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Chair

Mr. Massimo Pacetti

Standing Committee on Finance

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● (1540)

[*Translation*]

The Chair (Mr. Massimo Pacetti (Saint-Léonard—Saint-Michel, Lib.)): Good afternoon, everyone.

Before starting, I would like to wish you a happy 2005, as well as good health and prosperity.

I'll give Mr. McKay the floor.

[*English*]

Hon. John McKay (Parliamentary Secretary to the Minister of Finance): *Merci, monsieur le président.*

I intend to be fairly brief in my remarks, in part because I have some sympathy for when you're sitting over there and people go on and on, making remarks nobody is listening to. I thought I'd kind of cut that end of it off by simply saying this is a relatively simple bill. It enters into four new tax treaties with Gabon, Armenia, Oman, and Azerbaijan, and implements an already existing treaty with Ireland.

The treaty is modelled on the OECD model tax convention. Because we are a trading nation, of course, we are very interested in making sure we have as many treaty arrangements as we possibly can with as many countries as we possibly can. There are two objectives to the treaty; one is to avoid double taxation, and a second is to prevent tax evasion and tax avoidance. The first objective is to make sure citizens aren't double-taxed. I think it's pretty straightforward how that's done. By a series of agreements you essentially recognize what the income is, whose right it is to tax it, and respect the other country's taxation system, so that the resident ultimately gets credit for the tax that's paid. You achieve that through the allocation of taxing rights, and that is contained in this model convention.

The second part, of course, is tax evasion, tax avoidance. If you have people within a regime, there is a much better chance that you in fact will not have those kinds of problems.

There is always some argument as to why you want to enter into these kinds of treaties. I think the more obvious one is that you enter into a treaty such as this so that people who are working abroad or investing abroad have some atmosphere of certainty and stability for both investors and traders. The second point is that the rate of taxation can't be increased without substantial advance notice, since both countries have entered into that agreement. Third, the complexity of the tax system is essentially reduced.

Essentially this represents equitable solutions to a variety of somewhat vexatious taxation issues and the provision of some tools to combat both evasion and avoidance of tax. Therefore, by entering into this treaty, we create an environment to allow Canadians to more fully participate in the global economy. If this bill is passed, we'll move the number of treaties up from 83 to 87. In the last three years, we've negotiated 14 treaties with other countries.

I hope those remarks were brief enough, colleagues. I have with me Brian Ernewein from the department. He is a specialist in this area. I would have had David Sénecal with me as well, but he's on an airplane arriving from Chile, and he's not scheduled to land for another 15 minutes. Brian and I will try to respond to any questions you might have.

Thank you, Mr. Chair.

● (1545)

The Chair: He'll be available anyway, in 15 minutes?

Hon. John McKay: I'm sure he's going to rush from the airport to respond.

The Chair: Mr. Ernewein, do you have any comments, or can I go to the floor?

Mr. Brian Ernewein (Director, Tax Legislation Division, Tax Policy Branch, Department of Finance): No, that's fine. I'd just draw members' attention to the briefing materials we have provided. We've tried to lay out in these materials some country-by-country descriptions, as well as tables that give a snapshot of each of the treaties, with withholding tax rates, if applicable, under each treaty, etc. They may answer some of the questions. We can draw members' attention to them as required.

Thank you.

The Chair: I'll take questions.

I don't see any hands. Should we go to...?

Mr. Brian Pallister (Portage—Lisgar, CPC): Mr. Chairman, I have just a broad, general question, if I may.

I understand we have agreements with a number of other countries described generally as tax havens, whereby...and you alluded in your document to the importance of access to information, the sharing of information, and so on and so forth. But as I understand from the AG's report, I think it was 2002, they were talking a lot about the difficulties in obtaining information from some of these countries. We have agreements with Barbados, for example, and others, and yet the Auditor General's office and our departments are commenting that they're having challenging times trying to access a number of categories of information from these jurisdictions. That's in spite of the fact that we have agreements.

Can you comment on that?

Hon. John McKay: The problem is that the devil you do, the devil you don't. If you don't have a treaty, then for certain your requirements for access and privacy will be circumvented. If you do have an agreement, at least you have some legal foundation for accessing information on an individual taxpayer, as needed.

Mr. Brian Pallister: As a supplementary to that, going back to this tax havens issue, we have no control over the jurisdictions that we enter into agreements with, in the sense that they can set tax rates as they choose in their particular locale. So there's no...and I guess I'm answering my own question.

Is there anything in these agreements that would give us any assurance that Canadian capital wouldn't flow to some of these jurisdictions if a subsequent tax rate were established such as we have in the Barbados, where you have this deep-discount tax circumstance that causes capital to flow out of Canada to that jurisdiction? Is there anything in these agreements that addresses any of that, or are we still going to have the likelihood of an outflow of capital from Canada as a consequence of the reality that other people are going to have lesser tax regimes?

Hon. John McKay: I'm sure if we could pass a tax treaty that prevented or circumscribed in some measure or another those outflows of capital that you described, we'd do it. However, you can't circumscribe that. If you tried to, inventive folks would find ways of doing that.

You've seen the notes there; the investment in Ireland, for instance, is $18 billion Canadian. The investment by Ireland in Canada is around $1 billion. It's quite stark. I'm sure our investors like Irish pubs, but I don't think they like them that much, to invest $18 billion.

There's a variety of reasons why you would invest in Ireland. The demographic is very good there. They have a good location vis-à-vis Europe. They have some EU money that they've been able to apply to their infrastructure situation. They also have tax rates that are very competitive.

So whenever we're faced with that situation—and as you know, we're at budget time now—if we don't have competitive tax rates, well, we'll see further outflows of capital.

Mr. Brian Pallister: One of the issues of concern here, and the Mintz report raised it, among other things, of course, is the issue of tax deductibility for interest charges, allowing our people in Canada to lever on their own assets here, reduce their taxable profits in Canada, and thereby remove capital from the country to low-tax jurisdictions elsewhere. That is something the Minister of Finance in earlier testimony to the committee said that they were working on in Finance, that they were discussing. Of course, that's the same answer I've gotten for years.

So I'm just curious...and this is a broader topic, I know; it's not specific to you.

● (1550)

Hon. John McKay: It's a hallowed rule of tax law that every individual taxpayer is able to arrange his or her affairs to best suit his or her situation. Yes, I suppose when you have a variety of tax regimes, you're going to look for the most favourable one. You're going to realize your expenses in the least advantageous tax regime and maximize your profits in the most advantageous tax regime. Every country in the world functions in that atmosphere.

Mr. Brian Pallister: I would close by observing, though, Mr. McKay, that the irony of this circumstance is that by Canada having a lower tax regime, in the sense of allowing the tax deductibility of interest charges, the actual result, as has been remarked upon half a dozen times now, I believe, by the Auditor General's office and others, is that we reduce our revenue flows in this country to serve the social programs and so on that we want to support.

You say that every country wants to have a low regime, but in this particular subtext to that debate, I'd suggest that perhaps we don't want to be the lowest tax regime in the sense of allowing deductibility of interest, which results in capital going to other jurisdictions. Perhaps that has a perverse outcome for us.

Hon. John McKay: Well, there are a number of perverse outcomes in this entire exercise. I don't argue your point.

Trust me, when Mr. Ernewein and his colleagues at Department of Finance, along with the minister, talk about tax leakage, they talk about tax leakage. It's not as if a lot of thought hasn't gone into means by which that tax leakage could in fact be prevented. But every action has an equal and opposite reaction. We live in a global environment. We are particularly vulnerable to trade swings. We are probably one of the most trading nations in the world, if not the most, and it is absolutely necessary that we enter into tax conventions and tax treaties so that we have some regime—maybe an inadequate regime, but still, some regime—whereby we can recognize earned income.

The Chair: Mr. Hubbard.

Mr. Charles Hubbard (Miramichi, Lib.): Thanks, Mr. Chair.

I have just a couple of questions here. The first deals with two terms; a very common one, “residence”, and “qualifying periods”. You refer to certain articles. You also use the term “permanent establishment”.

Just for the record, could you indicate, in terms of our perception, what “residence” is, and second, “permanent establishment”? I would suspect that's of a business rather than of a person.

Hon. John McKay: When I studied tax at law school, I knew what a permanent resident was. There was a specific definition....

I'm not going to answer that question. I'm going to ask Mr. Ernewein to answer that question.

Mr. Brian Ernewein: I'm not sure I'll be able to do justice to the topic off the cuff, but I can give you a couple of general and accurate observations.

Residences are different for individuals and artificial entities, such as corporations. For individuals, it's where we hang our hats generally, and where we intend to do so for an indefinite period of time. It's the place, the country, with which we have the closest connection on a current basis.

To go on to talk about corporations, different countries have different standards for assigning or establishing residence of a corporation, as an example of an artificial entity. Many, like Canada, base it on place of incorporation. If you're incorporated here, you're treated as a resident of this country. The longer-in-the-tooth approach is to base it on what is known as “mind and management”, where the company keeps house, it's called, or where the board of directors meets, for instance. Other tests can also be used.

What the treaty attempts to do in each case, with respect to both individuals and corporations, is to rely first upon what each country's own domestic law treats as a resident, and then, if there happens to be a conflict whereby both countries think the same individual or the same company is a resident, there is often—not always, but often—a rule in the treaties to sort out where the person has the closest connection, for example, and therefore who gets to treat them as a resident and who does not.

You've also asked about the concept of permanent establishment. You're right that it deals mostly with businesses, but there can be individuals who have a branch operation. That will be relevant where, for example, a person is resident in Ireland and has operations in Canada. They're selling into Canada, they have an office or a warehouse, etc. It's a threshold question as to whether or not you have enough of a presence in Canada, in that example, for us to be able to tax you.

Under our domestic law it's simply a question of whether you're carrying on business. According to our treaties, there's a higher standard. There has to be an office, there has to be a warehouse, there has to be something here, a mine or a factory, for there to be a permanent establishment and thus for us to be able to tax, to use my example, an Irish resident.

● (1555)

Hon. John McKay: You didn't answer the question with respect to an individual. You answered it with respect to a corporation. With regard to the resident, is it still 266 days of the previous 365?

Mr. Brian Ernewein: I'd hoped I had spoken a little bit to the issue in terms of an individual being a resident. Under our domestic law, we do have a so-called deeming rule that treats individuals as being resident here if they were physically present here for 183 or more days of the year. Again, that would be just the start to the question. If another country thought the person was resident because they really thought their permanent home was there, there would be a sorting through of the various facts and circumstances to decide which country had the right to tax that person as a resident.

Mr. Charles Hubbard: I'm trying to remember, Mr. Chair, but within the last year I saw a news report on a shell game system that a major trader with oil was putting one of these countries through. I guess you can transfer your profits with a small office, and two or three people looking after books, with really no great industry in that country, but running a business through there by a highboy-lowboy sort of system.

Is Canada affected at all by any of that type of trading in some of these countries, where the profits—

Hon. John McKay: The countries that are specific to the treaty we're talking about?

Mr. Charles Hubbard: Yes. We have a list of countries here, and it was one of these countries that was being referred to in the article.

Hon. John McKay: The 83 countries we've entered into treaties with, or these four?

Mr. Charles Hubbard: I think the ones we have on the table today, right here.

Maybe Brian knows what I'm talking about.

Mr. Brian Ernewein: I don't know about the specific facts, but I think I can address the question nonetheless.

As a matter of contract law, it's possibly the case that oil, or whatever commodity we're talking about, can be transferred. Legal title can be transferred to a company in one of the countries, in any country, and then transferred out.

As a matter of tax law, that shouldn't have the effect of displacing profits that would otherwise be taxable by Canada. According to these treaties, and following the approach taken by the OECD, and outside the OECD too, for that matter, transfer pricing rules are set up to set a fair market value price for transactions between related or associated parties. If someone had decided they were going to set up a company in Oman, Azerbaijan, or Gabon, sell their oil to it, and then buy it back for double the amount, thereby trying to shelter profits over there, the transfer pricing rules ought to step in and say, no, the commodity was worth this; it's generated this much profit in Canada; there's been no value added by running it through this foreign entity; and for purposes of taxation in Canada, we're going to treat that as essentially a non-event.

Mr. Charles Hubbard: Thanks.

The Chair: Monsieur Loubier.

[*Translation*]

Mr. Yvan Loubier (Saint-Hyacinthe—Bagot, BQ): Thank you, Mr. Chairman.

I'm happy we're dealing with tax treaties today. I'm especially pleased that we're hearing from a specialist, Mr. Ernewein, who is well-versed in the matter of tax treaties.

I heard his last answer to Mr. Hubbard's question on the taxation of corporations that have subsidiaries in countries with which we have tax treaties. What I understood from his argument is that there is a way to calculate the actual profits of a subsidiary of a Canadian business operating in, for example, Azerbaijan. As a result, when they are repatriated to Canada, Canadian tax is assessed on those profits. I understand to that point.

However, there's an exception, and it's a sizable one. Mr. Chairman, this enables me to clarify the position of the Bloc québécois on the Canada-Barbados Tax Treaty. That treaty is proper and consistent with the explanation Mr. Ernewein gave earlier on the fact that, when a subsidiary of a Canadian corporation in Barbados pays a tax of 2 percent, for example, the profits, once repatriated to Canada, are subject to Canadian tax.

However, apart from the treaty—and this will be the gist of my question—there are regulations that the government adopts and under which, even if the treaty is well drafted—as is the case of the four treaties before us—exceptions can be made. Barbados is the exception because, although the wording is entirely proper and consistent with what is found in that for Azerbaijan, Armenia and Oman, there is still a problem. There is a provision, particularly paragraph 5907(11.2)(c) of the Income Tax Regulations, which renders moot the provision that a Canadian tax is levied to make up the difference between the tax rate of a subsidiary of a Canadian corporation in Barbados and the Canadian rate, where that subsidiary was first taxed at a low rate.

That paragraph in the Regulations provides as follows:

> (c) where the agreement or convention entered into force before 1995, the affiliate would, at that time, be a resident of that country for the purpose of the agreement or convention but for a provision in the agreement or convention that has not been amended after 1994 and that provides that the agreement or convention does not apply to the affiliate.

The tax treaty between Canada and Barbados entered into effect in 1995, and the essence of the treaty has not been amended. For the subsidiaries of Canadian corporations in Barbados, the Regulations repeal section 30 of the Canada-Barbados Tax Treaty.

As a result, when a Canadian business, such as Canadian Steamship Lines International, has a subsidiary in Barbados, even if its profits are taxed at 1 or 2 percent, once they are repatriated here, under the regulations adopted by the Executive Branch, that is to say paragraph 5907(11.2)(c), they are not taxed on a Canadian basis.

So I want to take advantage of Mr. Ernewein's presence here to ask him what warrants this kind of regulation here and whether, in the case of the four tax treaties that we have signed with these countries, there are regulations regarding Canadian tax that could permit precisely what the Prime Minister is doing with his ships and profits in Barbados.

● (1600)

[*English*]

Mr. Brian Ernewein: Thank you.

I guess I have two points, Mr. Chairman. I think the premise of Mr. Loubier's question may not be properly based.

The question before, with respect to...I forget which country we used as an example. Let's use Utopia as the other country with which we have a treaty so that we're not picking names. The point I was trying to make in the earlier explanation was that if there's a question of oil being sold to and from that other country with no value added in that country, there will be no profits attributed to that other country. Canada will continue to tax all of the profits there.

However, the converse of that is, if there is activity in that other country, so that in applying the treaty and proper transfer pricing principles the division of taxing rights would give some income for that country to tax and to decide how to tax, then it just follows that Utopia or Azerbaijan or Oman or what have you would properly have the right to tax that. Similarly, the example of Barbados was given. If there's income in Barbados that, after the proper application of transfer pricing principles, belongs to Barbados to decide how to tax, then I think that's part of our general treaty policy.

On the second point, following along the same lines with respect to our treaty policy, the policy is, as dictated by the Income Tax Act and the regulations thereunder, that when we have a treaty with another country, the income in that other country is taxable by that country and there won't be further attempts to tax it on a secondary basis by Canada.

So I do think they're separate points.

[*Translation*]

Mr. Yvan Loubier: Mr. Ernewein, my party and I agree on the principle of no double taxation. That's perfect. If, for example, under a tax treaty with another country, profits are taxed at 28 or 30 percent, once they are repatriated, since they've been taxed once at a rate comparable to the Canadian rate, they won't be taxed a second time. However, in the case of a country like Barbados, for example, where it is clearly stated in the tax treaty that, even if the tax rate is utterly ridiculous, between 1 and 2.5 percent, when the profits are repatriated here by a Canadian business, they will be taxed.

Except that the tax regulations that have been passed here by the government state, in paragraph 5907(11.2)(c), that there is an exception solely for the Canada-Barbados Tax Treaty; that is to say that section 30 of the Canada-Barbados Tax Treaty does not apply. That exception is provided for in government regulations, under which, if profits are initially taxed in Barbados at 2 percent, once they are returned here, the Canadian corporation has no tax payable.

Tell me why this regulation exists.

Furthermore, I want to know whether, in other treaties such as the four before us, paragraph 5907(11.2)(c) of the Income Tax Regulations would permit the same thing for other countries with which we have signed tax treaties: Gabon, Ireland, Armenia, Oman and Azerbaijan.

● (1605)

[*English*]

Mr. Brian Ernewein: I'd just like to say first of all that Barbados is not one of the treaties before us, so I'd rather not speak to it even as an example. But the answer with respect to it and every other country with which we have a tax treaty is the same. With the existence of a tax treaty, Canada's laws and the exempt surplus system that's been in place since the early 1970s provide that the income of companies resident in that country and owned by Canadian companies is taxable according to that country's laws, and not by Canada's. And the rate of tax applying to that income isn't a factor that's explicitly taken into account under our exempt surplus regime.

[*Translation*]

Mr. Yvan Loubier: Yes, but that's not the meaning. When you sign a tax treaty with a country, you have to make sure at least that the tax rates on corporate profits or dividends are roughly similar. If they aren't, when those profits or dividends return to the country, we have to ensure that the portion that comes back is taxed. You do it for other countries, but not for Barbados.

I wondered for years why you do it for other countries. That seems to be the case for the treaties before us. If you can't give me an answer, could you suggest the name of a senior official in your department who could answer the question, to which I've been seeking an answer for years. I tried to get an answer from the government; I gave up. I'd at least like to have a real explanation from your officials as to the logic of this regulation, which is exclusive to Barbados.

[*English*]

A voice: [*Inaudible*]...of Barbados, what are we talking about? These treaties are with Oman, Azerbaijan, etc.

The Chair: If I can help a little bit, it's—

Hon. John McKay: Ask a question that's relevant.

[*Translation*]

Mr. Yvan Loubier: I'm free to ask the questions I want to ask, and you should mind your own business.

[*English*]

The Chair: If we can at least—

Hon. John McKay: And we cannot offer you an answer, similarly. It's an irrelevant question.

The Chair: What are the rates in these five countries that are named here—Gabon, Ireland, Armenia...?

Hon. John McKay: Withholding rates?

The Chair: Yes.

Hon. John McKay: They're set out in the schedule there.

The Chair: Okay, so the schedule I have here—rates of withholding—is the answer to the question?

A voice: Yes.

The Chair: Thank you.

I have Ms. Ambrose.

Ms. Rona Ambrose (Edmonton—Spruce Grove, CPC): Thank you.

As you know, the Conservative Party supports these types of treaties. As you indicated, the information sharing component in particular addresses the issues of double taxation and tax evasion and facilitates investment, which is obviously positive.

My question's a little bit different; it's around the issue of human rights. And I understand this is a very complex intersection between fiscal policy and foreign relations policy, but I think it's important in the context of some of the issues we've been dealing with recently.

You made the point that Canada is the most trading nation, and I want to ask how you think we can use this kind of leverage to facilitate the discussion around human rights issues. In particular I'm thinking about Azerbaijan, which has quite a bad human rights record. Just from hearing from the public recently, I think this issue is very important and it's a value that Canadians want to see reflected in our trading agreements.

Could you comment on how you think that might be facilitated?

Hon. John McKay: You ask a very good question. We had quite an interesting discussion with the Senate committee on this very point. It's a vexing issue, and you rightly identify that Canadians are concerned about it.

It comes down to a kind of threshold issue. Do you enter into contractual arrangements, convention arrangements, treaty arrangements, commercial arrangements, with countries that you know or suspect are violating human rights, or do you draw the line and say, no, you don't meet a certain standard? The decision has been taken in the case of all four of these countries—five, really, including Ireland—to enter into agreements. I suppose the hope is that if you enter into commercial relationships there is then the possibility of greater respect for human rights. Certainly, if they don't respect human rights, why would they adhere to commercial rights, contractual obligations, things of that nature?

I appreciate that's not a terribly satisfactory answer. I don't think there's a terribly satisfactory answer, period. But the decision in this particular instance is to engage, and certainly our cultural human rights expectations will follow. And just possibly, by engaging we may well elevate human rights. But there's no guarantee that by entering into this we will get a better human rights result.

● (1610)

Ms. Rona Ambrose: Just to follow up, in your dialogue—you said you had this discussion in the Senate—was there any sense that the two departments, the trade and foreign affairs departments, were together on this issue? Is there a dialogue about it? I understand it's very difficult to intersect these two issues and use contractual obligations as leverage on issues that a lot of people will consider almost unrelated, but they're not—increasingly they're not.

So is there any sort of move that there be an actual formal policy by the government to demand these kinds of talks happen?

Hon. John McKay: Prior to entering into the negotiations, and probably even during the negotiations, the Department of Foreign Affairs provides a briefing to the Department of Finance on the human rights record and issues of concern, and they maintain a very active involvement throughout the entire process. I don't know whether you'd call that a policy, but it is a practice.

We don't have the lady representing the foreign affairs department here today, but she was pretty knowledgeable about all of the issues.

Ms. Rona Ambrose: I wanted to acknowledge, obviously, the progress the department's made in renegotiating and signing these treaties, but I did want to make the point that we are still outstanding in our treaty with our largest trading partner, and that's the U.S. It was four years ago that we reached an agreement in principle, but the details have yet to be finalized.

I wonder if you could comment on that. Some of the commentary is that our current withholding rules have come under attack for deterring U.S. investment. Is there any movement on that?

Hon. John McKay: It's a fairly simple question and a fairly complex answer, and I don't know whether we would be prepared to offer anything other than generalities at this point.

Is that clear?

Mr. Brian Ernewein: I think that's right in terms of the details of the negotiations, but much work has been done. Negotiations started quite some time ago and they are not yet finished. I've been told, although I haven't spoken directly to her or to her office, that the international tax counsel at the U.S. Treasury has left as of last week. If that's true, there will be a pause while we try to restart with her replacement.

I'm reasonably confident we will get there. It is a question of timing—when rather than if.

The Chair: Okay, I have one more speaker in the second round—Mr. Loubier, for five minutes—and then we'll start clause-by-clause.

[*Translation*]

Mr. Yvan Loubier: Already, Mr. Chairman? I'm so pleased.

Earlier I put my question to Mr. Ernewein. Can you recommend someone from the department who would explain to us once and for all why paragraph 5907(11.2)(c) of the Income Tax Regulations, under which no tax is payable on the profits of Canadian corporations that have subsidiaries in Barbados, which profits are then repatriated after being taxed at a maximum of 2.5 percent, was introduced, and exclusively for the Canada-Barbados Tax Treaty? I'd like to know that.

I was listening to Mr. McKay earlier. He should show a little more fair play and understanding. I know that's not his custom, that he won't be overwhelmed by finesse.

However, we've never been able to discuss the Canada-Barbados Tax Treaty here because it was signed in 1980. It was revised a few years ago, but not substantively, as a result of which we have never had the opportunity to settle this matter and we are forced to go public to demand answers, which we never get.

I would like us to be put in touch with someone who is thoroughly familiar with both this treaty and Canadian corporate tax regulations. Could you suggest someone? Perhaps we could have a meeting on the subject at some point.

For years now, we've been fighting to get to the bottom of this treaty, which is one of a kind. The treaty is very proper; it's like these ones. Moreover, we support these treaties because they were signed with countries that have some common sense and fairly comparable tax rates. However, I would like to know why there is a particular regulation regarding Canadian taxation in the Canada-Barbados Tax Treaty.

● (1615)

[*English*]

Hon. John McKay: Mr. Ernewein and I are here to answer questions pertaining to this treaty, and we've drifted fairly far afield as it is now. If the honourable member wishes to convince the finance committee that this is a worthwhile study, he's entitled to do that. He has all the rights and powers of every MP.

[*Translation*]

Mr. Yvan Loubier: I'll definitely do so.

[*English*]

Hon. John McKay: So he can put that on as subject matter for the finance committee to study.

The Chair: Just to interject, is there anything in these five agreements that will lead us to the same conclusion as the Barbados convention in terms of—

Hon. John McKay: In terms of which?

The Chair: —no withholding tax? I think you've made that very clear, but perhaps you would—

Hon. John McKay: No, the schedule for withholding taxes is in tab 3. It's set out there. There have to be notice provisions to change that. So I don't know how, even if Canada wished to, you would—

[*Translation*]

Mr. Yvan Loubier: With regard to the Chairman's question, perhaps I could provide more details. Will paragraph 5907(11.2)(c) of the Income Tax Regulations apply to any one of the treaties before us? They're very good; I see no problem with them. However, if this paragraph of the Income Tax Regulations is applied, it's no longer the same thing.

So I'll ask you a question, which also concerns the four treaties before us. Will paragraph 5907(11.2)(c) of the Income Tax Regulations apply?

[*English*]

Mr. Brian Ernewein: I think the direct answer to that is no. Paragraph 5907(11.2)(c) is a transitional rule for old treaties. These are new treaties, even including, I suppose, Ireland, because it's not just an amendment to an old treaty but a brand new one.

Then, in answer to the chair's question from a moment ago, these treaties will invoke the same rules of the Income Tax Act as the other 83 treaties—or I should say the other 82 treaties, because Ireland is one of these—that are already in place, by which I mean that if upon implementation of the treaty the standard exempt surplus regime will apply, you rely upon the other country's taxation of its own companies, whether they're owned by Canadian companies or by residents of third countries.

[*Translation*]

Mr. Yvan Loubier: That comes back to what I was saying, that only Barbados gets this kind of treatment, that is to say that section 30 of the Canada-Barbados Tax Treaty does not apply.

● (1620)

[*English*]

The Chair: Merci.

Are there any amendments? If not, we can go ahead and accept clauses 2 to 6.

(Clauses 2 to 6 inclusive agreed to)

[*Translation*]

The Chair: We'll move on to adoption of the schedules.

(Schedules 1 to 5 inclusive agreed to.)

The Chair: Is the title agreed to?

Some hon. members: Agreed.

[*English*]

The Chair: Shall the bill carry, since there is no amendment?

Some hon. members: Agreed.

The Chair: Shall the committee order a reprint of the bill as amended—but since there's no amendment, we'll print as is—for the use of the House at the report stage?

Some hon. members: Agreed.

The Chair: The meeting is adjourned.

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