge too far.

This one strikes me as doable. As Ms. Taylor said, there are many issues that Taiwan complains about. On some issues, when they come up, you just know: you're waiting for the knock on the door from the Chinese ambassador. You can almost hear his footsteps coming down the hall. But this, to me, is not one of those.

They watch the formalities like a hawk. I've looked over the agreement, and the formalities are being met in a way that is satisfactory to them, I believe. One trick in negotiating with the PRC, in my experience, is that if you honour the formalities, you can get away with a lot of substance. I've had substantive, sometimes very confidential, arrangements made with China where we were honouring the form and getting a lot of substance. I walked away from the table happy and I think they did as well, because they got the form honoured, and they cared less about the substance.

I think this is an example where the amount of investment that's going to flow in either direction is just a rounding error on our own investment arrangement with China, so this to me is in that okay category. But to try to do an FTA with Taiwan—this is my personal opinion—without having advanced one with China would be probably a bridge too far. Sliding it into a TPP would have worked, but to do it all by itself as a stand-alone, without one with the PRC, would be tough. That's a personal opinion.

•(1750)

Mr. Raj Grewal: Mr. Weston.

Mr. John Weston: I think it's critical to acknowledge the timing. If you look at life with a still photo, you will get a deceiving image. If you look at life with a video camera, where things have been and where things are going, you get a clearer image. We are in a very propitious time to do this, because, as has been noted, relations across the Taiwan Strait are strong. Canada has a great relationship with both places. Now is the time to do something like this.

In 2014 our Canada-Taiwan Parliamentary Friendship Group, which has met with the past president of Taiwan on many occasions, got the Terry Fox Run going again in Taiwan. It was a great moment for Canada and Taiwan. It was purely social. There was nothing that China could object to. It was a coming together of two territories with people who really get along well.

I would say this is another opportunity, and we should seize it.

The Chair: Is that it, Mr. Grewal?

Mr. Raj Grewal: I think Ms. Alepin has a response.

The Chair: Ms. Alepin.

Ms. Brigitte Alepin: To answer your question, for this commission I studied more about the Canada-Hong Kong treaty, as I explained earlier. I know we have to sign an agreement to avoid double taxation, because there is taxation on business income in Hong Kong, but I find it sad that the treaty we put in place is not adjusted to the fact that in Hong Kong there are no taxes on interest, dividends, and capital gains, and there is no withholding tax.

So this is sad, and I find it a bit sad as well that in both the Taiwan and the Hong Kong agreement, the exchange of information is on demand, which is not adapted to the reality in 2016 of the decision that the Canadian government took regarding the automatic exchange of information. I do understand that we can adapt all this, but since it seems to be so important for the Canadian government to agree to the automatic exchange of information, I would expect that it would have been written clearly in the agreement, and the protocol would not exclude the automatic exchange from the agreement itself, let's say in the Taiwan arrangement.

Mr. Raj Grewal: Thank you.

The Chair: Thank you both.

Mr. Liepert, did you have a question? After you, we'll close with Mr. Dusseault.

Mr. Ron Liepert: I just have a general thing, because I think Mr. Weston summed it up pretty well. It just seems like this is one of those situations that makes a lot of sense. I don't think we're necessarily spending a lot of time talking about the bill but more about our relationships with these countries, and that's, frankly, a good thing.

In a general sense, in listening to the discussion, it's ironic that we're talking about a bill that is about Israel and Taiwan, and I think we spent 90% of our time talking about Taiwan. As someone who comes from the west, it's probably more relevant from our standpoint. But in looking through the notes that we've been provided, obviously there are some tremendous opportunities with Taiwan. If I read this correctly, our trade balance with Taiwan is not very good. We bring in a lot more than we ship out. What I do find a little surprising is that when it talks about exports, it talks about coal, lumber, and copper. I thought Alberta and western Canada exported a lot of pork to Taiwan, or meat products at least.

To any of the panellists, with this particular legislation do you see some of that trade imbalance starting to level out? What are some of the opportunities that maybe we could be pursuing a little more diligently to bring that trade balance a bit more into a balance?

Maybe I'll start with you, Mr. Houlden. Since both Rachael and I are from Alberta, we'll play favourites and let you go first.

• (1755)

Prof. Gordon Houlden: Thank you very much. I've lived in Ottawa, but it's nice to be back in my home province as well. I retreated home after government service.

I struggled, as did others, in the office in Taipei with trying to level that balance somewhat. It's typical of many of our trading relationships with Asia—China is an example—where we are at a huge disadvantage in terms of the exchange. You can't expect a balance of trade with all of our partners, as it doesn't work that way, but we should be doing better ultimately. It took us a long time to get beef back into that market, so I'm hopeful that with quality products—of course, as you know, Alberta exports some 80% of the beef from this country—that will occur.

In Taiwan there are some non-tariff barriers to trade. They make it difficult for us sometimes in terms of labelling and regulations, and the job of the mission there is to make sure we're being treated fairly.

The United States has a powerful presence because they are the security guarantor for Taiwan, so all things being equal, that U.S. influence comes to bear. I was there at a time when they got a pass on beef and we did not, for reasons that really had all to do with politics and just clout, but Canadians can be persistent, and we need to be. Don't expect that root balance to be overturned overnight. I think it's a question of time and persistence.

Quite frankly, Canadian business people could sometimes be more aggressive. I've seen the phenomenon in my career of where folks get used to trading in Minnesota, and maybe Georgia is a little bit exotic, but we'll give it a try. The advantage of Australia, in my view, is they are in that part of the world. They had no choice but to adapt to very difficult circumstances. We have the luxury and the burden of having such a great market next door, so that leap to knowing another culture, knowing another language.... Mr. Weston was an example of that. That's a tough job for many Canadian business people. We have no choice, or we're going to be forever super-dependent upon that great market to the south.

Thank you.

The Chair: Thank you.

Go ahead.

Mr. Ron Liepert: I would like John to make a comment.

Mr. John Weston: Sometimes it's important in life to look at the things where you can make a bigger difference fast. The trade balance is structural and very difficult. The thing where we can make a huge premium quickly, I think, is by increasing the opportunity to invest in one another's countries. The Taiwanese invest in Canada because it's a gateway to the United States. People forget that the United States' biggest trading partner is not China. It's us.

There is an opportunity to attract investment into Canada and then there's the reciprocal thing, getting into China or elsewhere in Asia. I was first at the world's largest law firm and, when I set up my law firm, left it to found the world's smallest law firm in Taiwan, and then it grew. We ended up with three offices in Taiwan and correspondent offices throughout Asia, but people were always coming to a Taiwan partner to do business elsewhere in China or something like that because the Taiwanese are good partners. They are savvy. They literally speak the language. They know the culture. So those are opportunities.

I would like to respond a little bit to what Madam Alepin said earlier. The concern about sharing information was a big concern for Taiwanese people in Canada. The Taipei Economic and Cultural Office people will tell you that they received some resistance in Canada on an AFTA because of that concern. It's surprising, therefore, that the Taiwan legislature passed it so quickly, passed it a month from the date the two offices signed it. That tells you there was a concern about that. I think many Canadians were concerned about Canada sharing information with the United States. So maybe it's a good thing that's not in there.

The Chair: Thank you both.

Mr. Dusseault.

[*Translation*]

Mr. Pierre-Luc Dusseault: Thank you.

My question might seem simple, but in the case of Taiwan, it is complicated.

Canada subscribes to a one China policy and recognizes the People's Republic of China as the only China. Since we have a tax convention with China, why does that convention not apply to the territory of Taiwan if we recognize Taiwan as China?

Can anyone answer that?

• (1800)

[*English*]

Prof. Gordon Houlden: I'll take a bit of a stab at that. It's a good question.

Taiwan is a proud jurisdiction. Taiwan will not accept, in effect, being a sub-designation of the PRC, if I understand the gist of your question. On the other hand, we cannot bring ourselves, under the one China policy, to refer to the Republic of China, or to....

[Translation]

With such arrangements, we can talk about a territory, but never about the People's Republic of China. It has to be Taiwan. These people will never accept the idea of being a subdivision of the People's Republic of China.

Mr. Pierre-Luc Dusseault: In the current context then, can a resident of Taiwan claim in Canada that the accord between Canada and China also applies to him?

[English]

Prof. Gordon Houlden: It's a good question. I would also suggest that Sarah might reply to this as well.

I can't see how that could be given practical effect, given that there's a de facto government of Taiwan, which regulates affairs of its citizens and of its people and of its commerce, whereas the Government of Beijing, where it claims to be the government of all China, and we've accepted that in our one China policy, has no practical means by which to manage the affairs of Taiwan. So people may feel that it is the responsibility of China in some fashion...that they're subject to an agreement with China automatically makes Taiwan susceptible, but in practical terms there would be no way to give force or motion to that sentiment.

The Chair: Sarah.

[Translation]

Ms. Sarah Taylor: If someone from Taiwan comes to Canada and claims that the accord with China applies to him, would we agree?

I don't know. We would perhaps have to ask a lawyer since this pertains to Canada's tax regime.

I can say, however—to repeat some of what Mr. Houlden said earlier—that the government of the People's Republic of China has no control over Taiwan. So if we go to Taiwan and say that we want to apply an accord that we have already signed with China, the Taiwanese authorities would say that it is out of the question.

As a result, if we want to remove the tax burden applicable to Canadians who do business in Taiwan, we have to conclude an accord with the Taiwanese authorities. Similarly, Taiwanese people who travel to Canada arrive at our borders with a Taiwanese passport and not a passport of the People's Republic of China. This is a question of both the facts and the law.

[English]

The Chair: Thank you.

Thank you to the witnesses for appearing.

To committee members, we had scheduled tomorrow's hearing for additional witnesses, but those witnesses are unable to appear tomorrow, so this will conclude the witnesses on Bill S-4.

Are people in agreement to do a review of the pre-budget consultations tomorrow? I don't think it will take two hours. We can get that off our deck and with some thoughts on how we might handle pre-budget consultations another year.

Ron.

Mr. Ron Liepert: I am in agreement provided Mr. Caron is available.

The Chair: Is Guy Caron available tomorrow, do you think, Pierre?

Mr. Pierre-Luc Dusseault: I think so. I was supposed to come for him, but I guess he's....

Mr. Ron Liepert: With all due respect to Mr. Dusseault, I think if we're going to talk about our pre-budget consultations, we should have the committee members, representing the three parties, who've been involved in it.

• (1805)

The Chair: Okay. Well, we'll talk to him in the House, and if he's not available tomorrow, maybe he would be available Thursday. We can do it either day.

Mr. Ron Liepert: Right.

The Chair: Should we have a steering committee meeting before the House adjourns for Christmas, to look at what's on deck for first thing when we come back in the new year?

Mr. Ron Liepert: Why don't we do it all at once?

The Chair: We might be able to do it. I don't know whether we can do it, but we can try it.

Mr. Ron Liepert: Why don't we try to do both subject matters at the same meeting?

A voice: [Inaudible—Editor]

The Chair: Yes.

Mr. Ron Liepert: Well, either tomorrow or Thursday.

The Chair: Okay?

On Monday, then, we'll go to clause-by-clause on Bill S-4 should the Senate get it completed and it gets referred from the House.

Mr. Liepert.

Mr. Ron Liepert: Again, I'm wondering why we're scheduling a special meeting on Monday when we already have a meeting scheduled for Tuesday with nothing on the agenda. Why aren't we doing it on Tuesday?

The Chair: We had felt there were witnesses for both days, and —

Mr. Ron Liepert: No, no, I'm sorry. I'm talking about next Tuesday.

Mr. Steven MacKinnon: Again, assuming the bill comes in from the Senate, I think every day matters in terms of getting it through the House.

Mr. Ron Liepert: Could I also suggest that we maybe look at doing it, if it's available, by Thursday of this week?

Mr. Steven MacKinnon: Yes. That would be fine.

The Chair: Amendments are due by Thursday.

Are you assuming there will be no amendments?

A voice: No.

The Chair: I think we're all pretty well onside on this—

Mr. Raj Grewal: That actually makes a lot of sense.

The Chair: We can have a look at that.

If it becomes available, we can try to do it earlier. The earlier, the better, as Mr. MacKinnon says.

Thank you again, witnesses.

Are there any other comments?

The meeting is adjourned.

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