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# Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities

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Chair: Robert Morrissey





# Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities

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• (1100)

[English]

**The Chair (Robert Morrissey (Egmont, Lib.)):** Committee members, good morning.

[Translation]

Hello, everyone.

[English]

We do have a quorum, so I will open meeting number 20 of the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities.

Pursuant to the motion adopted on September 18, 2025, the committee is meeting on the definition of “work” and the use of section 107 in the Canada Labour Code.

Today's meeting is taking place in a hybrid format, pursuant to the Standing Orders of the House. Members are appearing in the room as well as virtually.

Before we begin, I want to review a few rules.

You have the option to participate in the official language of your choice. For those in the room, I would ask that you familiarize yourself with the earpiece and select the channel that will give you the interpretation you wish to participate in. If you're appearing virtually, click on the globe icon at the bottom of your screen and choose the official language of your choice. If there is an issue with the interpretation, please get my attention and we will suspend while it is being corrected.

Please silence your devices and refrain from tapping the boom, as it can cause health issues for the interpreters. Please wait until I recognize you by name before speaking.

In the first hour today, we have appearing, from the Canadian Chamber of Commerce, Pascal Chan, vice-president—

[Translation]

**Marilène Gill (Côte-Nord—Kawawachikamach—Nitassinan, BQ):** Excuse me, Mr. Chair.

I had my hand raised. I was waiting for you to recognize me.

I would simply like to table a notice of motion.

May I read it? I can also distribute it to my colleagues in both official languages.

[English]

**The Chair:** Madame Gill, it should come in both official languages.

[Translation]

**Marilène Gill:** Yes, it's in both official languages.

[English]

**The Chair:** I will allow you to proceed, Madame Gill.

[Translation]

**Marilène Gill:** Thank you, Mr. Chair. I will be quick.

The notice of motion is as follows:

That the committee invite the Canadian Union of Postal Workers (CUPW), the Canadian Labour Congress (CLC), the longshoremen's unions (CUPE) of the ports of Quebec City and Montreal and the International Association of Machinists and Aerospace Workers (IAMAW) - Transportation District Lodge 140 - to testify on the study on the definition of “work” and the use of section 107 in the Canada Labour Code; that the committee hold at least one additional meeting for this purpose.

This should have been implicit in the wording of the basic motion, but since witnesses will not be called, I wanted to clarify this with a notice of motion.

Thank you, Mr. Chair.

[English]

**The Chair:** Thank you, Madame Gill.

This is just putting it on notice. Is that correct?

[Translation]

Yes? Okay.

[English]

Thank you. We will continue.

From the Canadian Chamber of Commerce, we have Pascal Chan, vice-president, strategic policy and supply chains. From Federally Regulated Employers - Transportation and Communications, we have Daniel Safayeni, president and chief executive officer; and Christopher Pigott, partner, Fasken Martineau DuMoulin LLP. From the Union of Safety and Justice Employees, we have David-Alexandre Leblanc, assistant director, negotiations section, Public Service Alliance of Canada.

Each of you will have five minutes to give your opening statement, and then we'll go to questions.

We'll begin with Mr. Chan for five minutes.

Mr. Chan, you have the floor.

• (1105)

[*Translation*]

**Pascal Chan (Vice President, Strategic Policy and Supply Chains, Canadian Chamber of Commerce):** Thank you, Mr. Chair.

[*English*]

My name is Pascal Chan. I'm the vice-president of strategic policy and supply chains at the Canadian Chamber of Commerce, which is Canada's largest and most activated business network, representing over 400 chambers of commerce and boards of trade across the country, as well as 200,000 businesses of all sizes in all sectors and all areas of the country, working to create the conditions for our collective success.

[*Translation*]

I'd like to start by thanking the members of the committee for taking on this important study and for inviting me to appear today.

At the Canadian Chamber of Commerce, we spend a considerable amount of time talking about economic growth, productivity and Canada's competitiveness in the global economy.

That begins with who we are, and we are a trading nation. According to the World Bank, trade accounts for two-thirds of Canada's GDP, and so reliable supply chains are non-negotiable.

[*English*]

With that said, the list of challenges that impact our supply chains yet sitting outside our control continues to grow: the COVID-19 pandemic, extreme weather events such as wildfires and floods, Russia's invasion of Ukraine, attacks on merchant vessels in the Red Sea, and a historic drought in the Panama Canal. The next obstacle is surely just around the corner.

Here at home you'd be forgiven for thinking we must be doing everything in our power to protect our ability to trade, but you'd be mistaken. Our business data lab's analysis of Employment and Social Development Canada data revealed that in 2023, we lost the most working days to labour disruption since 1986.

Last year, the Canadian rail network ground to a halt, and then later, our largest east and west coast ports shut down simultaneously. Looking back a couple of years, you can add in Vancouver grain terminals, the St. Lawrence Seaway, two major airlines and the B.C. ports, again, along with an overwhelming strike mandate for Canadian border services agents.

When it's all said and done, it really feels like we've outright progressed to flaunting how little we care about ensuring businesses can keep the lights on and cut the paycheques that Canadian workers use to provide for their families. This hasn't gone unnoticed. Canadians are concerned.

A recent survey conducted by Nanos Research revealed that Canadians are 11 times more likely to say that the federal government is doing too little when it comes to ensuring labour stability and the reliability of our nation's critical supply chain, while the

majority of respondents are also concerned about the impact of labour disputes on the affordability and availability of goods.

Additionally, Statistics Canada's Canadian survey on business conditions revealed that in Q2, exporters, usually among the most optimistic businesses, were trailing other firms, with that advantage completely eroded. The drop reflects supply chain disruptions, tariff anxieties, higher costs and softening demand.

The Bank of Canada has raised the pressing need to increase productivity, noting in its assessment that our nation has trade agreements granting us better access to global markets than any country in the world. Along with that access comes opportunity, and the world increasingly needs what Canada can provide. We have the resources to meet the world's demand for food and energy security, but we risk squandering that opportunity if we don't act with urgency.

[*Translation*]

Looking at where we are today, free flowing trade with the United States is no longer a given. The Prime Minister has stated his objective of doubling Canada's non-U.S. exports—

[*English*]

**The Chair:** The translation stopped.

[*Translation*]

**Pascal Chan:** Am I speaking too quickly? No? All right.

**The Chair:** Please continue, Mr. Chan.

**Pascal Chan:** Looking at where we are today, free flowing trade with the United States is no longer a given. The Prime Minister has stated his objective of doubling Canada's non-U.S. exports over the next decade.

While speeding up our ability to build trade-enabling infrastructure projects is critical, so is convincing our international trading partners that we can, quite literally, deliver the goods.

Trade is built on trust; if Canadian companies cannot get their goods to market, we risk losing those markets while compromising efforts to diversify our trading relationships.

The government should amend the Canada Labour Code to provide new dispute resolution tools for all federally regulated trade infrastructure, as well as establishing the authority for the federal cabinet to act when collective bargaining fails.

Thank you again for having me here today and for your efforts to build a prosperous nation for all Canadians.

I look forward to answering your questions.

• (1110)

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

[*English*]

Mr. Safayeni or Mr. Pigott, who's giving the opening statement?

**Daniel Safayeni (President and Chief Executive Officer, Federally Regulated Employers - Transportation and Communications):** We're sharing the time.

**The Chair:** Proceed. You have five minutes.

**Daniel Safayeni:** Good morning, Mr. Chair and members of the committee.

My name is Daniel Safayeni. I'm the president and CEO of FETCO, which is Federally Regulated Employers - Transportation and Communications. I'm joined by Christopher Pigott, partner at Fasken and counsel to FETCO. He'll speak shortly to the legal dimensions of the right to strike and the usage of section 107.

I want to thank you all for inviting us here to contribute to your study.

By way of background, FETCO represents private sector employers in Canada's federally regulated sectors: major railways, ports, courier and logistics firms, the banking and the finance sectors and airlines, all of which fall under the Canada Labour Code. Collectively, these sectors represent over \$543 billion annually. That's roughly 16.5% of GDP. They employ more than 2.1 million Canadians. That's 12% of the national workforce, with wages that are on average 45% higher than the national average. Simply put, these are some of the best jobs in the country.

These employers are the kinetic pillars of Canada's economy, moving our goods, people, capital, energy and information. Together they form the backbone of our domestic and international supply chains. In short, every other sector of the economy depends on their reliability. In today's unsettled geopolitical and trade environment, stability and reliability are prerequisites for investment. Labour uncertainty threatens not only domestic operations but Canada's credibility as a trusted economic partner.

The federal government has set out an ambitious nation-building agenda and economic reform plan, one that depends heavily on federally regulated sectors, yet these sectors remain very constrained by a collective bargaining framework that simply hasn't kept pace with the times. Reforms have been largely reactive, piecemeal and politically driven, resulting in rigidity, operational inefficiencies and higher costs that ultimately dampen job creation and investment. That's why we very much appreciate the committee's attention to these issues.

I want to begin with a few high-level points.

First, employers believe in collective bargaining and the right to strike as fundamental and foundational aspects of a healthy labour system. We believe the best and most durable agreements are the ones freely negotiated by the parties at the negotiating table.

Second, arbitration is a last resort, not a strategy or a preferred outcome. Employers are not looking for government to rescue negotiations or to run out the clock to force intervention. Employers want agreements reached through good-faith bargaining. Nobody wants a third party who may not understand the business or the workplace environment coming in and penning their collective bargaining agreement.

Third, when nationally critical sectors are at stake, the framework needs a credible backstop that protects the broader public interest. Most federally regulated disputes, as this committee has heard, are resolved without a work stoppage. The challenge is that a small number arise in sectors where disruption can cascade across supply chains and impose costs on other workers, businesses and communities. In those rare but high-impact circumstances, government needs a modern, balanced framework that keeps parties bargaining, respects the right to strike and protects the economy when national supply chains and critical systems are at risk.

With that, I will turn things over to my colleague Chris, who will elaborate on the right to strike and the usage of section 107 of the code.

**Christopher Pigott (Partner, Fasken Martineau DuMoulin LLP, Federally Regulated Employers - Transportation and Communications):** Thank you.

As it stands, the Supreme Court of Canada's case law is absolutely clear that the right to strike is not absolute. In fact, Canadian courts have held repeatedly that government-imposed restrictions on strike activity can be constitutional where the parties have reached an impasse and further negotiations would be futile and, second, where the right to strike is replaced with a fair and balanced interest arbitration process. The bottom line is that the charter allows the Canadian government to intervene in collective bargaining disputes to end negotiation impasses and the damaging impacts of work stoppages.

Recently, the Ontario Superior Court of Justice has issued several decisions that confirm these principles. In a case called OPSEU, the court found the back-to-work measures that ended a lawful strike would not violate the freedom of association if collective bargaining between the parties had stalled and there was no hope of reaching a negotiated collective agreement.

In a different case from 2024 involving the 2018 work stoppage at Canada Post, the Ontario court found that back-to-work legislation was a reasonable limit on charter rights because it established a fair and balanced interest arbitration process to resolve the bargaining dispute.

These findings are consistent with the Supreme Court's decision in the Saskatchewan Federation of Labour decision, where the Supreme Court said that, while a total, permanent ban on strike activity might violate freedom of association, such a ban could be saved as a reasonable limit where the right to strike is replaced by a meaningful dispute resolution mechanism.

Thank you.

• (1115)

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

I believe I may have missed David Neufeld, national president, Union of Safety and Justice Employees.

You have my apologies, Mr. Neufeld. Are you making a statement on behalf of them?

**David Neufeld (National President, Union of Safety and Justice Employees):** I am, sir.

**The Chair:** Good.

You have the floor for five minutes, Mr. Neufeld.

**David Neufeld:** Thank you.

Good morning, Chair and committee members.

My name is David Neufeld, and I'm the national president for the Union of Safety and Justice Employees. I'm pleased to be here as part of your study on the definition of "work" and the use of section 107 in the Canada Labour Code. I'm joined today by David-Alexandre Leblanc, assistant director, negotiations and research branch of the Public Service Alliance of Canada.

USJE is one of several component unions of the Public Service Alliance of Canada. PSAC represents nearly 240,000 workers who live and work in every province and territory in Canada. USJE represents over 19,000 members in 18 federal departments across the country, and USJE members also belong to the PSAC, which acts as our members' bargaining agent.

USJE falls under the mandate of the departments of public safety and justice. USJE's two largest departments are the Correctional Service of Canada and the Royal Canadian Mounted Police. USJE members belong to a diverse variety of occupational groups within the federal public service. This includes administrative services, general labour and trades, hospital services, data processing and the rehabilitation and reintegration of offenders in the federal correctional system. They also form the operational backbone of the RCMP.

I would like to start by saying that only certain sections of the Canada Labour Code apply to the work of USJE members; therefore, we would not be affected by a section 107 order. However, this issue does have broader implications for the 173 bargaining units and nearly 13,000 members represented by PSAC who are

covered by the Canada Labour Code, as well as for the collective bargaining rights of workers across the country.

Let's be clear: No one takes the decision to go on strike lightly. Workers are fully aware of the implications of withholding their labour and the very real impact it will have on their livelihoods, their families and their communities. Strikes are seen as a last resort and are only taken after union members come to the decision that no further progress can be made at the bargaining table. A strike is considered to be the most powerful lever available to workers to maintain a balance of power with their employer, and it is vitally important that this constitutionally recognized right be respected.

That's why the sudden increase in the use of section 107 is concerning. Although section 107 has been in existence since 1984, it was rarely used. However, in just the past two years, the federal government has used section 107 eight times, often forcing workers off picket lines days or even hours after the work stoppage began. This alarming trend undermines workers' constitutional right to strike and is raising real concern that employers in federally regulated sectors will not meaningfully engage in the bargaining process, knowing the federal government will intervene to end a work stoppage.

In fact, we are seeing employers proactively request the federal government to use its powers under section 107 even before workers have gone out on strike. We believe that the federal government has recently been implementing its powers under section 107 in a way that is placing unreasonable and potentially unconstitutional restrictions on the rights of workers to strike and is no longer fit for its purpose.

It is time for section 107 to be abolished from the Canada Labour Code. Along with the PSAC, we are calling for the government to either bring its own legislation or support existing legislation that removes section 107 from the Canada Labour Code. The NDP has already put forward legislation to scrap section 107 in the form of Bill C-247. If the government truly believes that the best deals are made at the bargaining table, and we hear that all the time, then they need to let bargaining happen without interfering in the process. They can show their commitment to protecting the constitutional rights of workers by repealing section 107.

Employers need to be sent a message. The government is not here to bail them out of difficult negotiations.

Thank you.

• (1120)

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

We will now begin with our first round of questions with Mr. Reynolds for six minutes, please.

**Colin Reynolds (Elmwood—Transcona, CPC):** Thank you, Mr. Chair.

Thank you, witnesses, for coming today. I appreciate your time, especially your being here in person. It adds a lot to committee

My first question is for Mr. Neufeld.

The very foundation of the relationship between the employer and its unionized workforce is based on the ability to collectively bargain in good faith. I think that's a key point to make.

Do you think the government's use of section 107 undermines that relationship?

**David Neufeld:** Yes. As I mentioned in my opening comments, I believe it's important to be bargaining in good faith. Yes, section 107 grants the minister sweeping and discretionary powers to allegedly "maintain or secure industrial peace", including directing the Canadian Industrial Relations Board "to do such things as the Minister deems necessary." When invoked, pre-emptively or early in a work stoppage, it suddenly changes the rules of the game. It interrupts the economic leverage workers lawfully exercise to move an employer towards a negotiated settlement, thereby undercutting the bargaining dynamic that good-faith negotiations rely on.

**Colin Reynolds:** The government has a tendency to rely on section 107 to force unionized employees back to work and the respective unions to binding arbitration, which prevents strike action.

Do you think this process is shifting contract negotiations in favour of the employer?

**David Neufeld:** In practice, yes, it is.

Striking, or the credible threat of striking, is the primary tool that balances the power at the table. When section 107 is used to order a return to work and impose arbitration before a strike achieves its purpose, the employer's exposure to economic pressure drops sharply. That tilts the playing field. The incentive to make the move at the table is reduced when parties expect the government to step in. Employers can delay meaningful negotiation in hopes of ministerial intervention.

Because of the frequency with which section 107 has been used in the past two years, we are concerned that employers are beginning to anticipate the government intervening in work stoppages. This could dramatically change the dynamics of a negotiation, because the employer could confidently operate under this assumption, reducing the employer's incentive to compromise.

**Colin Reynolds:** This is what we saw with Air Canada. Obviously, the executive at Air Canada had no intention of bargaining in good faith.

Do you think this process leads to unions and their members feeling cheated out of their right to collectively bargain in good faith?

**David Neufeld:** Yes.

The Supreme Court of Canada recognized the right to strike as an integral, meaningful collective bargaining tool under the charter. While section 107 is a statutory power, using it to pre-empt or neutralize strikes undermines the legal purpose of strikes in Canadian labour law and fuels the sense that unions are being denied a fair process.

The federal government's pattern has damaged confidence and provoked challenges at the CIRB and in the Federal Court, which, again, reflect that members feel cheated and compelled to litigate rather than negotiate their rights.

• (1125)

**Colin Reynolds:** Do you think union members are losing faith in the collective bargaining process and in their right to collectively bargain in good faith?

**David Neufeld:** I would say that many are. When the government repeatedly stops lawful strikes and unintentionally swaps bargaining for arbitration, members observe how the legal mechanism they are democratically choosing—the strike—is somewhat neutralized.

That doesn't mean union members will simply give up. We've seen, recently, how the use of section 107 orders has ignited a broader response from unions across this country. In the Air Canada example you mentioned, members even defied the order and quickly got to a tentative agreement. To me, that is a prime example of free collective bargaining working when it's allowed to work, and it highlights the damage and, frankly, the chaos that can be caused by premature intervention.

**Colin Reynolds:** What would you say to unions that might help restore their faith in collective bargaining?

**David Neufeld:** As I mentioned during my opening comments, I really believe that, in order for this to happen, structural change is required.

The repeated use of section 107 to override strikes and impose arbitration has fundamentally weakened confidence in collective bargaining. To rebuild trust, we call on the government to repeal section 107 from the Canada Labour Code. We think the recent abuse of this provision has given the minister sweeping powers to terminate strikes, which undermines our constitutional right to strike and the principle of good-faith bargaining. Removing section 107 would ensure that negotiations remain between the parties, without the government.

**Colin Reynolds:** With the government's use of section 107 forcing unions to labour relations, to the CIRB, would you consider that a conflict of interest in federally regulated industries since the CIRB is a federal Crown corporation?

**David Neufeld:** Legally, not on its face, but perceptually it raises concerns. The CIRB is an independent and quasi-judicial administrative tribunal established via statute, and it operates, as you've said, at arm's length from the government. That institutional set-up is intended to avoid the conflict of interest. However, I think section 107's structure, in allowing the minister to direct the CIRB to take specific actions, creates the perception that the board is implementing executive directives, rather than neutralizing and evaluating the merits. That dynamic understandably fuels this perception of bias.

**The Chair:** Thank you, Mr. Reynolds. Your time is up.

**Colin Reynolds:** Thank you.

[*Translation*]

**The Chair:** Ms. Desrochers, you have the floor for six minutes.

**Caroline Desrochers (Trois-Rivières, Lib.):** Thank you very much, Mr. Chair.

I would like to thank our guests for coming to testify in person today and for all the preparation it entails. It is very helpful.

[*English*]

I'll start with Mr. Safayeni.

You were talking earlier about FETCO and the whole sector, all of the employees, being responsible for 16.5% of the GDP in terms of the sector it involves. You talked about 2.1 million jobs.

Could you talk about how many indirect jobs are involved out of those 2.1 million direct jobs? I know that you probably don't have a figure, but for every cargo of grain that is moved by rail, for example, there are farmers and there are people collecting that grain. What is the indirect impact of this? Could you talk a bit about that?

**Daniel Safayeni:** The numbers I was quoting were very conservative direct numbers from StatsCan. That's work that FETCO undertook because we actually don't have a clear understanding of the direct impact of federally regulated sectors and what they actually mean to the economy.

The actual aggregate impact is much larger. That's the general comment about every sector and industry. You heard testimony earlier from the Canadian Federation of Independent Business about how every small business depends on the reliability of federally regulated sectors.

What is often missed in this debate is that it's characterized—as we even heard just now in the testimony—as an issue of labour versus employer, but when the west coast ports went down in 2023 for 13 days, that affected the labour movement across the country. You don't see this in the headlines, but there were union leaders of paper mills and steel-manufacturing plants pushing for the usage of section 107 to bring back the workers and have a fair resolution to the CBA. That's something you don't often hear about because it doesn't impact workers, and oftentimes workers that don't have the benefit of wages that are roughly 43% higher than what you're getting in federally regulated sectors.

I do think that's an important point here, because it does impact workers and communities across the country when reliability is interrupted.

• (1130)

**Caroline Desrochers:** Thank you for that.

I'd like to turn to Mr. Chan now.

You talked a bit about our need to increase productivity and the importance of our GDP and two-thirds of our GDP focusing on and relying on international trade. Can you talk a bit about the impact on Canada's reputation abroad when our grain growers are not able to ship their product? Is the country that's buying it going to rely on

us when they don't know if they can or cannot get it the next time around?

**Pascal Chan:** The simple answer is no. I mean, listen, we run a number of trade missions to other countries. We're in a lot of places and we speak with delegates from other countries. Are we going to be a serious player on the international stage, or are we going to show that we can't reliably deliver and they can't count on us? Are they going to continue? I've heard that some are looking at collective agreements before they're deciding to do business with Canada.

You asked about some of the data. The Greater Vancouver Board of Trade has estimated that almost \$10 billion in cargo was disrupted during the 2023 B.C. ports strike. On the St. Lawrence Seaway one that was a bit after that, it looked like the economic activity impacted reached about \$900 million. On the railway stoppage, our business data lab saw that it disrupted about three billion dollars' worth of revenue, ton-miles for major carriers CN and CPKC.

I can go on. The terminal elevators at the port of Vancouver receive just over half of all the grain produced across Canada. I think that's one of the things you mentioned. They handle and export most of the grain that farmers in the Prairies grow. That strike stopped the nearly 100,000 metric tons of grain that flow through these terminals daily, resulting in \$35 million in potential exports lost every single day.

I can share a lot about this.

**Caroline Desrochers:** It's a domino effect.

**Pascal Chan:** I can keep going if you want.

Also, almost 400 million dollars' worth of goods pass through the port of Montreal every single day. Additionally, if you look at 2021, Transport Canada carried out an analysis of the impact of a shut-down and resulted—

**Caroline Desrochers:** Thank you.

**Pascal Chan:** I'm sorry. I'm done.

**Caroline Desrochers:** It's just because I have another question and I only have one more minute, but thank you so much. I really appreciate it. I think you're right that this is what's missing in this debate, because I know that even when we're talking about 13,000 workers, the impact goes much beyond them.

I don't have a lot of time, but my last question is for you, Mr. Neufeld. You said that we should completely do away with section 107. How much economic damage do you think should be considered enough before we take action to end the strike? How much economic damage on all of Canada is enough?

**David Neufeld:** Again, I represent members who are not impacted by section 107. It's hard for me to comment on what type of economic damage would be acceptable. However, what I would focus on is the responsibility of the employer to come to the table and negotiate fairly.

I'll use the example of Air Canada. It was very clear that Air Canada was waiting for the government to take action with section 107 and allow airline stewardesses and stewards to do unpaid labour. The Canadian public came on board and said, this is ridiculous. Who would show up for work and do all that work for free? They help take care of us on these airlines, and some of us here in the room use Air Canada and other airlines—and other airlines are going to be dealing with the same thing. I think Canadians understand that when things are hard and people are trying to make ends meet, these workers are included and deserve a fair collective deal and to be paid for the work they do. I would put the onus on the employer to come to the table to negotiate fairly.

**Caroline Desrochers:** Thank you.

[Translation]

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

Mrs. Gill, you have six minutes.

**Marilène Gill:** Thank you, Mr. Chair.

I would like to thank all of the witnesses for being here with us today.

Today is clearly providing a good example of the different sides of the debate, which makes for a really interesting discussion.

Ladies and gentlemen, as elected officials, we are playing devil's advocate somewhat when we ask you questions, because we understand the importance of free bargaining rights on the one hand, but also the importance of supply chain reliability, competition and productivity on the other. This puts us in an uncomfortable position at times, but I believe that difficult discussions are the most fruitful.

That said, you mentioned a topic covered by our study that we haven't discussed much so far, namely the definition of the term "work". It would be interesting to hear each of your thoughts on this subject.

Mr. Neufeld has already spoken about this definition in the context of flight attendants, but I am addressing all of the witnesses.

Can you tell us, in general terms, your thoughts on such a definition and the fact that it is not included in part III of the Canada Labour Code?

Let's proceed from left to right, starting with Mr. Neufeld, followed by Mr. Chan, Mr. Safayeni, Mr. Pigott and Mr. Leblanc.

• (1135)

[English]

**David Neufeld:** I'll turn it over to Mr. Leblanc for the response.

[Translation]

**David-Alexandre Leblanc (Assistant Director, Negotiations Section, Public Service Alliance of Canada, Union of Safety and Justice Employees):** Our presentation today will focus primarily on the use of section 107.

With regard to the definition of the term "work", I believe that, for several years now, the Canada Labour Code has been interpreted in the context of collective bargaining. If I am not mistaken, when he appeared before this committee earlier, Minister Zerucelli said that 97% of labour disputes are resolved without a strike.

For our part, given the bargaining situations we find ourselves in at the Public Service Alliance of Canada, we do not see the need to include a definition of the term "work" in the Canada Labour Code.

**Marilène Gill:** Okay. I must have misunderstood earlier, because you mentioned flight attendants. Perhaps you were referring to negotiations in which, if a definition of the term "work" had existed, flight attendants might not have experienced the difficulties they did.

Am I mistaken?

**David-Alexandre Leblanc:** We do not represent flight attendants.

**Marilène Gill:** That's fine. I took the liberty of bringing up the subject because you mentioned it. It's part of the second phase of the study.

Mr. Chan, Mr. Safayeni or Mr. Pigott, would you like to comment?

**Pascal Chan:** I will give my speaking time to Mr. Safayeni, because there is not much discussion about this topic in our network.

[English]

**Daniel Safayeni:** I'm going to turn it over to Chris, but I want to make two points.

It keeps being asserted that employers are not there bargaining in good faith and trying to reach a deal. I would like to understand where the evidence for that is coming from—that negotiations are not being done in good faith by employers. That is not my understanding of how it's been working in these disputes.

On the flight attendant pay issue—Chris is going to speak to greater detail about the definition of "work"—the government is undertaking an inquiry into this right now, in which FETCO and Pascal's members have participated. I look forward to hearing about what the truth of that matter is because that is not my understanding of the compensation formula for flight attendants.

**Christopher Pigott:** One of the challenges with the federally regulated industries that are subject to both part I and part III of the code is that it's quite unusual, actually, particularly in the transportation industry, for employees to be paid on a standard hourly wage or a salary model. Instead, you often have very complex systems of credits and non-time-based compensation schemes that determine how much someone is paid.

Flight attendants present a great example. Flight attendants are not paid solely based on time. They're paid based on a very complicated system of credits and guarantees that apply to their compensation.

[*Translation*]

**Marilène Gill:** I hate to interrupt, but I don't have much speaking time. However, if you would like to supplement your answer in writing, the entire committee and I would be delighted to receive it.

I know that the definition of the term “work” is not your main focus at the moment, but I am asking you the same question I asked the other witnesses.

In your opinion, could the inclusion of such a definition in the Canada Labour Code have changed anything in the flight attendants' negotiations, for example?

[*English*]

**Christopher Pigott:** It would be very difficult to define work in a way that makes sense across the federally regulated industries. I would be very worried about the unintended consequences of trying to create a one-size-fits-all definition of “work” that then needs to be overlaid on collective agreements and compensation schemes that are decades old. I do worry about unintended consequences.

• (1140)

[*Translation*]

**Marilène Gill:** This is, in fact, the difficulty faced by various legislators.

Thank you for your answer.

Mr. Chair, I will not have time to discuss section 107 of the Canada Labour Code, as I only have 20 seconds left. We can come back to that later.

**The Chair:** Thank you, Mrs. Gill.

[*English*]

We will now go to Ms. Goodridge for five minutes.

**Laila Goodridge (Fort McMurray—Cold Lake, CPC):** I want to thank all the witnesses for being with us today. This is such an important topic. You guys have all brought a variety of different perspectives on such a wide space.

Mr. Safayeni, you explained that the use of section 107 is complicated. There are other workers that get hit in those supply chains when work stoppages happen in certain spaces and places.

Do you believe that one potential solution to increase transparency and accountability would be that every time section 107 was used, it would have to come to Parliament to be debated and explained why it was required?

**Daniel Safayeni:** It's a good question. The provision has recently been used in a way—and this is important to mention here—that's being actively tested in the courts. FETCO is participating as an intervenor, representing the employer perspective in those cases.

I do think it's premature right now for Parliament to simply remove section 107, as has been asserted here and by—

**Laila Goodridge:** I didn't ask about the removal. What I'm specifically asking is, if it were to continue as is, to create some accountability, would we make it so that every time the government were to use it, it would have to bring it to Parliament to have a debate on it?

**Daniel Safayeni:** Where I was getting to with my answer is that the judiciary system is right now clarifying its proper scope and limits. I do think it's a little premature to front-run that process because they're going to be taking a look at this and making a determination on its usage and whether there should be those types of additional constraints added to it.

Let me just say this: We are very open to a discussion—I don't think this is something that should just come from labour or management and business—and to having an exploration of alternative tools and modernizing the framework in a way that works for all sides and all parties and gets us where we need to go. I'm not here to suggest this should be a fully baked solution.

**Laila Goodridge:** Thank you.

I have a very limited amount of time. I'm sorry to cut you off.

Mr. Neufeld, it's the same question.

Do you think making it so that Parliament needs to have a conversation on the use of section 107 after the fact would be a compromise, in some way?

**David Neufeld:** As pointed out, many collective agreements are currently done without having to go to section 107. I think the question you're asking is this: Is there a perception that bringing it to Parliament for a vote creates additional oversight? The perception may be that there might be a better way to do things.

Again, our position has been very clear: Remove section 107 from the Canada Labour Code and allow the unions to negotiate a fair collective agreement with their employers outside of that.

I'm going to turn it over to David-Alexandre.

**David-Alexandre Leblanc:** If you will allow me, our position is also informed by this: The Canada Labour Code already contains provisions for the minister. There are various things the minister can do in the context of a labour dispute. They can appoint a commission, as we saw in the recent Canada Post strike. They can name a mediator to help the parties come to a resolution. They can also force an employee vote on the employer's last offer. It's not as if there are no other resources in the Canada Labour Code for the government right now, in terms of helping the parties get to an agreement.

We see the recent use of section 107 as a bit of an overreach.

**Laila Goodridge:** You pointed out something very important. This has existed in the Labour Code since 1984, for over 40 years. It was used very sparingly in the first 38 years or so. In the last two years, it's been out of control. I think part of the reason it has been out of control is that wages have not been able to keep up with inflation, and inflation is directly caused by our government's out-of-control spending.

If we could get inflation under control, would that help ease some of the concerns around labour unrest in this country?

That's to you or Mr. Neufeld.

• (1145)

**David Neufeld:** What I can say, again, is this: Our members are not impacted by section 107.

To your point, are Canadians more generally concerned about the cost of living and making ends meet? Our union members feel the same way about making ends meet. We have many people in our public sector who make wages that.... They, too, have to work multiple jobs.

As long as employers are not coming to the bargaining table to negotiate in good faith and are dragging this out—expecting the government to bail them out and bring workers back to work—a very tenuous situation is created for union workers across this country.

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

[*Translation*]

Ms. Koutrakis, you have five minutes.

[*English*]

**Annie Koutrakis (Vimy, Lib.):** Thank you, Mr. Chair.

Thank you to the witnesses for being here today for this important study and for their important testimony.

I will begin my questioning with Mr. Safayeni.

You said, in your opening remarks, that labour instability threatens Canada's reputation and that employers believe in collective agreements. You said that mediation is a “last resort”, that employers believe in good-faith bargaining and that we need to make sure we protect our economy.

In your experience, what kinds of practices help maintain stable and constructive labour relations and prevent disputes from escalating, if our government believes the best deals are made at the bar-

gaining table? Could you share a little about your experience—what you've seen and heard?

**Daniel Safayeni:** In my experience, dialogue is important here. Speaking of your government, I applaud Minister Hajdu's announcement just recently around forming an official tripartite table that brings together labour, business and government in the same room to discuss these issues. Over the last 10 years, that has not necessarily been the case. There have been a number of ad hoc changes to the Canada Labour Code that were not really done in full consultation with the business perspective there. The result of this is a system that is less agile and is not modern. It also doesn't account for the fact that the Canada Labour Code was largely built in a post-war era. It did not contemplate an integrated and globalized supply chain. That's why, when Pascal speaks of the enormous economic impacts, the system is not really designed to handle that and deal with that in a fair and balanced way.

Again, I do have to call this out. We keep hearing that employers are not showing up in good faith, and that inflation and wages are not fair to the worker. Okay, well, a pilot strike is about to be under way at Air Transat. Negotiations on that have been ongoing since January of last year. It's been nearly 12 months. Pilots have been offered a 60% increase in wages over five years, the majority of that happening within one year, and 90% of the CBA has been agreed upon. There's no other side right now to negotiate with, so I'm wondering just where that notion is coming from.

I mention that because the relationships to your question here are important in terms of having a dialogue and having a space in which we can examine, in an evidence-based way, what aspects of the code are working and what aspects of the code need to be modernized. That way we can avoid the type of dispute that starts in one corner of the country but very quickly cascades, has enormous ripple effects and ends up holding the entire economy hostage.

There was a question earlier: How much economic damage is enough economic damage? We didn't get an answer to that.

**Annie Koutrakis:** Thank you for that.

This is why it was so important, when we heard through the Air Canada flight attendant work stoppage about the alleged unpaid work, that the first thing the minister did was to order a probe. We are anxiously awaiting to see that probe report, which is imminent. I look forward, as I'm sure all of us on the committee do, to that evidence, because it's important to know. Every Canadian who works should get paid for the work they do. I think that was an important position taken by the minister. She acted quickly. I think it's important information that will help every Canadian.

My last question is for Mr. Chan.

In your testimony, you said that the members of your organization feel that the government is not doing enough to protect trading. Could you talk to us a little bit more about why they feel that way? What can the government be doing differently?

• (1150)

**Pascal Chan:** Absolutely. Thank you for the question.

I mentioned, first of all, that they feel that not enough is happening because of the list of major labour disruptions we've seen that have impacted our economy. In addition to that, one of the roles the chamber plays is kind of convening. We talk about the 200,000 businesses but also all the industry associations that represent all sectors of business.

Over the course of the last, say, two and a half years, we've written a number of letters to the minister trying to raise concerns about these upcoming labour disruptions. They've been signed by about 115 industry associations from all over and by about 125 chambers of commerce. Some of them are even represented in this room: Balfour and District Chamber of Commerce, Cold Lake Regional Chamber of Commerce, Fort McMurray Chamber of Commerce, Sherwood Park and District Chamber of Commerce and Atlantic Chamber of Commerce.

Again, in communities represented by the MPs sitting around the table here, they have serious concerns about what these labour disruptions are doing, not only in the transportation sector but also down the economy and in all regions of Canada where the movement of these goods is critically important to their survival.

**The Chair:** Thank you.

[*Translation*]

Thank you, Ms. Koutrakis.

Mrs. Gill, you have the floor for two minutes and 30 seconds.

**Marilène Gill:** Thank you, Mr. Chair. I was hoping to have another six minutes.

Since I do not have much time, witnesses can provide me with a more detailed response in writing after the meeting if they wish.

Mr. Neufeld spoke about the need for structural change, and Mr. Safayeni said that ad hoc changes had been made and that the system needed to be modernized. I don't want to put words in their mouths, but this seems to go beyond the scope of section 107.

So, what are they suggesting?

Mr. Safayeni spoke of good faith. I am not assessing the good faith of either party or the merits of either party's demands in collective agreement negotiations. However, we want these negotiations to work well, meaning that they work quickly and to the satisfaction of all parties. I am sure the witnesses feel the same way.

If we are to make changes to other provisions, what changes are they suggesting? Which parts of the Canada Labour Code are they suggesting we focus on in particular?

I know that the answer to this question could be very long. I therefore ask the witnesses to send us their answers in writing if they wish. This would be relevant to the committee's work.

[*English*]

**Daniel Safayeni:** There are a number of things with the code more broadly that FETCO and our members find problematic. What I was speaking of were the 10 paid mandated sick days and how that has actually manifested over the last 10 years. That is not to say federally regulated employers are against paid sick leave—we are in favour of it—but in the way it's actually been implemented there have been, as Chris warned about earlier, unintended consequences: This is overriding existing collective bargaining agreements and adding an additional 10 paid days, based on employees who already had 10 paid sick leaves. It's problematic in how that's been implemented.

The outright ban on replacement workers has left organizations in a situation where they are going to struggle to keep basic and critical services that Canadians rely upon running in the event of a small disruption. Just to put a pin in this, you can now have a small, localized bargaining unit of, maybe, 100 people in a 30,000-people organization, and the ripple effects could shut that entire organization down, the way the legislation has been written.

My last point here on section 107, which is what the committee is investigating, is that I think we need to acknowledge the problem and urgency. We are not advancing a ready-made alternative today. What we are saying is that the government needs to look at intervention tools potentially beyond section 107, and these should be built around a few clear principles.

Number one—

[*Translation*]

**The Chair:** Thank you, Mrs. Gill.

**Marilène Gill:** Mr. Chair, the witnesses' answers may be submitted in writing.

**The Chair:** Yes.

[*English*]

Please provide the answers to Ms. Gill's questions, in writing, to the committee clerk.

We now move to Ms. Falk for five minutes.

**Rosemarie Falk (Battlefords—Lloydminster—Meadow Lake, CPC):** Thank you, Chair.

Thank you to the witnesses for being here.

Mr. Chan, I'm going to start with you, if I may. Just in pulling from what I have heard throughout the discussion, but also from your opening testimony, you said that we have what the world needs. I 100% agree. In Saskatchewan, we have potash, uranium, canola, natural gas and oil. We have every single thing that not only fuels people, but the world, and their comings and goings in an ethical and environmental way—and I would go so far as to say in the most environmental way in the world. I am so proud of my farmers and energy workers.

Does your organization support the escalating fertilizer tax that is on our farmers?

• (1155)

**Pascal Chan:** The escalating...? I'm sorry, but I'm—

**Rosemarie Falk:** The fertilizer tax that our farmers are paying for seems to be going up quite regularly. Does your organization support that?

**Pascal Chan:** I was going to say that I'd have to check in with my colleagues. I can't speak to that at the moment. I apologize. I can get back to you with an answer.

**Rosemarie Falk:** That would be wonderful. I would love it if your organization could supply that. I know what my chamber members at a local level think about those taxes, those punishing taxes on their ability to grow their business. I know what they think of that, so I'd like to know what the national organization thinks.

**Pascal Chan:** I can share that answer with you.

**Rosemarie Falk:** My second question for you is about Bill C-69. Does your organization support the “no more pipelines” bill?

**Pascal Chan:** Do we support the “no more pipelines” bill...Bill C-69?

**Rosemarie Falk:** Yes, Bill C-69. It was implemented under—

**Caroline Desrochers:** I have a point of order.

This is not relevant to this study. We're studying section 107 of the Canada Labour Code and the right to strike.

**Rosemarie Falk:** It absolutely is.

**The Chair:** Thank you, Madame Desrochers.

Ms. Falk, you have the floor.

**Rosemarie Falk:** Thank you very much, Chair.

Does your organization support Bill C-69?

**Pascal Chan:** I can get back to you on the question of Bill C-69 as well. I'd be happy to do that.

**Rosemarie Falk:** That would be wonderful. I would like to know that too.

How about Bill C-48? That is the shipping ban on tanker traffic on the coast of B.C.

**Pascal Chan:** We have not been supportive of the tanker ban. We know that we need to increase our exports out of the west coast, so I can get back to you with specific details about that.

**Rosemarie Falk:** How about Bill C-69, though? We need to pipe that oil to the coast in order to put it on a tanker and get it to the

world, to trade it. I'm just surprised that your organization doesn't have a position on Bill C-69, then.

**Pascal Chan:** It's not that we don't have a position. I want to—

**Rosemarie Falk:** What is the position?

**Pascal Chan:** —confer and get you the actual position from my colleagues who are, specifically, in natural resources and in agriculture as well.

**Rosemarie Falk:** Okay. I look forward to receiving those positions.

**Pascal Chan:** We also just produced a paper on exports of—

**Rosemarie Falk:** The other thing that you mentioned in your opening statement was that cabinet should have the power to act when everything else has failed. What does that mean?

**Pascal Chan:** Again, we talked about two options. One is providing the federal government with more tools to—

**The Chair:** Excuse me for just a moment.

Is it the translation, Mr. Joseph?

[*Translation*]

**Natilien Joseph (Longueuil—Saint-Hubert, Lib.):** The interpreter is having difficulty doing their job because two people are speaking at the same time.

[*English*]

**The Chair:** No. The translation is fine.

Are you on the right channel?

[*Translation*]

**Natilien Joseph:** Some people are speaking at the same time, Mr. Chair.

[*English*]

**The Chair:** We'll go to Ms. Falk.

**Laila Goodridge:** I have a point of order.

I'm very curious. It seems this is just being used to try to interrupt my colleague, Ms. Falk. Our Bloc colleague, who is listening in French, is saying there are no translation issues. I'm just wondering if we can have some clarity because they can't just claim translation issues as a way to interrupt.

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

There is no point of order there and I've stopped the time. Ms. Falk has her full five minutes.

**Rosemarie Falk:** Thank you.

**The Chair:** Continue. You've used up two minutes and 47 seconds.

**Rosemarie Falk:** Yes, for sure. Thank you.

Mr. Chan, what does that mean, that the cabinet should have the power to act when everything else has failed?

**Pascal Chan:** Thank you for the question.

There were two things that I mentioned as options. One, first of all, was that the government should have more tools to be able to address dispute resolution. That is, when we look at the process right now where we've gotten to a place where parties are too far from an agreement, the government could appoint a special mediator who would be able to make recommendations to both parties, as well as to the minister of labour, in a situation where all of this is evaluated and they make a recommendation on whether or not they should act. That would provide a bit more substance to the recommendation, if the government needs to act in the case that there is too much economic damage, potentially, on the table that could be caused.

**Rosemarie Falk:** When I look at Bill C-5, which I would argue was expedited through the Parliament in June—it's actually the only piece of legislation this government's been able to do anything with—ironically, they've done nothing with Bill C-5. Bill C-5 gives cabinet the ability to exempt major projects from several different laws, like Bill C-48, Bill C-69, the industrial carbon tax and the emissions gas cap.

Is your organization encouraging the government to use the powers that it has within Bill C-5 to get major projects built so that we are able to trade our exports?

• (1200)

**Pascal Chan:** Yes, absolutely.

We've also made the point as well—and I'm happy to share additional resources on this—that we need to make sure we don't create a two-track system where only projects that are deemed of national interest are the ones that progress, but also other major projects—

**Rosemarie Falk:** There are no projects that are progressing at all.

**Pascal Chan:** No, I said that we need to create....

The Major Projects Office—

**Rosemarie Falk:** I know, but my point is that we have no projects being created at all.

What are new projects—

**Pascal Chan:** So we—

**Rosemarie Falk:** Even on this two-track thing, I don't even know if that's real because this government doesn't move anything along by way of major projects....

Look at what we're debating in the House today, the MOU on this pipeline with Alberta. They have the powers that were given to them in June to do that, and they're not doing that. I don't actually think this Liberal government cares about jobs, cares about trade or cares about diversifying our trade agreements and partnerships with other countries to get our products—which are the best in the world—to those markets.

**The Chair:** Thank you, Ms. Falk. That's your time.

We'll conclude with Ms. Fancy.

I would remind members again that if one person is talking over the other, it cannot be translated. That was the point of order Monsieur Joseph raised, which is accurate.

We'll now go to Ms. Fancy to close, for five minutes.

**Jessica Fancy (South Shore—St. Margarets, Lib.):** Thank you very much.

Through you Chair, I'd like to thank all of the witnesses for being here in person. I agree with my colleagues today that it is nice having everybody in person, as it creates a more relational type of atmosphere.

Let's pick up on what my colleague was trying to do with her line of questioning, but I want to rephrase it in terms of our government's investment in expansion.

My first question would be for Mr. Chan.

In regard to the federal budget, including major investments in infrastructure and in trade corridors.... I'm from Atlantic Canada, so I'm a touchpoint within trade nationally, regionally and internationally. Do you think that clarity in the labour definition would improve certainty for employers considering investments in Atlantic regions?

**Pascal Chan:** I'll say this. I think that greater clarity or greater predictability instilled in our tendency to see all of these labour disruptions and a more predictable and favourable environment for attracting foreign investment is a large determinant in that. Therefore, addressing a lot of these issues, as well as increasing our capacity to trade with other countries by expanding major infrastructure, will all factor into the equation as to whether we're going to improve our reputation internationally and be able to take advantage of those elements to diversify our trade.

**Jessica Fancy:** That's wonderful. Thank you so much. I wanted to give you time to say what you wanted to in response to my other colleague.

My next question is for Mr. Pigott. Thank you very much for being here today.

In the beginning, you talked about a couple of case studies and things that had already been done, or precedents.

Are there precedents? You mentioned one—I believe it was OPSEU—and another from a case in 2024. I'm wondering if you could expand on those and show how unclear definitions have led to disputes or financial penalties that could deter investment in smaller, rural markets. I say, “smaller, rural markets” because I'm from a rural riding in Nova Scotia.

**Christopher Pigott:** Thank you for the question.

Perhaps the best example that would speak to your question is the 2024 decision I mentioned in which the Ontario Superior Court of Justice found that the back-to-work legislation that ended the 2018 Canada Post labour dispute was a reasonable limit on charter rights. In that dispute, an ongoing period of rotating strikes had basically shut down Canada Post. Canada Post is not as important as it used to be, but what the courts have found in this regard is that it's still vital to rural, remote and northern communities.

**Jessica Fancy:** Thank you very much for that.

It's something to recognize, as well, that 97% of disputes are completed without any type of government stepping in.

I think balanced reform is what we're trying to get out of this study, so if Parliament considers reform, how do you think statutory language both enables employers to meet these labour market needs and protects workers from a misclassification, unpaid overtime or an erosion of rights?

**Christopher Pigott:** If part III of the code is going to be examined and amended, it needs to be done in a comprehensive way that avoids the piecemeal, one-off changes to specific terms that create unpredictability for employers and impact employers differently depending on which industry they are in.

Any reform to the definitions in part III of the code calls for a comprehensive review that has both employer representatives and worker representatives at the table to figure out what's working and what's not. Through that review, hopefully, any definitions, whether related to work or any other minimum standards that are unclear or not doing the job they need to do in the 21st-century economy, could be reviewed and jointly agreed-upon changes could be made.

• (1205)

**Jessica Fancy:** Wonderful.

I have a minute or so left and I have one last question for you. Thank you very much, Mr. Pigott.

From a legal perspective, what do you feel are some of the most significant risks that our ambiguous definitions of “work”—which is what we're trying to define here with this study—pose, particularly for small or mid-sized employers operating in rural regions?

**The Chair:** Please give a short answer.

**Christopher Pigott:** The biggest challenge is that if the legislation doesn't provide clarity on the term, either the workplace parties or, ultimately, arbitrators or the courts need to try to figure out what to do. That uncertainty just continues down the pipeline and impacts businesses on the ground as they're trying to operate.

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

That concludes the first round. I would like to thank the witnesses for appearing today and providing testimony on this particular study.

With that, we'll suspend for five minutes while we transition to the next panel.

• (1205)

(Pause)

• (1210)

**The Chair:** Committee members, I welcome you back to the second hour of meeting number 20 of the HUMA committee.

We have the following witnesses appearing.

In the room, we have Professor Gesualdi-Fecteau, a professor at the Université de Montréal, appearing as an individual. Appearing online, we have Wesley Lesosky, president, airline division of the Canadian Union of Public Employees. From the Conference Board

of Canada, appearing virtually, we have Pedro Antunes, chief economist.

Before I begin, you have the option to choose to participate in the official language of your choice. Please make yourself familiar with the channel that gives you that interpretation. As well, if there's an interruption in translation services, please get my attention and we'll suspend while it is being corrected.

Also, please wait until I recognize you by name to speak.

[*Translation*]

**Marilène Gill:** Mr. Chair, the interpreter informs me that there are currently difficulties with the interpretation and that we can suspend the meeting.

**The Chair:** Is there a problem with interpretation?

[*English*]

Okay. We'll continue and see if they're okay.

I'm getting a thumbs-up.

[*Translation*]

**Marilène Gill:** I can hear the interpretation.

Thank you.

[*English*]

**The Chair:** Each witness will have five minutes to give an opening statement.

We'll begin with Professor Fecteau for five minutes.

Professor, you have the floor.

**Professor Dalia Gesualdi-Fecteau (Full professor, University of Montreal, As an Individual):** Thank you, Mr. Chair.

Most of the testimonies that were presented before this committee have focused on section 107 of the Canada Labour Code and its disruptive impact on labour relations. Today I'm going to focus more on something else, on another key element of the committee's study, which is the definition of “work”.

In several recent labour disputes in the federally regulated private sector, the central issue has been working time. What I'm going to argue today is that the very definition of “work” needs to be understood as the definition of what working time is.

How do we reduce the likelihood of such disputes, while ensuring a level playing field across sectors and workplaces? I believe it is essential to consider regulatory changes to part III of the Canada Labour Code to clarify what is deemed to be “work”.

We've seen this in the railway sector. We've seen this at Air Canada. A significant amount of work is not compensated for at Air Canada, and flight attendants have been asking to be compensated for ground time. I believe that if a solution can and should be found at the bargaining table, we have to think of how provisions in part III of the Canada Labour Code can be a segue to avoid such situations.

By way of a reminder, labour standards play a critical role in ensuring a basic floor of rights, and part III of the Canada Labour Code sets out minimum labour standards in workplaces in the federally regulated private sector.

Again, as a reminder, part III of the code was enacted in 1965. It was not substantially updated until a comprehensive review was conducted in 2017, which led to a series of amendments. Some issues were unresolved, and in 2019, the government established the independent expert panel on modern federal labour standards to study, consult and provide advice on five complex issues related to the changing world of work.

With six other experts, I had the pleasure to serve on the expert panel. In the course of our work, we conducted extensive research and consulted over 140 organizations and individuals across Canada. The report was released in December 2019. One of the key issues—and I'm insisting here—that the panel tackled was the key function of statutory labour standards to set a boundary between what is work and not work, and to redefine what is working time, what is work, and what should be compensated as work.

Part III of the code, as it stands today—even after the report was released in December 2019—does not provide a statutory protection for employees who are required to remain available for potential demands for work from their employer.

According to the labour program's labour standards interpretations, policies and guidelines—standby time is not considered as being work. An employee who is not required to perform any duties, while obliged to remain available, is not entitled to compensation. In the questions, I can go back to what we heard in our consultations on that.

One of the key recommendations of the expert panel, recommendation 16, was to include in part III of the Canada Labour Code a definition of what is “deemed work”. It says:

Determining the circumstances under which employees are deemed to be at work, regardless of worksite(s), enables employees to be compensated for all time spent at the behest of the employer.

Further on, it says:

The definition should be based on the principle that work includes the time when an employee is effectively at the behest of the employer at or outside the workplace or worksite(s). Employees should be deemed at work “when providing services required or permitted by the employer”.

We often refer to this as “standby”. In the airline we'll refer to this as “ground time”—periods that are not currently addressed in part III except when the employee is effectively called. At that point, if he's called to work and has to be at the workplace, then he'll be paid for three hours, but standby periods, where the person is in the middle of two moments where they were effectively working, is not compensated for.

I could go back to this, but in other provinces in Canada, we have regulated this issue. There are other examples in Europe such as in France—*l'astreinte*, as we call it. This recommendation, we believe to be very clear and straightforward.

While some of the other expert panel's recommendations have been implemented—and I'm thinking here of minimum wage—the definition of what is “deemed work” remains outstanding.

● (1215)

I'm going to stop here. I would like to come back, in the period for questions, as colleagues from FETCO mentioned, to the piecemeal approach to modifying part III. I think it's an important point. We can get back to that afterwards.

Thank you very much.

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

We'll now move to Mr. Lesosky, president of the airline division of the Canadian Union of Public Employees.

You have the floor for five minutes.

**Wesley Lesosky (President, Airline Division of the Canadian Union of Public Employees (CUPE)):** Excellent.

Thank you, Mr. Chair and members of the committee. Thank you for the invitation, and you have my regrets that I could not appear in person.

My name is Wesley Lesosky. I have been a flight attendant for over 25 years, and I am proud to represent 10,500 flight attendants at Air Canada and Air Canada Rouge as president of the Air Canada component of CUPE. I am also the proud president of the airline division of CUPE, representing 20,000 flight attendants nationwide at 11 airlines, including WestJet, Air Transat, Porter, PAL, Flair and others.

The study before this committee today is one that goes to the very heart of fairness at work.

Across the airline industry, flight attendants perform hours of work every day without pay, from mandatory safety checks to boarding passengers to attending onboard emergencies and Transport Canada-mandated briefings, safety audits and pre-flight and post-flight checks. These are essential safety tasks directed by the employer and should, by any reasonable definition, be paid work. However, because the Canada Labour Code lacks a definition of “work”, airlines rely on a block-to-block system that pays us only from push-back to arrival. The result is duty days of 10 to 12 hours with pay for only five to eight of those hours.

When those unpaid hours are included, many fall below the federal minimum wage and often below the poverty line. Even full-time flight attendants often earn just \$26,000 per year, which doesn't even cover rent in cities such as Toronto, Calgary, Montreal and Vancouver, where the majority of our members are based. We've spent years trying to fix this.

In 2023, we began lobbying the federal government through CUPE's "unpaid work won't fly" campaign. We held demonstrations across the country. We submitted a petition with 17,000 signatures to the House of Commons. In 2024, we met with MPs from all parties to talk about the abuse of unpaid work in our industry. Opposition parties introduced Bill C-409 and Bill C-415, which had broad support but died with the 2025 election.

For years, the federal government insisted that unpaid work should be resolved at the bargaining table. In good faith, we obliged that request. Throughout the spring and summer, we offered multiple proposals to Air Canada during bargaining: paying all hours at full rate, internal wage adjustments, duty-day compensation and flat-rate top-ups.

Air Canada rejected them all, often within minutes. Why? They saw no need to negotiate, because they expected federal intervention to bail them out. Air Canada CEO Michael Rousseau said so publicly.

Within hours of us going on a lawful strike, the government invoked section 107 and took away our only leverage, at Air Canada's request. Because of the courage of our members to remain on strike, and despite the best efforts of Air Canada and their enforcers in the federal government, we compelled our employer back to the bargaining table. We made partial progress on unpaid work in our new contract, but only after enormous disruption to the public and severe damage to labour relations.

This underlines the core problem. If committee members take away one thing, hopefully it is this: Workers should not have to negotiate for the right to be paid for their time at work. It should be the bare minimum.

Our union is participating in Minister Hajdu's industrial review on unpaid work, and we are eager to see its result. However, I want to be clear. Flight attendants in this country don't need an inquiry into whether unpaid work is happening. We experience it every day when we report for work. We may as well have an inquiry as to whether the sky is blue. Let's also be clear that the issue is not isolated to Air Canada and it is not going away—just ask the flight attendants at WestJet, Porter, Pascan and PAL, who are negotiating new contracts right now.

When flight attendants are forced to work unpaid hours, it is an abuse of their time, their extensive training and their dignity. It's also a public safety issue, because underpaid, exhausted crews are not what any passenger wants in an emergency. Parliament has the power—and the responsibility—to fix this.

We're calling on Parliament to act immediately on the following three steps.

First, define "work" in part III of the Canada Labour Code. Make it clear that all hours at the employer's direction—before, during

and after flights, including boarding, deplaning, delays and mandatory training—constitute paid work.

Second, require that all such hours be paid at the employee's regular rate of pay. No more "half rate" for ground duties and mandatory training, especially when those duties are safety critical.

Third, end the abuse of section 107 to unilaterally impose binding arbitration in disputes like ours. Every time section 107 is used, it erodes workers' constitutional right to strike and signals to employers that they can ignore fundamental issues in bargaining.

In 2025, no one in Canada should work for free. We urge the committee to recommend immediate amendments to the Canada Labour Code to end unpaid work and restore fairness to federal workplaces.

Thank you very much.

● (1220)

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

We'll go to Mr. Antunes for five minutes.

**Pedro Antunes (Chief Economist, The Conference Board of Canada):** Thank you, Mr. Chair and honourable members, for the opportunity to testify.

I'm not a labour law specialist, and I have not conducted research directly on section 107 of the Canada Labour Code. My perspective comes instead from examining the economic impacts of major work disruptions, including rail and port stoppages. I would like to offer a few economic considerations that I think are relevant to the committee's study.

I think the problem stems from high market concentration for a lot of single operators in this country. It makes the economy vulnerable in that way to work stoppages. Canada is a large, diversified economy, but many key industries remain highly concentrated, with a small number of firms controlling large shares of national capacity. This includes sectors such as transportation—as we've been talking about—telecom, food processing and food retailing, and certain resource-based industries. High concentration in a single operator magnifies the economic impact of any major disruption. When a dominant firm faces a labour stoppage, the effects are no longer between the firm and its employees; the shock spreads across supply chains more broadly.

I'd like to offer that the problem is market power. Canada has a competitiveness problem. We've heard this very much recently around the productivity issues in Canada stemming from two things: the lack of investment—private investment—and a lack of competitiveness. It's a well-known issue in Canada. Where market power is concentrated, work stoppages can lead to immediate and disproportionate spillovers.

The other thing that I think is important is transportation. We've done some work specifically on some of the work stoppages that happened in 2024 around rail and ports, but transportation really deserves special attention. The transportation sector is not just another industry. It is the backbone of how the Canadian economy functions. It's roughly 30% of our GDP, and I will remind folks that GDP is our income earned from economic activity. Therefore, 30% of our income that accrues to workers and to firms is directly tied to exports. This means that a large share of our Canadian production must physically move across borders to reach markets. If we add interprovincial and inter-regional trade, the dependence becomes even greater. Most goods produced in Canada must travel long distances at least once to reach consumers, supply chains or international markets.

The other piece that's important—and this was very apparent during the rail strike in 2024—is the legacy impact on investment attractiveness. Again, I go back to our productivity problem, which is one of attracting private investment to this country. It doesn't showcase very well if we have, essentially, bottlenecks or problems with getting product to market. When labour stoppages disrupt transportation corridors, ports and rail networks, the effect is not just temporary delays; it tells global investors that critical Canadian infrastructure may not be reliable.

Again, in 2024, we saw a lot of movement pre-empting the rail strike to other ports, activity remaining south of the border instead of coming north, and this is a reputation risk that can undermine efforts to attract capital to resource projects, manufacturing, clean tech and others.

I'll stop there. Thank you.

• (1225)

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

We'll now begin the first round of questioning with six minutes for Mr. Seeback.

You have the floor.

**Kyle Seeback (Dufferin—Caledon, CPC):** Thank you very much, Mr. Chair.

I want to first talk to Wes.

Wes, thanks so much for being here. Thank you for your opening statement. I was particularly moved by the “may as well have an inquiry as to whether the sky is blue”, the so-called inquiry on unpaid work.

The minister was here at committee, and I tried to press her on whether or not, in the five meetings you had with her before she invoked section 107 to order you back to work under the existing col-

lective agreement, you advised her that your members were doing work unpaid. She refused to answer that, which I found curious.

Liberal members at this committee are using this line, and I want you to let me know what you think about this line. They use it in almost every question. It's “allegations” of unpaid work. What they're effectively doing is saying that you're only putting forward allegations of unpaid work, that it's not a fact; it's an allegation. What are your thoughts on that?

**Wesley Lesosky:** Thank you for the question.

I mean, it's not allegations when it happens, when it's been demonstrated and when it's proven. As we explained to Minister Hajdu when we met with her in September, complaints in unionized environments are not often received by the department of labour. They're received by an arbitrator through a grievance process. There are no complaints that directly come to her or her office. That would be something on which we're dealing with the employers.

It is strongly concerning when she states things such as they are “allegations” when, again, it's so well documented.

• (1230)

**Kyle Seeback:** One of the things that has come up repeatedly from union members during this study is that the use of section 107 actually makes relationships between employers and unions worse. I've asked that question of the minister. I asked it of the Secretary of State for Labour. They refused to answer that question. They just tap danced around it and talked about various different things.

What's your position on that? When the government uses section 107 to order you back to work or orders you to continue to work under the existing collective agreement, does that make your relationship with the company better or worse?

**Wesley Lesosky:** Thank you for the question.

It makes the relationship with the employer worse. It deteriorates labour relations. It deteriorates trust of the employer within the membership. It puts everything on the side. After years of building up a relationship with Air Canada to the point where we were having weekly discussions.... Since the strike, we have not had discussions, other than contractually mandated ones such as union-management headquarters meetings.

It takes away everything, because you have a third party playing within this that is siding with one side. It erodes labour relations, and you have to restart that. For somebody in my position, who has been here for eight years, that's very problematic. It goes against the core of what a union and management committee should work towards and work in unison for going forward.

Obviously, we'll never see eye to eye on everything, but that's what collective agreement provisions, grievance provisions and stuff like that are for. Section 107 definitely erodes the working relationship amongst the two groups, in my opinion.

**Kyle Seeback:** That's an opinion that's shared by every union that's come here today, so I don't think this is novel or new. I wonder if the Liberal members and the government will start saying those are allegations.

What I also wanted to talk about is the government's use of section 107 eight times in 14 months. It's an unprecedented use of this power.

Many unions that have come here have said that this actually takes away from the collective bargaining process, because the employer just says, "I'm just going to wait for Big Brother to jump in and order these workers back to work under the existing agreement." They say that they don't really have to bargain that hard and that they'll pretend to bargain. What's your view of that?

**Wesley Lesosky:** Thank you for the question.

It's what I believe we witnessed at Air Canada when we saw our CEO publicly state that he assumed 107 would come in and we would not go on strike. That is incredibly problematic. To say something like that so vocally and so clearly shows what we believe was the intent from the onset. There was no strong, true interest in coming to a collective agreement and a ratified collective agreement.

Both sides discussed at the onset that this was obviously the goal: to come to a ratified collective agreement that both sides would be happy with and would move things forward, move labour relations forward and move the membership to a happy place with proper compensation and proper work rules.

When you saw that at the end, it was deteriorating for sure.

**Kyle Seeback:** Madam Fecteau, you talked about work and the definition of "work". It seems to me that somehow the Liberals think there's some dispute as to whether or not flight attendants were doing unpaid work. Do you have any opinion on that, or do you know the situation enough as to whether or not they were performing unpaid work?

**Prof. Dalia Gesualdi-Fecteau:** I think I can speak in general terms. When someone is at the workplace at the behest of the employer, the person is working and that should be considered as working time.

**Kyle Seeback:** If you're not being paid for that time, you are therefore doing unpaid work.

**Prof. Dalia Gesualdi-Fecteau:** It's an issue, I believe, from a labour law perspective, and I think that has to be clarified in part III. It's going to help. It's going to level the playing field, even though solutions on the compensation schemes, when you're in a unionized workplace, will be reached at the bargaining table. Part III levels the playing field and provides a definition that is the same across sectors and across workplaces.

**Kyle Seeback:** Thank you.

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

[Translation]

Ms. Desrochers, you have the floor for six minutes.

**Caroline Desrochers:** Thank you, Mr. Chair.

I would like to thank the witnesses for their time and for preparing for the meeting.

• (1235)

[English]

First I'd like to start by saying that we do take very seriously the issues that were brought up around whether or not flight attendants are being paid or are unpaid for some hours worked. We do know the reality is not black and white. Since members across are trying to paint this as a black and white issue, this is why we ordered a probe into this, and we're looking forward to the result.

I also take offence with what the members are saying around the suggestion that the government has no incentives for these negotiations to go and that we're just waiting to step in. I think we have much more valuable things to do with the time and the funds than stepping in. We would like things to be resolved at the table; however, there is an issue with respect to the economic impacts of some of those strikes that does need to be considered.

I just want to talk for a minute to the representative from the Conference Board.

**The Chair:** That's Mr. Antunes.

**Caroline Desrochers:** Yes, it's Mr. Antunes. Thank you very much.

I want to talk a little bit about the impact. You talked about the rail industry. I was very surprised to hear from the member from Saskatchewan, particularly given the really serious damage that some of the rail strikes could have on the Saskatchewan grain and potash producers. A provincial official from Saskatchewan and the Prairies said they estimated that, if there was a multicompany stoppage from rail, it could have hundreds of millions of dollars a day in economic impact for Saskatchewan and the Prairies in respect of all of the crops that you talked about, potash and canola.

I wonder if you can talk a little bit more about those economic impacts that resonate all across Canada when our goods cannot move. They stay stuck somewhere. That is days and months of a farmer's work that just goes down the drain. Can you talk about that a little bit?

**Pedro Antunes:** Yes, of course.

In fact, the two big players, CN and CPKC, account for about 90% of rail traffic in Canada. Of course, rail traffic affects everything else in the transportation sector. The rail industry employs roughly 42,000 people. If you think about the transportation margins, they're fairly small, and that is the economic value that accrues to the rail industry itself.

What's much more widespread is the impact that it has in shutting down our trade. Rail lines carry about a billion dollars' worth of goods each day. This is, again, according to the Railway Association of Canada.

We looked at the economic implications of this back in 2024. The rail strike was in the summer, I believe in August of 2024. We assumed a two-week rail strike, and the implications of that on the economy were a \$3-billion loss. I don't have that by region, but I do have it for the national economy. A \$3-billion loss in GDP is certainly not immaterial, especially for something that lasts just two weeks.

Just to give you a sense of the outsized impact outside the rail industry itself, it's about 10:1. In other words, one dollar of GDP loss in the rail industry would lead to 10 times or a tenfold loss in the rest of the economy.

**Caroline Desrochers:** Thank you, Mr. Antunes.

I do find it funny that the members across are laughing as we were talking about a \$3-billion loss in a span of two weeks.

Madam—

**Kyle Seeback:** I have a point of order, Mr. Chair.

The point of order is that I was laughing at the fact that the Liberals extended—

**The Chair:** That's not a point of order, Mr. Seeback.

**Kyle Seeback:** —the contracts of the rail companies so they expired at the same time, which caused maximum—

**The Chair:** Mr. Seeback, you are out of order.

**Laila Goodridge:** I have a point of order.

**The Chair:** What's your point of order? Clearly state it. What's your point of order?

**Laila Goodridge:** The member opposite accused us of doing something that is untrue.

**The Chair:** That's not the first time that would happen in the committee, Ms. Goodridge.

We'll go back to Madame Desrochers.

You have the floor.

• (1240)

[*Translation*]

**Caroline Desrochers:** Ms. Gesualdi-Fecteau, thank you very much for your testimony today.

I really appreciate the work you are doing on the definition of work.

You said you wanted to come back to the issue of the fragmented approach. I will give you a minute to talk about that.

**Prof. Dalia Gesualdi-Fecteau:** Thank you.

I just want to point out that when we conducted consultations in 2019, we met with many representatives, employers, unions and workers. At the time, the lack of a definition of “work” or even of this concept in the Canada Labour Code was unanimously recognized as a problem. What we were told is reported in a section of the report. It created uncertainty and problems of disparity between sectors and between workplaces. I emphasize this because, at the time, there was unanimous agreement among both employer and worker representatives.

I would like to point out to the members of the committee that Manitoba, Saskatchewan and Quebec have resolved this issue by incorporating into their labour laws and minimum labour standards that when a person is at the workplace and available to perform work, they must be paid. That is work and that is working time. Three very different Canadian provinces have done this.

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

Mrs. Gill, you have the floor for six minutes.

**Marilène Gill:** Thank you, Mr. Chair.

I would like to thank all of the witnesses for contributing to our study.

Ms. Gesualdi-Fecteau, as you said at the outset, we have not studied the issue of the definition of work in part III of the Canada Labour Code in any great depth. You mentioned being part of an expert committee. What recommendations did the members agree on? I know there is probably a lot to say, so you can send us the recommendations in writing so that we can include them in our report.

Also, what difficulties arose? A lawyer mentioned several concerns about the definition and the fact that it would probably create more difficulties if we defined the term “work”.

**Prof. Dalia Gesualdi-Fecteau:** Thank you for your question.

First, I think that all labour lawyers will tell you that clear definitions create more certainty and less litigation. I would like to emphasize that. The risk is that insufficiently clear definitions will lead to litigation in labour relations and result in what we have seen in recent labour disputes, particularly at Air Canada, namely, strained labour relations during collective bargaining.

In my view, this is not a matter of defining some outlandish labour law concept. The definition of what is considered working time is a concept that has been known and recognized for 100 years, both in international labour law and in labour legislation. In my opinion, inserting a definition into the Canada Labour Code would provide greater certainty.

I refer you to recommendations 16 and the following in the 2019 report issued by the expert committee. In my opinion, they are very clear. These recommendations were made in a context where we had to decide on the right to disconnect, which is something else entirely. Our work, consultations, analyses and reviews of labour relations complaints led us to conclude that the problem was not one of the right to disconnect, but rather one of defining what is considered working time. The lack of a legal definition was causing problems. I would like to emphasize that.

Committee members, I propose that we return to these recommendations, which were discussed at the time with Minister Tassi and which, to date, have not yet been followed up on, unlike other recommendations, such as the establishment of a federal minimum wage, which have been followed up on and adopted in recent years.

• (1245)

**Marilène Gill:** In fact, recommendations were adopted by this committee and have been implemented.

My next question has two parts.

Why is this change perhaps more difficult to implement than others? What are the arguments or reservations that make them contradictory and prevent us from establishing a definition?

**Prof. Dalia Gesualdi-Fecteau:** I think this question should be put to the people who make public policy.

From my point of view, it's very simple. First of all, we need to establish that when a person is at the workplace, at the employer's disposal, it should be considered work and be remunerated. This is the basis of what we even consider to be work, because we are subject to the employer's authority. It is a fundamental rule of labour law that should be clarified in part III, in my humble opinion.

Then there is the whole issue of a person being at the employer's disposal, but perhaps not at the workplace, where the debate is more polarized.

**Marilène Gill:** Thank you.

That means we are ready to establish a definition in part III of the Labour Code.

You mentioned something else. In closing, I am thinking about the date on which the study was completed. I believe you said it was in 2019.

We know that changes have been made to labour standards in recent years. One example is the whole area of virtual work. You just touched on this issue. I hope it will be taken into account, because it can pose other difficulties for other categories of workers, particularly with regard to working from home or working in a space other than the employer's premises.

**Prof. Dalia Gesualdi-Fecteau:** I will respond very briefly.

Without meaning to sound too self-congratulatory, I reviewed that section of the report before coming here today. I can tell you that it still holds up very well. We almost foresaw the changes brought about by digital transformation. In my opinion, some of the recommendations in that report will be just as relevant in 2025 as they were in 2019.

**Marilène Gill:** Thank you very much.

I have one last question to ask you, just to clarify something.

You said that this committee was made up of people from both the employer and employee sides. So, there was a compromise.

I think you understand what I am getting at. I will let you speak.

**Prof. Dalia Gesualdi-Fecteau:** Indeed, this committee was represented by workers' groups, employers' groups and academics. In total, there were six experts on the committee.

**Marilène Gill:** Thank you very much, Ms. Gesualdi-Fecteau.

**The Chair:** Thank you, Mrs. Gill.

[English]

We'll now go to Mr. Reynolds for five minutes.

**Colin Reynolds:** Thank you, Mr. Chair.

Thank you, witnesses, for coming today. My question is for Mr. Lesosky.

A lot of witnesses who have been here stated that they support collective bargaining and that the best deals are always done at the table.

I want to talk about bargaining in good faith. There are some organizations questioning the collective bargaining process with regard to Air Canada flight attendants. I'm wondering when the Air Canada flight attendants' collective agreement expired.

**Wesley Lesosky:** It was on March 31, 2025.

**Colin Reynolds:** That's quite a bit of time before a strike was actually proposed.

Did CUPE have any issues getting Air Canada to sit down at the bargaining table?

**Wesley Lesosky:** No, we started bargaining—

**Colin Reynolds:** I meant after the expiration of the collective agreement.

**Wesley Lesosky:** Challenges.... No.

**Colin Reynolds:** Did they come to the table regularly?

**Wesley Lesosky:** We planned dates, and they came to the table regularly.

**Colin Reynolds:** How many negotiating committee meetings happened between the expiration date of the collective agreement and the notice to strike?

**Wesley Lesosky:** I don't have that in front of me. I apologize.

**Colin Reynolds:** Okay.

Do you know if the bargaining units for Porter, WestJet and Flair are having any issues getting their respective employers to the table?

**Wesley Lesosky:** I can't comment on Porter. I don't believe Flair is in bargaining. The other airline, WestJet, I believe is actively bargaining now.

**Colin Reynolds:** Okay.

Does the possibility of the section 107 order change how employers are negotiating?

• (1250)

**Wesley Lesosky:** From what I've seen, I believe it does, and I can base that solely on, again, our CEO making the statement that he did. I believe the crux of it was that they believed there would be an intervention at the end if the union moved forward with any type of work action, and that's what they played with. That's what I believe, based on what I saw.

**Colin Reynolds:** During the collective bargaining process, do you feel that they are open to the issues that are being brought forward, or do you feel like maybe they're dismissing them with the understanding that, most likely, they'll just get legislated back to work or section 107 will be brought in and they'll be sent back to work?

**Wesley Lesosky:** I believe, based on what I saw, that they came to the table, but I don't believe that they came to the table, at the onset, to necessarily come to a collective agreement that could be ratified. Again, I base that on how it ended. There were issues that were discussed during bargaining. There were minor issues that were agreed to, I'll say, during bargaining, but the crux of the issue—the unpaid work, expenses, wages, anything with a financial cost of substance—I believe, was delayed until the end for this reason. That's, again, based on what the CEO stated.

**Colin Reynolds:** The foundation of the relationship is the collective bargaining process. Do you think that the use of section 107 is undermining that relationship?

**Wesley Lesosky:** Yes, 100%, because I believe both sides should go to the table to bargain what they can, freely and fairly. However, if one side has leverage over something that they assume will be imposed, there's no incentive for them, necessarily, to come to the table at 100% at the onset. Therefore, yes, I believe that.

**Colin Reynolds:** Do you think that the repeated or looming use of section 107 is reducing workers' leverage at the table?

**Wesley Lesosky:** Yes, I do believe that, because there's always going to be that threat in the federal sector that it will come down, so you're always going to have to try to attract the best proposals at the onset, watering them down to try to get the employer to agree to something, which may not be something that's going to fit the needs of the membership. For a union we have to worry about.... It's not a worry, but we have to focus in on getting something to ratify, something in which our members get a voice, a say, so that they're happy to go back and so that labour peace is there for the term of that collective agreement—that's the point.

Section 107 throws that all out. It doesn't allow labour peace and stability, and it just has a disgruntled workforce coming back until the next time you go into bargaining, which both sides are anxious about when coming back.

**The Chair:** Thank you.

Thank you, Mr. Reynolds. Your time has concluded.

We now go to Madam Koutrakis.

[Translation]

You have five minutes.

[English]

**Annie Koutrakis:** Thank you, Mr. Chair.

Thank you to the witnesses for being here today.

I just want to clarify for my good friend, my colleague Mr. Seebach—who, I know, is a lawyer—that, when I use the term “allegations”, I'm pretending to be a lawyer, because I think that, when I come back in my next life, I'd like to be a lawyer. Therefore, because we know that there's a probe currently and that probe has not

come forward with its results, I'm using “allegations”, trying to sound like a lawyer. I don't mean any disrespect, whatsoever, to any worker in Canada. I'm completely behind my words when I say that every Canadian who works should be paid, so I meant no disrespect, whatsoever, when I used the term “allegations”.

My question is for Mr. Antunes. In your testimony, you said that, “Canada is a large, diversified economy”. You also said something that struck me when you said that a dominant firm in labour disruption is no longer an issue between that firm and its employees, as it has larger economical impact. I know I'm paraphrasing, but I believe that is what you meant in your testimony.

I know that you've analyzed how uncertainty affects investment decisions. From an economic and investor perspective, can you elaborate on what potential investors seek when they are thinking of entering the Canadian market?

**Pedro Antunes:** That's a very broad question.

Obviously, there are many challenges that Canada has faced. This is something that is a national concern, not just a concern at our organization. We've heard this from many economists. Canada is a laggard with respect to its private investment as a share of GDP. Private investment is what drives our future productive capacity, but we're a laggard compared with the U.S., France, Germany and many other countries in the OECD. I think the challenge is many-fold but one I'm hoping we'll address with the review process and by having certainty around that.

We've had many examples in the past that don't showcase us well. We can talk about TMX, for example, when the government had to buy the pipeline and there were cost overruns. Even with the government trying to get that pipeline built, it was a long process. This does not showcase well. The rail strikes were all over the news in the U.S. and Canada. Firms on both sides of the border were looking at options to avoid being stuck with a product at the border, as you may recall. This was very damaging on a much broader scale. How we showcase to the rest of the world and how effective our ability is to get projects done in this country.... Our dependence on transportation networks, especially, is hugely important in terms of attracting investment in this country.

Now, having said that, there are other issues. We can talk about taxes. We can talk about the challenges we're facing right now with the trade war with the U.S. However, these are important issues as well.

• (1255)

**Annie Koutrakis:** I believe that. You very rightly mentioned the challenges we are currently having with free trade and our good friend to the south. This is why our government said that it would like to double our exports with new partnerships. This is why we're working so hard. All Canadians can see how hard this government is working to make sure we get to a place where we achieve that result.

Do you believe that the government has a place during labour disruptions and that, as a last resort, section 107 offers the government a tool to protect our economy? Do you think that without section 107 being available as a tool, the government can achieve the result of doubling our exports to new partners?

**Pedro Antunes:** Obviously, there are some moral hazard issues that have been discussed from a union perspective and from a bargaining perspective. When a firm has so much market power, especially in transportation, as we just mentioned, it goes beyond just that firm and its employees. It affects the rest of the economy. In those cases, we need to be aware of the potential economic impacts. We have reports from Statistics Canada. When these talk about the accounts, they mention specific strike actions and how they have affected our GDP, income and—

**The Chair:** Thank you, Mr. Antunes. We are over time.

[*Translation*]

Mrs. Gill, you have the floor for two minutes and 30 seconds.

**Marilène Gill:** Thank you, Mr. Chair.

Ms. Gesualdi-Fecteau, I'll come back to you.

It seems to me that there must be a consensus among experts on the definition of work that we could draw on. I am referring to experts because you were a member of a committee. These could also be national or international experts, that is, a core group.

For example, you mentioned Manitoba, Saskatchewan and Quebec. You also mentioned on-call time in France.

Is there a consensus on the definition of work? Do you know if any countries or states have backtracked on the definition and decided to remove it at some point?

I know that the idea of defining work is fairly new, even though it could have been done 100 years ago.

In short, I am listening. However, if you do not have enough time to respond, I would invite you to send more information in writing to the committee.

**Prof. Dalia Gesualdi-Fecteau:** Once again, even though it is a subject in itself, I am not sure that the definition of the word “work” should be addressed here, or rather the question of what constitutes working time, what it means to be “deemed to be at work”.

For the sake of this discussion, let me give three Canadian examples.

Legislation in Manitoba, Quebec and Saskatchewan include a definition of an employee deemed to be “at work”. The definitions are part of these three statutes. Thus, when a person is expected to be at the workplace and is waiting to be assigned work, the person is considered to be at work and must be remunerated. This is essentially what the law provides for in Manitoba, Saskatchewan and Quebec. I would like to point out that, in terms of their legislative framework, these three provinces are quite different in terms of the scope of protections, but they have made these three choices.

France has implemented legislation on the concept of “on-call time”, which goes even further. For example, when an individual is

at home and must wait for the employer to potentially assign them work, they must be compensated, perhaps not by paying them their full salary, but by granting them compensation for this on-call period. There are therefore different solutions for how to compensate individuals during on-call periods, but this must be considered as being at work.

• (1300)

**The Chair:** Does that answer your question, Mrs. Gill?

**Marilène Gill:** Yes. Thank you, Mr. Chair.

[*English*]

**The Chair:** We will conclude with two and a half minutes to the official opposition and two and a half minutes to the government.

Mr. Seeback, you have two and a half minutes.

**Kyle Seeback:** Thank you, Mr. Chair.

Wes, the Liberals just sort of used a phrase about using section 107 as a “last resort”. Do you feel that it was used as a last resort to order you back to work, or do you think it was sort of pre-emptive, as in it happened almost immediately?

**Wesley Lesosky:** It happened almost immediately, for sure. I don't think it was used as a last resort.

**Kyle Seeback:** When it's used eight times in 14 months and hasn't been used eight times in almost the previous 50 years it existed, do you think it's being used as a last resort?

**Wesley Lesosky:** Absolutely not. No.

**Kyle Seeback:** Mr. Antunes, you talked about scarcity with respect to the transportation network in Canada. Were you aware that it was the current Liberal government that extended the CN contract to align with the CPKC contract so that they expired at the exact same time?

If you talk about scarcity of resources, would you agree with me that it was a terrible mistake to have both contracts expire at the same time so that no rail would move across the country at all in the case of a strike, as opposed to them expiring at different times and one of them, therefore, being able to operate when the other was on strike?

**Pedro Antunes:** It was a terribly impactful situation on the economy, for sure. I'm not familiar with how the contracts were initially set. Certainly, the fact that both rail lines—again, 90% of our rail service—were going down at the same time was extremely concerning.

**Kyle Seeback:** Just to be clear, that decision was made by the current government. They decided to extend the CN contract. They expired at different times so that you could have different collective bargaining processes take place. In fact, they extended the CN contract so that it expired the exact same day as CPKC, so that no rail would move.

Is it better to have half your rail system up and running in the event of a strike or none of it up and running in the event of a strike?

**Pedro Antunes:** Obviously, it's much better to have at least half up and running. I would say that even half our rail industry being down is still very problematic.

**Kyle Seeback:** Those are my questions.

Thank you.

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

[*Translation*]

Mr. Joseph, you have two minutes and 30 seconds.

**Natilien Joseph:** Thank you, Mr. Chair.

I would like to ask Ms. Gesualdi-Fecteau a question.

Before I begin, I would like to thank you for your explanations, which are wonderfully insightful. That may be of benefit to our colleagues across the table.

We are talking about section 107 of the Canada Labour Code. I know that is not why you are here, but we know that section 107 provides balanced, clear and critical protection that preserves social peace and protects public order in the labour market. It also ensures that the labour sector under federal jurisdiction functions properly.

Can you tell us who benefits from section 107? Does it exist for unions, employees and employers?

**Prof. Dalia Gesualdi-Fecteau:** Thank you for your question.

I can briefly discuss section 107, because I understand and appreciate the issues it raises. The problem with this section is determining how it is used. I believe this has been discussed at your committee.

This section has been in place since the 1980s, and the use of this provision over the last two years is unprecedented. We need to be very clear about that.

In my opinion, the challenge posed by section 107 in terms of labour relations and labour law, in addition to issues of freedom of association, is that there will be a whole debate on this issue in the courts—

• (1305)

**Natilien Joseph:** May I interrupt?

**Prof. Dalia Gesualdi-Fecteau:** Of course. You have every right.

**Natilien Joseph:** Sorry.

You've made a good point. How did your studies measure or analyze the effectiveness of conciliation and mediation mechanisms in resolving labour disputes?

**Prof. Dalia Gesualdi-Fecteau:** I have not personally studied the issue of conciliation and mediation, but what is certain—as many of my colleagues' studies will tell you—is that increased use of conciliation-mediation from the outset can make a difference.

The problem with using section 107 is having the executive branch intervene in labour relations. It can create a high degree of unpredictability, an element of surprise, the unexpected in labour relations, which is not beneficial to labour relations. I think that's the issue. It's about the possibility of the executive branch intervening in labour relations.

There is also the notion of essential service. It's a concept in labour law. If that is what has to happen, so be it, but I think that needs to be considered.

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

**Natilien Joseph:** My speaking time is up, Mr. Chair.

Thank you.

[*English*]

**The Chair:** Thank you.

That concludes today's committee hearing. The next meeting will be on Thursday, in camera, for a review of reports.

With that, is it the will of the committee to adjourn?

**Some hon. members:** Agreed.

**The Chair:** The meeting is adjourned.







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