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• (1105)

[English]

The Chair (Mr. Ali Ehsassi (Willowdale, Lib.)): Welcome to meeting number 64 of the Standing Committee on Foreign Affairs and International Development.

Today's meeting is taking place in a hybrid format, pursuant to the House order of June 23, 2022, but members are attending in person in the room. As far as I understand, we have no one online.

I'd like to make a few comments for the benefit of the members beforehand.

First of all, since no one is online and we don't have to spend any time on that, I would like to inform all members that today is Ms. McPherson's birthday.

Happy birthday, Ms. McPherson.

Voices: Oh, oh!

The Chair: On a less happy note, if I may, I would like to ask all members to wait until I recognize them by name before they speak—unless it's Heather, of course. She has all rights today. I remind you that all comments should be made through the chair.

Pursuant to the order of reference of Monday, February 13, 2023, the committee commences its consideration of Bill S-8, an act to amend the Immigration and Refugee Protection Act, to make consequential amendments to other acts and to amend the immigration and refugee protection regulations.

Concerning the drafting of any amendments that may be proposed by the members, I would like to highlight and remind everyone that members should contact Alexandra Schorah, the legislative counsel, as soon as possible should they intend to introduce any amendments.

Now, it's my great honour to welcome the sponsor of this bill to our committee. It's a great honour to have the Honourable Minister Marco Mendicino here with us. We very much look forward to his opening comments.

However, I first want to thank all the officials accompanying him today. From Canada Border Services Agency, we have Ms. Kelly Acton, vice-president, strategic policy branch, and Mr. Brett Bush, executive director, immigration and asylum policy innovation branch. From the Department of Citizenship and Immigration, we have Ms. Saman Fradette, director of migration control and horizontal policy division, and Mr. David Chan, acting director, asylum policy, performance and governance division. From the Department

of Foreign Affairs, Trade and Development, we have Mr. Stephen Burridge, director of sanctions, policy and operations coordination. Finally, from the Department of Public Safety and Emergency Preparedness, we have Mr. Sébastien Aubertin-Giguère, assistant deputy minister, national and cybersecurity branch.

All of that being out of the way, thank you for appearing here today, Minister. For your opening remarks, you have five minutes.

Hon. Marco Mendicino (Minister of Public Safety): Thank you very much for that, Mr. Chair, and for the introductions of the officials joining me.

[Translation]

Hello, Mr. Chair and members of the committee.

Thank you for inviting me to speak about the objectives of Bill S-8.

Bad actors will never find refuge in Canada. The amendments proposed in Bill S-8 will close the current gaps in our sanctions regime, to be perfectly clear, by harmonizing the Immigration and Refugee Protection Act and the Special Economic Measures Act.

[English]

The proposed amendments are clear and will ensure that all foreign nationals subject to any sanctions under the Special Economic Measures Act, or what we refer to as SEMA, will also be inadmissible to Canada pursuant to the Immigration and Refugee Protection Act. Bill S-8 will modernize Canada's sanctions inadmissibility framework. From a border integrity perspective, the amendments proposed by Bill S-8 are the best way to ensure that a sanctioned person would be deemed inadmissible to Canada.

Since February 24, 2022, when Russia launched its brutal war against Ukraine through its latest illegal incursion, the Government of Canada has responded with numerous packages of new sanctions targeting many Russian and Belarusian individuals and entities. As of March 1, over 1,500 individuals had been sanctioned under SEMA in relation to this conflict. This is in addition to the more than 1,000 other foreign nationals sanctioned under SEMA tied to other countries or regimes, such as Myanmar, Syria and, most recently, Iran, following the so-called morality police's brutal human rights violations—just to name a few. While some of these individuals are currently inadmissible to Canada, the majority are not.

• (1110)

[Translation]

If a sanctioned foreign national arrives at the Canadian border, Bill S-8 will guarantee that a CBSA official can immediately deny entry and remove the person from Canada.

[English]

Passing the legislation would also mean that the roughly 2,500 individuals currently sanctioned under SEMA for grounds not linked to IRPA would be inadmissible to Canada. As the IRPA is currently written, its inadmissibility provisions do not align with the basis for imposing the majority of SEMA sanctions issued against Russia, and that is precisely what Bill S-8 seeks to remedy.

[Translation]

These amendments will apply beyond the current situation in Russia and Iran. The proposed amendments will further facilitate the sanctions against terrorist groups and non-state entities, such as al-Qaida and ISIL.

[English]

Make no mistake. The proposed amendments will also strengthen Canada's ability to identify and stop sanctioned foreign nationals before they travel to Canada.

Simply put, there are currently no parallel existing grounds of inadmissibility, which is why the legislative amendments proposed in Bill S-8 are so crucial. They will ensure that the Government of Canada's sanctions framework remains cohesive, enforceable and responsive.

The bill will provide Canada with much-needed authorities to hold bad actors to account and to contribute to concerted action with our international allies. It will provide a clear and strong message that the Government of Canada's comprehensive sanctions framework has meaningful consequences, not only from an economic perspective but from an immigration and access to Canada perspective as well.

[Translation]

Thank you for your time, Mr. Chair.

I will be pleased to answer any questions you may have.

[English]

The Chair: Thank you very much, Minister.

We will now open the floor to questions from the members. We first have Mr. Genuis.

Mr. Genuis, for this round everyone has been provided six minutes. The floor is yours.

Mr. Garnett Genuis (Sherwood Park—Fort Saskatchewan, CPC): Thank you, Chair, and thank you, Minister.

You're going to be using, I assume, information from CSIS when you make sanctions inadmissibility determinations. Does CSIS intelligence contribute to decisions about who gets sanctioned under SEMA or is otherwise deemed inadmissible?

Hon. Marco Mendicino: I would say that they are one of a number of agencies that contribute to the analysis that is undertaken by Global Affairs prior to listing under SEMA.

Mr. Garnett Genuis: Thank you for that answer.

How often are you briefed directly by CSIS?

Hon. Marco Mendicino: I'm briefed routinely, certainly at least once a week, and often more frequently than that.

Mr. Garnett Genuis: Okay, you receive direct briefings from CSIS once a week or more often.

Hon. Marco Mendicino: That's correct.

Mr. Garnett Genuis: My understanding as well is that CSIS often communicates through written products, through intelligence assessments.

Do you read intelligence assessments as well, separately from those briefings?

Hon. Marco Mendicino: Yes. It's not always supported by written assessments, but yes, I see written assessments, intelligence assessments.

Mr. Garnett Genuis: Do you read all intelligence assessments that come into your department?

Hon. Marco Mendicino: I certainly get summaries of intelligence assessments, and then that is supplemented by verbal and other briefings from CSIS officials.

Mr. Garnett Genuis: Who receives the full intelligence assessments, and who's responsible for summarizing or deciding what information to bring to your attention or not bring to your attention?

Hon. Marco Mendicino: My deputy minister and chief of staff are the two most principal advisers to me, who help to prioritize exactly what is put before me in terms of intelligence.

Mr. Garnett Genuis: Would your chief of staff and deputy minister read all intelligence assessments, then?

Hon. Marco Mendicino: I'm fairly confident that, yes, between the two of them, as well as the staff who are in their offices, they are able to get access to those reports and then help prioritize what gets put before me.

• (1115)

Mr. Garnett Genuis: Just to put a fine point on it to make sure I'm understanding right, because I'm sure they're able to get access to them, if an intelligence assessment is sent to your department, can you say that, yes, the deputy minister and the chief of staff read them, or one of them reads them, or would they be reading a summary that somebody else prepared for them?

Hon. Marco Mendicino: I think often it's both. In other words, they will get both the complete report and the summary. Sometimes, from the reading of the report, they will prepare summaries that then directly come to me.

Mr. Garnett Genuis: Your expectation is that both of them would receive and read the intelligence reports.

Hon. Marco Mendicino: And that they are delivered, yes. That's correct.

Mr. Garnett Genuis: Have you given CSIS direction in terms of what issues it should or should not brief you on? For example, “Any time X, Y or Z comes up, I want to know about it directly.” Have you given that kind of direction to CSIS?

Hon. Marco Mendicino: Yes.

Mr. Garnett Genuis: Will those making recommendations about sanctions or inadmissibility always receive those intelligence assessments? Is that one of the things that...? As minister, you will make those determinations around sanctions. Will you directly review intelligence assessments related to those sanctions?

Hon. Marco Mendicino: Can you clarify your question, Mr. Genuis? What information are you asking about and to support which decision?

Mr. Garnett Genuis: I'm asking about the decisions around sanctions related to the bill. If you're making a determination about a sanction, would you ask CSIS to provide you with the intelligence assessment directly, or would you rely on summaries in that case?

Hon. Marco Mendicino: I may rely on summaries. If I have additional questions about the source information that went into the summary, including the original intelligence report, I will certainly ask questions, yes.

Mr. Garnett Genuis: Thank you.

One primary area in which we've seen motivation for sanctions is where individuals or entities are involved in foreign interference activities here in Canada. In relation to that, I want to ask you if, in 2021, there was information in an intelligence assessment about Canadian MPs' being targeted by the PRC. Was that information in any intelligence assessments in 2021?

Hon. Marco Mendicino: As you know, I very much appreciate your question. I have to be guided by the law, under the Security of Information Act, in terms of what I can and cannot disclose. There are strict constraints on that.

We have created forums in which we can declassify that information or allow parliamentarians and/or officials to have access to that information so that it can be discussed with Canadians. I would cite public reports that have come from NSICOP and NSIRA, in which we are able to navigate those types of questions.

Mr. Garnett Genuis: If an intelligence assessment contained information, your expectation would be that it was read by the chief of staff and the deputy minister.

Mr. Sameer Zuberi (Pierrefonds—Dollard, Lib.): I have a point of order, Mr. Chair.

We are here on Bill S-8 today. I just want to make sure that we're getting evidence that relates to Bill S-8 at this committee, so that we can advance our understanding and even propose amendments around the legislation. I'm just trying to listen for how this actually pertains to Bill S-8 specifically. I would ask the members, through you, to focus their questions on Bill S-8.

The Chair: Thank you, Mr. Zuberi.

I'd like to remind every member that we should try to focus our questions on the issue at hand, which is Bill S-8.

Mr. Genuis, we did stop the clock. You still have a minute and 12 seconds remaining.

Mr. Garnett Genuis: Thank you, Mr. Chair.

If information in relation to individuals involved in foreign interference, potentially, who should be sanctioned as a result of that foreign interference.... If that had been an intelligence assessment in 2021, your expectation is that the chief of staff, as well as the deputy minister, would have seen it and that you would have been provided with a summary of that information. Is that correct?

Hon. Marco Mendicino: Let me just verify, because I think you're referring to the recent events involving your colleague, Mr. Chong.

You heard the Prime Minister indicate that there is a new directive that has been issued to CSIS to ensure that if there are allegations or reports around foreign interference that involve parliamentarians, they come directly to the attention of the Prime Minister, as well as to me. I assure you and all of the colleagues here that we will adhere to that directive.

Mr. Garnett Genuis: Prior to that directive, you still think the deputy minister and the chief of staff would have seen that information. Is that correct?

Hon. Marco Mendicino: Look, it's a very important question that you're asking.

I think it's also important to remind members of this committee that CSIS and other intelligence agencies make determinations and judgment calls on what intelligence is actionable and therefore—

• (1120)

Mr. Garnett Genuis: It's a question that deserves an answer, though. Would the chief of staff or the deputy have seen it?

The Chair: Mr. Genuis—

Mr. Garnett Genuis: Okay, thank you, Mr. Chair.

The Chair: Thank you, Mr. Genuis.

We next go to Mr. Zuberi.

You have six minutes.

[*Translation*]

Mr. Sameer Zuberi: Thank you, Mr. Chair.

Thank you for being here today, Mr. Minister.

[*English*]

Also, thank you to your staff and team for being here.

I'll pick up on the line that was really touched upon by my colleague opposite.

First off, before doing so, I'd like to acknowledge that I respect immensely the work that you and other ministers are doing to protect Canada from foreign interference and to protect our democracy.

That being said, I'd like to lean into the questions around foreign interference and ask how Bill S-8, in particular, will help to protect our country from foreign interference.

Hon. Marco Mendicino: Mr. Zuberi, thank you for your advocacy on matters especially pertaining to human rights, and for standing against authoritarian dictatorships that are oppressive. I want to take a moment to express my gratitude to you.

In addition to the bill that is before you, which will help to align the work that our colleagues at Global Affairs do in listing individuals under SEMA and the Immigration and Refugee Protection Act, there are existing authorities that deal with, for example, espionage. By virtue of those authorities under the Immigration and Refugee Protection Act, an individual can be deemed inadmissible if there are grounds to believe they have committed an act in relation to espionage.

This bill will further close any existing loopholes if, for example, there are specific individuals who have been listed under the Special Economic Measures Act, or SEMA, and align that in express language under IRPA, so that they are deemed inadmissible, but only after an analysis has been undertaken by Global Affairs.

Mr. Sameer Zuberi: This important legislation will help to further protect Canada from foreign interference. Is that right?

Hon. Marco Mendicino: Absolutely.

Mr. Sameer Zuberi: Canada works in partnership with many countries, the Five Eyes, the G7 and other countries. Could you elaborate a bit on how Bill S-8 contributes to what other countries are doing in this domain? Can you speak about how other countries are addressing the issue that Bill S-8 puts forth, and how that fits in with the scheme of things?

Hon. Marco Mendicino: I will defer to officials who have undertaken an analysis of exactly what kind of legislative or statutory schemes are in place among our democratic allies, but I believe that Bill S-8 will generally align with the approaches that have been taken by like-minded countries.

The point is to make sure there is no disconnect, that if individuals have been named under SEMA, because they are facilitating the transgression of human rights or are in some way supporting financially or otherwise the acts of an authoritarian regime, for example, Russia, as it continues its illegal incursion and war in Ukraine, those individuals then become inadmissible to Canada by operation of the IRPA statute.

Mr. Sameer Zuberi: This legislation touches individuals. It also touches entities in terms of the sanctions regime. It touches not only individuals but also entities.

Is there any impact on the shareholders of entities that might be sanctioned, when it comes to Bill S-8 or the broader legislation?

Hon. Marco Mendicino: Again, I will defer to officials on what exactly the impact analysis is with regard to potential impacts on shareholders.

I want to clarify, because you specifically said the word “entity” is not in the bill, and that is for good reason. We believe we have crafted language that is precise and clear, which allows us to focus on individuals who have been named under SEMA. This is the best way to align the objectives of SEMA with IRPA.

• (1125)

Mr. Sameer Zuberi: Canada has been a steadfast ally with Ukraine, as have been many other countries. You touched upon how this legislation, in terms of the sanctions regime, has actually helped our efforts when it comes to Ukraine.

Do you want to elaborate a bit upon that, in the 45 seconds that remain, about how Bill S-8 will further our solidarity with Ukraine and check Russia's aggression?

Hon. Marco Mendicino: It will ensure that individuals who have been listed under SEMA, who are in some way supporting Russia's illegal war in Ukraine, are deemed inadmissible. That is just the latest measure we can take to support Ukraine.

I would point out that we have been with the people of Ukraine since February and March of 2022, through a variety of initiatives: militarily, diplomatically, by creating immigration pathways to help those who have been displaced, and, equally, through the work we are doing in my portfolio by, among other things, sending the RCMP to ensure that those who are committing war crimes and other transgressions against human rights are held to account.

We will continue to be there for the people of Ukraine, and Ukraine, to ensure its sovereignty.

The Chair: Thank you.

We will next go to Mr. Bergeron.

You have six minutes, sir.

[*Translation*]

Mr. Stéphane Bergeron (Montarville, BQ): Thank you, Mr. Chair.

Mr. Minister, thank you so much for being here. Thanks as well to all your team for being with us today.

I would like to begin with a technical question. Why did you decide to introduce this bill in the Senate?

Hon. Marco Mendicino: It is really for a technical reason, because of the optional process the government used.

Members of the House of Commons are very busy and the House has on some occasions used the Senate to make progress on its priorities and obtain the results that everyone expects.

In the matter before us, our goal is to close the gaps by harmonizing the Special Economic Measures Act with the Immigration and Refugee Protection Act.

Mr. Stéphane Bergeron: In clauses 5 and 6 of the bill, inadmissibility to Canada is defined and additional details are provided under “Sanctions”.

I find the word “sanctions” quite vague. What is the meaning of sanctions?

Hon. Marco Mendicino: Once again, I will call upon my officials for an exact and technical analysis. In practical terms, though, the analysis under the Special Economic Measures Act provides for a review of matters related to corruption or other illicit activities pursuant to international conventions. If there is evidence that meets the test criteria, the provisions of the Special Economic Measures Act apply to that person.

The goal of Bill S-8 is to coordinate obligations under the Special Economic Measures Act and the Immigration and Refugee Protection Act in order to make that individual inadmissible.

Mr. Stéphane Bergeron: I know you may not be aware of this, but our committee intends to launch a study on the sanction regimes Canada has imposed. It is as though the cart is being put before the horse, as the saying goes. Since the legislative process requires us to consider the bill, however, let us do that.

You are probably aware of the fear expressed by the Refugee Centre that an asylum seeker fleeing persecution in their country of origin could be refused entry to Canada because of a sanction imposed on their country, even if that person has not done anything wrong.

What can you say to the Refugee Centre regarding that legitimate concern?

Hon. Marco Mendicino: That's a good question.

We will work with organizations that represent refugees and asylum seekers. Our government has a very positive track record on that priority. We have one of the best asylum systems in the world, if not the best.

To answer your question, I would say we will rely on Global Affairs Canada officials for a facts-based analysis. Once this bill comes into force, the person will be deemed inadmissible if they do not pass the test.

On the other hand, it is possible that the provisions of the bill might not be invoked even if certain individuals do not pass the test.

• (1130)

Mr. Stéphane Bergeron: To be clear, Mr. Minister, are you saying that, regardless of what the bill says, a refugee claimant from a sanctioned country could still have their application analyzed?

Hon. Marco Mendicino: What I mean is that each case has to be analyzed individually.

Before someone is sanctioned under the Special Economic Measures Act and, by extension, pursuant to this bill, all the facts and circumstances related to the individuals identified by the department have to be examined.

Mr. Stéphane Bergeron: The Canadian Bar Association has proposed that amendments be made to the Immigration and Refugee Protection Act in Bill S-8, to establish “a distinct ground of inadmissibility based on sanctions, namely sanctions imposed on an 'entity, person or country'”. It also recommends removing the

references to “country” since the term is too broad. This is probably related to the Refugee Centre's concern.

What are your thoughts on this recommendation from the Canadian Bar Association?

Hon. Marco Mendicino: Bill S-8 must protect the rights of refugees. It must protect the most vulnerable individuals. This bill has a specific purpose; it is in line with the Special Economic Measures Act, or SEMA. I hope you have confidence in the officials who analyze an individual's case before they are listed under the SEMA.

In short, I think there are checks and balances in place, parameters to examine all the circumstances—including any issues relating to human rights and refugee rights—in the analysis before the SEMA process is concluded.

That is one of the ways we can protect human rights and ensure that this bill is in line with the SEMA.

[English]

The Chair: Thank you, Mr. Bergeron.

We now go to Madam McPherson.

You have six minutes.

Ms. Heather McPherson (Edmonton Strathcona, NDP): Thank you, Mr. Chair.

Thank you all for being here today and answering our questions on Bill S-8. I'm very grateful to you for taking on sanctions. I think it's very important for us to strengthen our sanctions regime.

As Mr. Bergeron mentioned, we are going to be undertaking a study that I brought forward for us to look at. One of my big concerns with our sanctions regime, of course, is the enforcement of the sanctions regime, because it's very easy to put people's names on a list, but it's not always very easy to make sure that those sanctions are being enforced.

With regard to Bill S-8, though, I have a few questions.

Minister, you heard me being a bit critical before, when the sector or experts were not consulted. We might get to Bill C-41 later on today.

I have something that I'd like to ask for, for my birthday, Mr. Minister.

Hon. Marco Mendicino: I would like to be able to give you a present. We'll see.

Ms. Heather McPherson: With regard to Bill S-8, the legal experts and the refugee sector have said that there need to be amendments to this bill. They have called for that.

Mr. Bergeron referred to the use of the word “sanctions”. We have heard from the Bellissimo Law Group and The Refugee Centre, and they've both raised concerns about the lack of clarity with regard to language on sanctions in this bill. Of course, we have a study that will be looking at this.

Why is it so vague? How do we make sure it's better? Would you be willing to accept amendments to that?

Hon. Marco Mendicino: I'll say a few words off the top, and then I would encourage you to hear what Mr. Bush has to say, because I want to be responsive.

As I was saying to your colleague Mr. Bergeron, prior to the operation of this statute, there would be a rigorous examination of all the facts under SEMA—all of the facts and circumstances—before a conclusion is rendered on whether or not that individual is listed.

If I understand your question correctly, Ms. McPherson, it's that we want to make sure that this statute is not vague or overly broad. I think those are laudable objectives. I would encourage you to—

• (1135)

Ms. Heather McPherson: There are the current concerns that the Canadian Bar Association has brought forward with regard to this legislation as well.

Hon. Marco Mendicino: We want to make sure they are sufficiently focused and constrained, but perhaps Mr. Bush might be able to say something specifically.

Mr. Brett Bush (Executive Director, Immigration and Asylum Policy Innovation, Canada Border Services Agency): Thank you.

We, in fact, met with the Canadian Bar Association about these concerns and had several discussions. The short answer would be that the sanctions regime is managed by our colleagues at Global Affairs. We did not agree with the suggestion that we should be importing language from the sanctions into IRPA, because it is not the place to assess the sanctions. The place to assess the sanctions is with our colleagues at Global Affairs.

We also don't agree with the Canadian Bar Association on the context of the various mechanisms for seeking redress to the sanctions. My colleague at Global Affairs could speak about this. There are measures for seeking redress to the sanctions. The measures in IRPA that the minister has been speaking about are simply to ensure that the people who have been sanctioned by the government are now inadmissible, as you mentioned a few moments ago.

The last point that I would mention.... I lost my train of thought. I'm sorry.

Ms. Heather McPherson: Two out of three is not bad.

I want to make this clear—

The Chair: Did you want to acknowledge our official from GAC as well?

Did you want to add anything to that?

Mr. Stephen Burrige (Director, Sanctions Policy and Operations Coordination, Department of Foreign Affairs, Trade and Development): Sure. Just on the point around redress for sanctions, there is the ability for a listed individual or entity to apply to the Minister of Foreign Affairs to be delisted from sanctions. That decision, on whether or not an individual is delisted from our sanctions regime, rests with the Minister of Foreign Affairs.

Further to that, they also have recourse to have the decision on the delisting application brought before a court and judicially reviewed.

Ms. Heather McPherson: One of my concerns, of course, is that there will be unintended consequences, that folks who shouldn't be suffering punitive actions will suffer.

Again, that is what we saw in Bill C-41, when we weaponized international development instead of preventing terrorism from being funded.

What we're looking at right now is a situation in which, if somebody wants to appeal—they don't agree with the decision; they feel they shouldn't be on this list and shouldn't be added—they have to come to you, and then they go to Minister Joly.

My concern is that they get all these things clarified...and is that mechanism actually going to work? You will know that the business of government is not a quick fix in a situation—no insult intended directly to you.

Hon. Marco Mendicino: I appreciate that clarification, Ms. McPherson.

There are avenues of relief available to the Federal Court. It provides judicial oversight in the exercise of the functions under SEMA, as well as under IRPA, which again will now function as a turnkey system to ensure inadmissibility.

I would come back to the central premise of your question, which is what we are doing to safeguard against the potential of inadvertent overreach here, especially with regard to vulnerable individuals who may wish to claim status as either asylum seekers or as refugees.

I am confident that this new bill will not in any way diminish the existing pathways to protecting those rights where they exist under IRPA and the law.

Ms. Heather McPherson: The refugee sector is not as confident as you are, Minister.

Will you be open to amendments to this legislation?

Hon. Marco Mendicino: As you've heard me say many times before, Ms. McPherson, I'm always prepared to work with you and this committee and other parliamentarians.

If we think there is a realistic and practical way in which to either provide clarification on the existing language or to strengthen it, I will keep an open mind about that.

• (1140)

Ms. Heather McPherson: Thank you.

The Chair: Thank you. We now go to the second round.

For the second round, each member is provided with four minutes.

Mr. Genuis, you are up next.

Mr. Garnett Genuis: Thank you, Chair.

Minister, you had strong words for CSIS on the weekend.

Do you have confidence in CSIS, and do you blame CSIS for the fact that Mr. Chong was not informed about a threat against his family two years ago?

Hon. Robert Oliphant (Don Valley West, Lib.): I have a point of order, Mr. Chair, on relevance.

Given that our stated agenda for this meeting is the consideration of Bill S-8, I would like you to consider that. Thank you.

Mr. Garnett Genuis: Chair, can I respond to the point of order?

The Chair: Yes.

Mr. Garnett Genuis: Chair, I think the minister's confidence or lack thereof in CSIS is critically important, given that part of Bill S-8 is responding to assessments that are made by our security agencies.

The Chair: Thank you, Mr. Genuis.

I'd like to urge all members to keep within the ambit of the bill before us.

Mr. Genuis, please proceed.

Mr. Garnett Genuis: Thank you, Chair.

Minister, you heard the question. Would you like to answer it or not?

Hon. Marco Mendicino: I'm quite content to answer it. Again, I appreciate why you're asking these questions, despite the fact that we are here principally to talk about Bill S-8.

Of course I have confidence in CSIS. These are individuals who work to protect our national security every day.

I also would point out that your question used language like "blaming". The only people I think we need to be united in holding accountable are the hostile actors who are attempting to undermine our democratic institutions.

Mr. Garnett Genuis: Thanks, Minister. I'm going to jump in there.

I think there's probably agreement, though, that something went wrong two years ago. If you think "blame" is too strong a word, that's fair enough, but who do you think carries this error?

Someone was not informed about a threat against their family. Was the error made by CSIS? Was the error made by the minister? Was the error made by the chief of staff?

Who made the error?

Hon. Marco Mendicino: I think we have to be constantly vigilant to make sure that our internal governance, including directives around what gets briefed directly in person to ministers who are responsible, including and up to the Prime Minister, reflect the state of the landscape when it comes to foreign interference.

Mr. Genuis, you've put a lot of time into studying this subject matter. I think you would acknowledge that the threat landscape has evolved significantly in the last few years alone. It probably is evolving just about every day. Making sure that our directives align to those realities is important to ensure accountability.

Mr. Garnett Genuis: Thank you, Minister. I'm going to move on, although I don't know that I fully got the response there.

At the end of my last round, I asked you specifically if your chief of staff or deputy would have seen the 2021 intelligence report on foreign interference. Could you clarify? Did the minister or the chief of staff see that report?

Hon. Marco Mendicino: Again—only because you put the question directly and personally to me—I was not in this portfolio in July 2021, when the report was alleged to have been...it has been reported in public. Again, we are making sure that our directives reflect the landscape as it exists today, so that if there are reports that touch on parliamentarians, MPs and the like, involving foreign interference, they will now come directly to me and the Prime Minister.

Mr. Garnett Genuis: Okay, so I guess the answer is that you don't know if the deputy or the chief of staff read the report. You said it's general practice for the deputy or the chief of staff to read these reports, but in the particular case, you're saying that you weren't the minister, so you don't know. Is that—

Mr. Sameer Zuberi: On a point of order, I would go back to my first point of order in terms of the relevance to Bill S-8. I'm trying to understand how this will help our committee study with respect to Bill S-8. I don't yet see that.

I'm not sure, Mr. Chair, if the questions should be more focused around Bill S-8 or if we're just talking about what's in the news today.

The Chair: Thank you, Mr. Zuberi.

Again, I just want to remind all the members to remain focused on Bill S-8 and to make their questions relevant to the bill at hand.

Go ahead, Mr. Genuis.

Mr. Garnett Genuis: Thank you, Chair.

In my final minute, Minister, I just want to pick up on something you said, so it's the matter at hand that we're dealing with. It's on the directive that you have issued to bring foreign interference targeting elected officials to your attention. Does that apply to provincial and municipal elected officials as well, or just parliamentarians?

Hon. Marco Mendicino: I would certainly start by prioritizing the members of Parliament with whom we work in the House of Commons, but I also want to assure you, Mr. Genuis, that we're looking at other levels of government. In fact, CSIS has provided briefings—

● (1145)

Mr. Garnett Genuis: This is specifically in terms of the directive. I'm almost out of time here. Does the directive cover provincial and municipal elected officials?

Hon. Marco Mendicino: We will ensure that we are briefed directly on parliamentarians. We'll make additional refinements as may be needed, but I'll also—

Mr. Garnett Genuis: Okay—

Hon. Marco Mendicino: I think this is important. CSIS has briefed other levels of government at their request. Most recently, a number of—

Mr. Garnett Genuis: It's a question of what information is coming to you and the Prime Minister, though. It seems to me that if an everyday citizen is facing the threat of foreign interference, that should be treated with an extreme level of seriousness.

Hon. Marco Mendicino: I agree.

Mr. Garnett Genuis: I think that's my time.

Thanks.

Mr. Sameer Zuberi: On a point of order, Chair, again, Bill S-8 relates to amendments around sanctions. I am not sure how this will help us to understand legislation on sanctions.

The Chair: Please be very brief, Minister, because we're out of time.

Hon. Marco Mendicino: Mr. Chair, as you can see, I'm trying to be as responsive as I possibly can. I think we are moving a bit afield from the four corners of the bill that we are here to debate, but I want to be transparent with Mr. Genuis and all of you.

Look, we take the issue very seriously. We're being up front. We're putting in place the tools that are necessary to ensure the safety and security of all parliamentarians, and this is going to be the ongoing work that I hope we can do across the aisle.

The Chair: Thank you, Minister.

We next go to Dr. Fry.

Dr. Fry, you have four minutes.

Hon. Hedy Fry (Vancouver Centre, Lib.): Thank you very much, Chair.

Thank you, Minister, for coming and answering all the questions that you're asked and trying to be transparent with regard to those questions. I think that's very important.

I want to go back to what the Canadian Bar Association said. They felt that the concept that included "country" made it too broad. How are you going to deal with the idea that everyone coming from...?

Take Russia, for instance. I mean, we're clear about who we're sanctioning in Russia. The question is this: Is it Duma? Is the whole Duma sanctioned in Russia? What about individuals in the country? Just because you're a Russian living in Russia, does that mean you're sanctioned? I think that's something that people really want to know, because it's broad. I think that was the question from the bar association.

The other question I want to ask is this. Refugee claimants who are from a sanctioned regime have the ability to come and seek individual admissibility as a refugee. Who is going to look after that? How is that going to be investigated? You said it's on a case-by-case basis, but where is the buck going to stop in terms of that investigation?

Hon. Marco Mendicino: Through the chair to you, Ms. Fry, I appreciate both questions. I think they are related.

In the first instance—the operation of the bill that is before you—once it is in force, it will be triggered only after an analysis has been undertaken by Global Affairs with regard to the listing of an individual under the Special Economic Measures Act. That analysis, as I understand it, within the expertise and the domain of Global Affairs, focuses on gross human rights violations and on corruption.

Those judgment calls are made on the basis of the facts that are before them. They will look at whether the individual has been in some way affiliated with a hostile actor or an authoritarian regime that is perpetrating those bad acts, those gross human rights violations or that corruption. They will be entitled to look at the entirety of the record before them.

If they are satisfied that the threshold is met under that statute, then that will automatically trigger the inadmissibility under the new provision that we are proposing under section 8 of the Immigration and Refugee Protection Act.

The point is to ensure that Canada is not a safe haven for any individual who may be trying to prop up an authoritarian regime.

Hon. Hedy Fry: I wanted to ask a question about entity. I think my colleague Mr. Zuberi asked that question with regard to entity. What if someone inadvertently was a member, a stakeholder or a stockholder in an entity?

How do you define "entity"? "Entity" is not fully defined in this bill. How do we define that clearly?

Hon. Marco Mendicino: I believe that's an important question.

As I mentioned to our colleague Mr. Zuberi, that word is not used in Bill S-8. That was a conscious decision, so that we don't in any way conflate or confuse the analysis, which is focused principally on the individual, first and foremost, who is before Global Affairs for analysis under SEMA.

Hon. Hedy Fry: I know, but the question is this: Unless you define "entity" clearly in the bill, how are people going to understand what you mean when somebody owns shares in a company that is carrying on acts and didn't know about it?

How is that definition going to be used? I think that's the clarity people are seeking, so people don't get inadvertently caught.

● (1150)

Hon. Marco Mendicino: Mr. Chair, through you to Ms. Fry, perhaps Mr. Burrige from Global Affairs might be able to shed some additional light, because the analysis really does fall within the remit of GAC.

I would invite Mr. Burrige to add a few words about this.

Mr. Stephen Burrige: Individuals and entities are listed very specifically under SEMA. The sanctions themselves apply to the specific individuals or entities that are listed. In this way, there's a dealings prohibition that is put on Canadians, preventing them from being able to deal or to transact with those specific individuals or entities.

That said, when we're talking about inadmissibility, the inadmissibility would apply to individuals and entities that are listed under SEMA. Shareholders, for instance, may or may not be listed individually. Therefore, the inadmissibility applies only to those that are actually listed under SEMA.

Hon. Hedy Fry: Thank you. That clarifies that greatly.

The Chair: We next go to Mr. Bergeron.

You have two minutes, Mr. Bergeron.

[*Translation*]

Mr. Stéphane Bergeron: Thank you, Mr. Chair.

In the debate at second reading of Bill S-8, you commended the report published by this committee in 2017, entitled “An Effective and Coherent Framework for the Implementation of Canada's Sanctions Regimes: Honouring the Memory of Sergei Magnitsky and Going Further”. This report recommended amendments to the Immigration and Refugee Protection Act so that all individuals subject to a sanction under the Special Economic Measures Act are prohibited from entering Canada. You stated the following:

[...] sanctions inadmissibility is the most efficient and effective mechanism to swiftly identify inadmissible persons as early as possible in the travel continuum and to deny their ability to acquire a visa to Canada.

You were the Minister of Immigration, Refugees and Citizenship. Why have you waited more than five years to put forward this bill? Why did you wait for the war in Ukraine until you finally acted on the recommendation the committee made in 2017?

Hon. Marco Mendicino: First of all, when I was the Minister of Immigration, Refugees and Citizenship, we accomplished a great deal. During the pandemic, we reorganized the immigration system to welcome a record number of immigrants. In the government's opinion and in my view, this is good for job creation and for the economy, and it strengthens Canada's record on welcoming refugees and vulnerable persons. In fact, you already asked me about that.

This bill will strengthen the existing powers that guarantee that Canada will never offer safe refuge to those who support authoritarian regimes.

[*English*]

The Chair: Thank you.

Ms. McPherson, you have two minutes.

Ms. Heather McPherson: Two minutes goes by fast.

I'll go back to one of the concerns I was raising earlier about the impact on those who may inadvertently be on the list incorrectly or may disagree with that assessment. You've outlined that there are processes to deal with that, that there are processes for people to get redress, or to submit an appeal, but those things cost an awful lot of money and take an awful lot of time.

In fact, my team, who are remarkable, have explained that it can cost thousands of dollars. We know refugees don't have thousands of dollars.

How will you mitigate this risk?

Hon. Marco Mendicino: That's an entirely important question to which we have to make sure we respond. There have been some modifications.

Ms. McPherson, allow me to clarify one of the answers I provided earlier, and my officials will expand on it. There are some references to the use of the word “entity”. This is a key change to the project of law that is before the committee. It ensures that sanctions against non-state actors, like ISIS, the Taliban, or al Qaeda are inadmissible. I wanted to make sure I put that clarification on the record.

• (1155)

Ms. Heather McPherson: What is the answer to the question that this could cost thousands of dollars that refugees don't have? They won't actually have access to justice and won't have access to the systems you've put into place to protect them. What is your answer?

Hon. Marco Mendicino: Our answer is that, in fact, I know my colleague the Minister of Justice has put in place additional legal aid supports to ensure that those who are seeking asylum, or seeking to make a refugee claim, are able to get access to legal aid services to navigate the system.

I know, as well, that we're working closely with organizations that advocate for refugees, like CARL, with which we have close relations. We are putting clear information on our websites to make sure refugees can navigate those processes.

Ms. Heather McPherson: The access is through legal aid. Just to clarify, has it been increased, so that it can accommodate some of the needs?

Hon. Marco Mendicino: We are endeavouring to make sure there are legal aid services—

Ms. Heather McPherson: It hasn't been increased to accommodate the need, then.

Hon. Marco Mendicino: IRCC is working hard to ensure we address those challenges.

The Chair: Thank you.

We'll now go to Mr. Genuis for four minutes.

Mr. Garnett Genuis: Thank you, Chair.

I want to underline that the use of intelligence assessments from CSIS is very important for our discussion of sanctions. I assume it's one of the key evidentiary inputs, as the minister said at the beginning.

Hon. Robert Oliphant: Mr. Chair, I have a point of order.

Can I just clarify the rounds, and how this is happening? I thought the minister was here for one hour.

The Chair: Yes. We still have two four-minute slots remaining.

Mr. Genuis, please go ahead.

Mr. Garnett Genuis: Thank you, Chair.

In that vein, for information used by the immigration department that will be involved in determinations about inadmissibility, I assume that when intelligence assessments are done by CSIS, they go to some point person in the immigration department. Is that correct?

Hon. Marco Mendicino: If there are inadmissibility concerns, yes, those intelligence reports will be shared with the appropriate departments.

Mr. Garnett Genuis: Okay, and then it's up to the point person in immigration to share them with those within the department who need to see it.

When you were immigration minister, who in your office would have received this kind of intelligence information? Would it have been you directly, your chief of staff, your deputy minister, or somebody else?

Hon. Marco Mendicino: As a matter of general procedure, Mr. Genuis, it would depend very much on the significance of the case. Obviously, there are many cases that are dealt with and addressed by our delegated authorities, so not all of them would come directly to my attention. It would depend very much on the individual particulars of each case.

Mr. Garnett Genuis: Okay, but someone must have been responsible for receiving the intelligence assessment and deciding who needed to see it and who didn't need to see it, so at what level would that person have been?

Hon. Marco Mendicino: It will depend, again, on the particulars of the case, but this is where we get back to questions around internal governance. Ultimately, a minister will depend on his or chief of staff and his or her deputy minister to help prioritize that information flow.

Mr. Garnett Genuis: Okay. In your current role at Public Safety, aside from chief of staff, which other positions held by political-exempt staff in your office receive access to intelligence assessments?

Mr. Sameer Zuberi: I have a point of order. I'm trying to again understand how this relates to Bill S-8 and the new legislation.

Voices: Be patient. You'll see.

Mr. Sameer Zuberi: What is the difference between these words and not defining [*Inaudible—Editor*]?

The Chair: I don't see any relevance whatsoever, so I'll just remind you once again to remain within the ambit of Bill S-8.

Hon. Robert Oliphant: Further to that point of order, Mr. Chair, it's not only relevance; it's also a parliamentary tradition in that a minister has responsibility when they are the minister, and it is not normal, by any stretch of the imagination, under parliamentary tradition, to be asking ministers about their previous job, because there is a Minister of Immigration now who has that responsibility.

Thank you.

Mr. Garnett Genuis: Mr. Chair, on the same point, I've actually moved past that point, for better or worse.

The Chair: The point is made. Let's just try to keep this relevant.

Mr. Genuis.

Mr. Garnett Genuis: Thank you, Mr. Chair.

I asked a question, so out of respect for the minister, is he interested in answering the question, given the question is [*Inaudible—Editor*]?

Mr. Sameer Zuberi: I have a point of order, Mr. Chair. I thought he already spoke about this question and this line of questioning, and—

Mr. Garnett Genuis: Yes. I'm trying to extend the courtesy to the minister.

Mr. Sameer Zuberi: I believe we're still getting the exact same question being reformatted, when you already expressed yourself, as chair, on the matter.

The Chair: Mr. Genuis.

Mr. Garnett Genuis: Thank you, Mr. Chair.

I appreciate that there may be some disagreements about the issue of relevance. The point I made at the beginning was that the use of intelligence assessments is critical for sanctions, and the minister made that point himself. I'm curious about who sees intelligence assessments, because those are the inputs for decisions about sanctions.

• (1200)

Hon. Robert Oliphant: On that point of order, Mr. Chair, the reality is that, as the minister has explained, the actual functioning of the sanctions, both on who is sanctioned and how they are delisted from sanctions, is not the responsibility of this minister. It's the responsibility of the Minister of Foreign Affairs. This activity is about stopping people who are sanctioned from getting into Canada, which has been a call from all opposition parties, as well as the government party, to ensure that our sanctions regime is robust enough to make sure that people are inadmissible.

The Chair: We are now getting into debate.

Mr. Genuis, please bear in mind that we're trying to remain focused on Bill S-8. You have a minute and 54 seconds remaining.

Mr. Garnett Genuis: Thank you, Mr. Chair.

Minister, out of courtesy for you, having asked the question, I wonder if you're interested in answering it or not. If you'd like to address it—

Mr. Sameer Zuberi: I have a point of order. I don't know how many times you, as chair, need to repeat yourself for us to actually get it in our heads about this line of questioning.

Mr. Garnett Genuis: Can I not offer the courtesy to the minister to respond to what's already in the public record?

Mr. Sameer Zuberi: It's unbelievable.

The Chair: Mr. Genuis, please, you've been warned several times.

Mr. Garnett Genuis: Mr. Chair, I think the question I'm asking is relevant. It's about intelligence assessments that can then be used for sanctions—

Mr. Sameer Zuberi: This is the fourth time.

Mr. Garnett Genuis: —so my question—

The Chair: Mr. Zuberi.

Mr. Sameer Zuberi: On a point of order—

Mr. Garnett Genuis: Minister, do you have any comment you want to make, one way or the other, on the foregoing discussion?

Hon. Marco Mendicino: Mr. Genuis, I think I've been pretty forthright in answering the question that you've posed now a few times.

Mr. Garnett Genuis: I don't agree, but the public will judge, I suppose. Is there anybody in your office who you can say 100% of the time reads the intelligence assessments that come through?

Hon. Marco Mendicino: I believe you asked that question on a couple of occasions earlier in this hour, and you have my answers on that.

Mr. Garnett Genuis: I'm sorry. No, I don't, but if I do, could you repeat it? Is there anyone in your office of whom you can say with certainty that they read 100% of the intelligence assessments that come through?

Hon. Marco Mendicino: Yes. I explained that the combination of the officials who work within the deputy minister's office and my ministerial office will take a look at those reports and then prioritize what gets sent to me, either directly through the report, or through a summary, or through a verbal briefing.

Mr. Garnett Genuis: Okay. Who is the exempt staffer of whom you can say they read 100% of the intelligence assessments?

Hon. Marco Mendicino: Mr. Chair, again, I've answered these questions and will continue—

Mr. Garnett Genuis: I think you said your chief of staff. Is it correct that your chief of staff sees every single one?

Hon. Marco Mendicino: Yes, very specifically, Mr. Genuis. You've asked those questions now on numerous occasions. I think you're attempting to portray that I'm being evasive.

Mr. Garnett Genuis: No.

Hon. Marco Mendicino: I'm not. I've been very forthright. I said the deputy minister and the chief of staff are principally responsible in the prioritization of intelligence that comes before my eyes. That's very clearly on the record now, numerous times.

Mr. Sameer Zuberi: I have a point of order, Mr. Chair.

The whole line of questioning—

Mr. Garnett Genuis: I'm out of time anyway.

Mr. Sameer Zuberi: —from Mr. Genuis has been focused on anything but Bill S-8. Maybe there might be one or two on the record, but almost all of them have nothing to do with Bill S-8.

The Chair: Thank you, Mr. Genuis.

Now we will go to the last questioner, Mr. Sarai.

You have four minutes.

Mr. Randeep Sarai (Surrey Centre, Lib.): Thank you, Minister, for coming.

My question is that this piece of legislation, Bill S-8, combined with SEMA, combined with the Magnitsky act, kind of tightens the legislation to make it a criminal offence for contravening or failing to comply with sanctions, which in all three cases, I think, is a hy-

brid offence, allowing violators to be charged with either a summary conviction or an inadmissible offence.

I want to know if the department's stance would be to deport such a person if they're in Canada, or charge them. We also don't want Canada to be a safe haven, where you can go and try there, and if you don't get in, the worst case is you just go back. If they have contravened any of these acts, would that be, in your view as the public safety minister, something they should be charged for, or would it be the de facto...that they be sent back?

Hon. Marco Mendicino: Mr. Chair, it's an important question. Yes, if someone is deemed inadmissible under the Immigration and Refugee Protection Act, we can then, by consequence, commence deportation proceedings to remove them.

Mr. Randeep Sarai: If they've contravened an act, though, and we can charge them here in Canada, would we pursue charges against them here? Sometimes in that case it might be a win-win for them to be able to just go back and not be charged, when they've actually committed an offence, and then that country will not charge them.

Hon. Marco Mendicino: It's important to point out that, certainly as it relates to proceedings for removals, including any other administrative proceedings, we allow for due process to take its course. There are important procedural rights that any individual who faces stark consequences, including removal and/or detention, has. What this bill will do is ensure there is due process prior to the invocation of the amendment under Bill S-8. That due process exists on the front end, under the analysis that is undertaken by Global Affairs Canada, and then on the back end, if the individual who has been listed under SEMA and is therefore inadmissible under IRPA.... They always have the option to seek judicial review before the Federal Court.

● (1205)

Mr. Randeep Sarai: The other question I have is more to do with inadvertent overreach. Lots of times we, as constituent MPs, get cases of people who, when they were young, were part of activist movements. They might have just gone to a rally or participated in a town hall or some sort of a little protest, and then eventually they're labelled with that, even though they did no violent actions or whatnot. Are there protective measures to make sure there isn't inadvertent overreach for people who were just involved in a rally or whatnot, but never were part of any criminal activity?

Hon. Marco Mendicino: Mr. Chair, I believe there are sufficient checks and balances through the due process that the individual is afforded, by the analysis that is undertaken by Global Affairs. Certainly, thereafter, if there's any question about how that discretion was exercised by officials, and then under IRPA, they can then seek judicial review before the Federal Court.

I would point out that these individual cases are taken very seriously by Global Affairs. Listing somebody under SEMA is not a trivial thing. Attention and care are given to examining the facts on the merits. That is because we recognize what's at stake for those individuals. Being rendered inadmissible is a serious thing. Therefore, we have put in place the appropriate checks and balances in the process prior to sanctioning an individual under SEMA and, by extension, rendering them inadmissible once this provision becomes law.

Mr. Randeep Sarai: Will groups have the ability—

The Chair: Mr. Sarai, I'm afraid you're out of time.

Mr. Randeep Sarai: Thank you, Minister.

The Chair: At this point, it being almost 12:10 p.m., I wanted to thank you, Minister. You were very generous with your time. Also, I should say that some of the questions did not appear to be relevant in the least bit to me, but you were incredibly forthcoming in responding to those as well.

Thank you for appearing before our committee. We're very grateful.

Hon. Marco Mendicino: Thank you, Mr. Chair.

The Chair: We will now suspend very briefly to allow the minister to leave and the officials to take over.

• (1205) _____ (Pause) _____

• (1210)

The Chair: Welcome back, everyone.

We will continue on with consideration of Bill S-8.

We're very fortunate that we have a number of officials with us. If it's okay with everyone, I will dispense with titles, but I will say that, from Canada Border Services Agency, we have Ms. Kelly Acton. We also have Mr. Brett Bush.

From the Department of Citizenship and Immigration, we have Ms. Saman Fradette and Mr. David Chan.

From the Department of Foreign Affairs, we have Mr. Stephen Burridge.

From the Department of Public Safety and Emergency Preparedness, we have Mr. Sébastien Aubertin-Giguère.

For this round, we have six questioners for five minutes each.

We start off with Mr. Epp.

You have the floor.

• (1215)

Mr. Dave Epp (Chatham-Kent—Leamington, CPC): Thank you, Mr. Chair, and thank you to the officials for being here.

I was struck when the minister, in his opening comments, referred to this as a bill to make sure that no “bad actors”—I think that was his direct language—would come into Canada, and he also later on commented that the bill aims to be “precise”.

I'm wondering if someone could comment as to... Is the overall intent of this bill to be the...? I find those terms at odds with each other.

Can you comment? Is the goal to be more precise and more prescriptive, or is it to increase the amount of latitude given to a minister?

Ms. Kelly Acton (Vice-President, Strategic Policy Branch, Canada Border Services Agency): In response, I would turn first to colleagues at GAC. I think it is about alignment. When you are sanctioned, that means you are then inadmissible to Canada. We have a regime, and the inadmissibility regime was not aligned with that. It is now. The precision, I think, is really around how sanctions are applied and how that relates back to inadmissibility.

Mr. Stephen Burridge: To add to that, I would say that Canada is very judicious in its approach to employing sanctions, and when it comes to this particular bill and the amendments it makes to IR-PA, it brings all of our autonomous sanctions regimes in line when it comes to inadmissibility. Therefore, any individual or entity that is listed for any of the triggers under SEMA, of which there are four, including human rights violations, corruption, and a great breach of international peace and security—

Mr. Dave Epp: Thank you. I'm sorry to cut you off. I have limited time.

Speaking of alignment, then, if that is the goal, can this be characterized as a follow-up? My colleague Mr. Bergeron referenced in earlier testimony the 2017 recommendations from this committee, where the SEMA.... Basically, this was intended to address and bring SEMA into alignment with IRPA.

Ms. Kelly Acton: Yes, I think we would say that.

Brett, is there anything you'd like to add?

Mr. Dave Epp: Is there any comment as to why it was in 2017, and this is 2023?

Ms. Kelly Acton: I would offer that I think it's a complex area, as we have been discussing, and we have undertaken the necessary work. The bill you have before you is a reflection of the work that has been undertaken since the committee's report.

Mr. Dave Epp: Is the department then looking at other recommendations from studies from around that era that are still not brought forward?

I'm concerned that it's from 2017, and it's now 2023. Work that we're doing in other studies at this committee.... Can we expect responses on that in 2029? I guess that's what I'm trying to get at. My colleague, whose birthday is today, made the statement that the business of the government seems to not be quick. Can you comment?

Ms. Kelly Acton: I would invite my colleague Brett Bush to reflect on any other inputs in the formulation of this work that would be helpful to the committee to understand.

Mr. Brett Bush (Executive Director, Immigration and Asylum Policy Innovation, Canada Border Services Agency): It would be important to note that, since 2017, there have been two rather large events that colleagues around the table here have been trying to deal with. The first was the influx of refugees that the government dealt with through the expansion of the safe third country agreement, and the second was dealing with border management during the pandemic.

The work did not stop on trying to assess the input from this committee and trying to advance these things. There are, however, realities that we're all dealing with in moving things forward during all of this same period of time.

Mr. Dave Epp: Thank you.

During the Senate committee hearings, it was identified that about 2,200 sanctioned individuals would have remained inadmissible without this act coming in. Have any of those applied for visas to come into Canada in the interim?

• (1220)

Mr. Brett Bush: A very small number of people who are currently covered by sanctions have applied for visas. They have been refused. The normal course of events would not anticipate that large numbers of sanctioned people would be seeking to come to Canada or travelling as a regular course of business.

That being said, it's trying to close the gap to make sure that all the sanctions covered under SEMA, as well as those by the United Nations and other international groups that Canada's a member of, are being applied equitably here, so that we're maintaining our support for those things.

Mr. Dave Epp: On what grounds were those small numbers of visas refused in the interim?

Mr. Brett Bush: The current provisions of section 35(1) in the IRPA permit.... I'm sorry, it's getting very technical.

There are certain provisions in the act that allow for two of the provisions of SEMA to determine people to be inadmissible. Then there are provisions, as was mentioned earlier, of the Magnitsky act that would allow us to stop people from coming into Canada.

Mr. Dave Epp: I'm going to come back to the point I was trying to make earlier. Does Bill S-8 expand the scope—

The Chair: Mr. Epp, I'm afraid you're out of time.

Now we go to Ms. Bendayan for five minutes.

[*Translation*]

Ms. Rachel Bendayan (Outremont, Lib.): Thank you, Mr. Chair.

Thank you to the witnesses for being here.

During the debates in the Senate, Bill S-8 was amended to prevent conflicts with Bill C-21, the government's firearms control bill, which is very important to me and that I worked on a great deal.

Could you please confirm to the committee that, following the amendments by the Senate, there are no further conflicts between Bill S-8 and Bill C-21?

Ms. Kelly Acton: We ensured that all the powers coordinate the amendments so the framework remains the same.

Ms. Rachel Bendayan: Thank you.

I believe it was at second reading of Bill S-8 that Minister Mendicino stated the following:

[*English*]

“[S]anctions issued against groups and non-state entities, such as al Qaeda or ISIL, do not automatically trigger sanctions-related inadmissibility ground.”

Does that mean that individuals who are part of al Qaeda or ISIL—or the Wagner Group, for example, should we sanction them—are not automatically sanctioned? If that's the case, can you explain the process by which they would be sanctioned?

Ms. Kelly Acton: I would invite GAC to speak to the sanctions process and then on the application of that to the inadmissibility regime.

Mr. Stephen Burridge: Individuals and entities that are listed under Canada's autonomous sanctions are subject to a dealings prohibition, which means that Canadians or persons in Canada cannot actually transact with those individuals or entities.

Ms. Rachel Bendayan: If they're not in Canada, would they be inadmissible to come to Canada automatically?

Mr. Stephen Burridge: If they're listed, then they would be inadmissible by the new provisions under Bill S-8. Should they be listed under any of the previous triggers, they would have been inadmissible had they been listed under the human rights or corruption trigger of either SEMA or the Justice for Victims of Corrupt Foreign Officials Act.

Ms. Rachel Bendayan: Do other officials have anything to add to that? If not, I have a follow-up.

Mr. Brett Bush: What my colleague said was correct. Once they are listed under certain provisions in SEMA, they would be inadmissible to Canada.

The question you asked was about non-state actors. In this particular question about terrorists, the sanction provisions.... Currently, the way the immigration act is written would not automatically deem them inadmissible by virtue of that sanction of the United Nations or under SEMA. Or, if the provisions of SEMA that are not currently covered by the immigration act...they would not be deemed inadmissible to Canada. That being said, there are other provisions in the immigration act that cover people being terrorists and being inadmissible to Canada.

We'd have to look at the individual circumstances of the individual case to determine if they're inadmissible.

• (1225)

Ms. Rachel Bendayan: I'm not sure if you can answer this question. In June 2022, at the Senate foreign affairs committee, government officials testified that about 2,200 individuals were currently sanctioned but not inadmissible to Canada.

If Bill S-8 were to pass, do you know how many individuals would be inadmissible based on the bill?

Mr. Brett Bush: Yes, the numbers will change, depending on who is being sanctioned. However, based on the sanctions that are currently in place, it would be an additional 2,700 people who would be inadmissible to Canada.

Ms. Rachel Bendayan: Thank you.

I would like to build on Mr. Sarai's questions with regard to accidental listings, if I have time. First, though, can you clarify whether any of Canada's partner countries have implemented measures similar to Bill S-8?

Mr. Brett Bush: Our partner countries have legislation that's very different from Canada's legislation, but we all tend to arrive at similar places, where governments want to announce sanctions against individuals, countries and actors, to be able to bar them from travel to their country.

Ms. Rachel Bendayan: Okay.

As a final question, just—

The Chair: I'm afraid you are out of time.

Now we go to Mr. Bergeron. You have five minutes, sir.

[*Translation*]

Mr. Stéphane Bergeron: Thank you, Mr. Chair.

I would like to go back to Ms. Bendayan's earlier question about the 2,000 or so individuals—it seems there are more today—who are prohibited from entering Canada.

The information about the 2,200 individuals was obviously made public during the study of this bill by the Standing Senate Committee on Foreign Affairs and International Trade last June. As I understand it, there are now 2,700 individuals.

The government representative added that, between 2017 and 2022, 25 individuals sanctioned under the United Nations Act, the Special Economic Measures Act or the Justice for Victims of Corrupt Foreign Officials Act had been refused a visa. We know therefore that, of those 2,200 individuals, 25 were refused a visa.

Does that mean that some of those 2,200 individuals were granted a visa?

Ms. Kelly Acton: Thank you for the question.

I would ask Mr. Bush to provide clarification on the numbers and the exact amounts. I think it is about 2,900 individuals, not 2,700.

Perhaps my colleagues from Immigration, Refugees and Citizenship Canada can answer your questions about visas.

Mr. Brett Bush: Pardon me, but I would like to clarify something. The number of individuals who could be inadmissible to Canada under the new act is just under 2,900.

[*English*]

For the question about visas, I would turn to my colleagues at Immigration.

Ms. Saman Fradette (Director, Migration Control and Horizontal Policy Division, Department of Citizenship and Immigration): Thank you, Mr. Chair.

I'm sorry. I missed the specific question that you about visa refusals.

[*Translation*]

Mr. Stéphane Bergeron: I was saying that, during debate on Bill S-8 at the Standing Senate Committee on Foreign Affairs and International Trade last June, the issue arose of those 2,200 individuals who were sanctioned, but who would not be denied a visa to Canada. At that time, the government representative said 25 individuals who were sanctioned under various regimes were denied a visa.

So I would like to know whether, among those 2,200 individuals, some were granted a visa by the Canadian government.

[*English*]

Ms. Saman Fradette: I see. My understanding is that upon the passing of this bill, approximately 2,200 people who have been sanctioned since the invasion of Ukraine will be captured under it. Prior to that, between 2017 and January 2023, it's about 25 for the number of visas that were refused for individuals who are inadmissible based on current sanctions.

We don't have numbers on how many out of those 2,200 would be refused. At this stage, those individuals wouldn't be refused.

• (1230)

[*Translation*]

Mr. Stéphane Bergeron: The information you are providing is what has been repeated since earlier. What we need to know is how many of those 2,200 people have been admitted to Canada since 2017.

[*English*]

Ms. Saman Fradette: I don't think I have that information with me, but I can return with that.

[*Translation*]

Mr. Stéphane Bergeron: Please provide the information later on. Thank you.

Still during that debate, there was also discussion of the amendments to the Immigration and Refugee Protection Act that would be made by clauses 5 and 6 of Bill S-8, which pertain to sanctions imposed on a country, entity or person

The problem is that the terms “country”, “entity” and “person” are not defined, so much so that some people think that the vagueness of this statement might mean that someone could specifically be refused access to Canada.

I discussed this with the minister but, honestly, I'm not sure I understood his answer. A situation could arise in which refugees, for example, conscientious objectors, people who are opposed to the war and are therefore at risk of being imprisoned in Russia, could be refused access to Canada.

Is that fear founded, in your opinion?

Ms. Kelly Acton: Thank you for your question.

It is not by accident that someone is on that list.

I would ask Mr. Bush to elaborate on why these terms were not defined in the bill.

[English]

The Chair: Answer very briefly, please, Mr. Bush, because we're 40 seconds over the time.

Mr. Brett Bush: I'm sorry. I'll be very brief, in English.

First, the bill allows for people who are sanctioned to make refugee claims. I know that keeps coming up.

Second, it is very important to remember that we are trying to keep a clear division between the decision-making process for sanctions, which belongs with Global Affairs, outside the reach of the Minister of Public Safety. It will rest with the Minister of Foreign Affairs. It's very important to make that distinction and not import the language from SEMA into IRPA so that we start getting into all sorts of situations where we're conflating decision-making and appeals.

If I may make just one last statement, Mr. Chair, I think it's very important to understand that "country" as a term already exists in the legislation. We would be adding in an alignment of the legislation to make sure the terms allow us to cover the people who are designated, as my colleague at Global Affairs has already mentioned.

The Chair: Thank you.

We now go to Ms. McPherson for five minutes.

Ms. Heather McPherson: Thank you very much.

Thank you for providing all of this clarity, and certainly don't apologize for our taking too long to ask questions of you. I wanted to follow up on that.

You talked a bit about that separation, so that the sanctions are determined by Global Affairs and not Immigration, yet, if you want to appeal it, you then have to go back to Global Affairs, to the foreign affairs minister, or to the United Nations. Is that correct?

Mr. Brett Bush: The processes and sanctions are in the domain of my colleague from Global Affairs, so I will not speak to that particular process, but—

• (1235)

Ms. Heather McPherson: The appeal process—

Mr. Brett Bush: The appeal process against the sanction will continue to rest with Global Affairs. There are recourse mechanisms to allow for people who are against the issuance of the removal order and things of that nature that are in the bill and will be permitted for people.

We have to keep in mind that this particular provision is very different from the current inadmissibility regime in IRPA, because this is a temporary inadmissibility that's linked to the sanction. When the sanction is lifted, at whatever point in time the sanction is lifted, the people cease to be inadmissible to Canada by virtue of that sanction. It's very different from other inadmissibilities found in IRPA.

Ms. Heather McPherson: The fact that I can't understand it is probably a reflection on me more than anything else, but I wonder

whether there should be a review process as part of this bill. Is there a plan for a review process with this bill, so that if these complexities result in unintended consequences, there is a way for us to make sure the bill is dealing with that? Is there a process in place for that?

Ms. Kelly Acton: Just to reiterate, the two processes are baked in. If an individual finds themselves on the sanctions list, the recourse is through the mechanism for the determination of sanctions. That exists. That is in place.

With respect to the inadmissibility decision, as Mr. Bush has explained, there is legal recourse, and that is consistent. We have tried to make sure, as we have brought in this provision, recognizing the difference in the temporary nature of it, to align it with how we have constructed the inadmissibility regime more generally.

Ms. Heather McPherson: Is there a review mechanism planned for this legislation, to make sure it is working?

Ms. Kelly Acton: The recourse is already in place, as we have laid it out, and that is part and parcel of the—

Ms. Heather McPherson: No, I don't mean for individual people who are applying. I mean for the legislation, to see if it is working, like a legislative review.

Ms. Kelly Acton: So....

Ms. Heather McPherson: Often, legislation has a "let's check in five years and see if it's working" kind of thing.

Ms. Kelly Acton: I'm happy to come back to you on that.

Ms. Heather McPherson: Okay.

One of my thoughts on this is that we.... I worked with Global Affairs in my previous life, quite a bit, and I am concerned when I hear that there are multiple processes, multiple departments and multiple ministers, because, of course, this is a very complex issue. This is very costly. We can all agree that it will be one of the things that happen. Also, of course, people are at their most vulnerable at the time that they may need to access these costly, complex and difficult processes that involve multiple ministers and multiple departments. I am a bit concerned that this is the case.

I agree with people in this room that we want to do everything we can to ensure that people aren't on those lists, but I am a bit concerned about that.

I have a couple of questions. Perhaps for our GAC officials, how many individuals have applied to the Minister of Foreign Affairs to be delisted or to file a claim of mistaken identity?

Mr. Stephen Burrige: Thank you, Mr. Chair. I'd have to come back to you on the number of individuals who have applied for delisting, but I think it's important to clarify that when we're talking about inadmissibility, we really are talking about those individuals and entities that have specifically been listed.

Ms. Heather McPherson: Perhaps erroneously. It happens.

Mr. Stephen Burridge: Right, but the point is that sanctions against a country, which can include things like an import ban or an export ban, don't mean, by virtue of having those sanctions on the country, that any individual from that country is inadmissible to Canada. It really is based on the listing of the individual or the entity specifically under our autonomous sanctions regime or through the UN.

Ms. Heather McPherson: However, we have examples of people being put on no-fly lists, for example, because of mistaken identity and because they shared....

Is there that risk? Do we have a risk of that happening?

Mr. Stephen Burridge: As I mentioned before, Canada is very judicious in its approach to applying sanctions. We undertake very careful due diligence to look at not just the impacts on the individuals or entities that we're listing, but the impacts on Canadians or Canadian businesses.

Ms. Heather McPherson: This would be an appeal, because the judiciousness may not have worked.

I think I'm out of time.

The Chair: Thank you.

We now go to Mr. Genuis. You have five minutes.

It's Mr. Epp.

Mr. Dave Epp: Thank you, Mr. Chair.

I want to follow up where I left off earlier on the concept of ministerial discretion. Bill S-8 is the framework that links together IR-PA, the Citizenship Act and the Emergencies Act, closes loopholes and links sanctions and inadmissibility. It also adds ministerial discretion.

We're trying to be precise and get all of that in. What's the purpose of adding ministerial discretion? What would be an example of when something like that would be in the national interest?

Ms. Kelly Acton: I'll invite Mr. Bush to unpack that a bit, to get to the heart of your question.

• (1240)

Mr. Brett Bush: I think Mr. Epp is referring back to the comments from the minister earlier this morning. We need to be clear about a couple of things.

First, the Immigration and Refugee Protection Act already links certain provisions of SEMA to admissibility. What this bill is proposing to do is link the last two remaining pieces from SEMA to an admissibility regime, so that the government can have confidence that when it is sanctioning a group of people by name, they would also be inadmissible for travel into Canada.

The discretion comes with the listing process. It will also make it clear and more straightforward for our officers to be able to deal with the admissibility concerns of an individual who is listed, because it will be clear that once they are listed in SEMA, period, they will be inadmissible to Canada.

I would—

Mr. Dave Epp: Thank you.

I'm going to turn the rest of my time over to my colleague, Mr. Hoback.

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

I'm curious. When this legislation comes into force, are there individuals in Canada who would have to be removed immediately?

Mr. Brett Bush: There are none that I'm aware of.

Mr. Randy Hoback: There are none that you're aware of.

Are there individuals with visas who are not in Canada and who would have their visas revoked?

Ms. Saman Fradette: There are none that we're aware of at this time.

Mr. Randy Hoback: Is it possible to have an individual sanctioned but the country itself not necessarily be on a concern list?

Ms. Kelly Acton: GAC, again, on the application of sanctions, if you could....

Mr. Stephen Burridge: Again, as I mentioned earlier, individuals and entities are specifically listed under our autonomous sanctions regime. Also, under UN sanctions, when individuals are listed, they are specifically named. I would say that, from a practical perspective with regard to individuals coming to Canada because of the dealings ban, it would be very difficult for Canadians to actually interact with them, because they would be violating sanctions. With regard to the point of my colleague's—

Mr. Randy Hoback: Let me use an example: a drug lord out of South America. The country may not be a problem, but that drug lord could be a problem. Could you see that person's being sanctioned in this scenario?

Mr. Stephen Burridge: I don't want to hypothesize on potential sanctions and get ahead of any decisions of the Minister of Foreign Affairs, but certainly, we look at every case very carefully. Like I said, it's a judicious approach.

Mr. Randy Hoback: The Minister of Foreign Affairs would make the decision, then, in this scenario. Is that what you're saying?

Mr. Stephen Burridge: I'm sorry. Could you repeat the question, please?

Mr. Randy Hoback: You're saying that the Minister of Foreign Affairs would make a decision in this type of scenario.

Mr. Stephen Burridge: Ultimately, sanctions recommendations are put forward to the Minister of Foreign Affairs, who would decide on presenting a recommendation to the Governor in Council, who ultimately would sign off on a sanctions listing.

Mr. Randy Hoback: Okay, so you would do the grunt work, for lack of a better term. Then, the minister would look at the information and decide accordingly.

With regard to property that's being held in Canada by somebody who goes on the sanctions list, would you actually be taking any actions against that property? Would you be seizing it? What happens in those scenarios?

Mr. Stephen Burrige: In June of last year, the government passed new amendments to both the Special Economic Measures Act and the Justice for Victims of Corrupt Foreign Officials Act. These amendments give the government the authority to seize and forfeit any assets that are held in Canada by a listed individual or entity. That decision is looked at on a case-by-case basis, and assets in Canada, especially financial assets, are proactively disclosed by financial institutions to the RCMP.

The Chair: Thank you. We're out of time, I'm afraid.

We now go to the last question and to Mr. Oliphant.

You have five minutes.

Hon. Robert Oliphant: Thank you, Mr. Chair.

I have a couple of quick questions to make sure we're all on the same page.

The first thing is that my colleague, Madam Bendayan, brought forward the issue of the problem of Bill C-21 and a concordance issue, to make sure that we weren't superimposing an act over something that had just been changed. Do you know of any other acts that we may need to make amendments for in this act to make sure that we are not tripping over ourselves, as well?

• (1245)

Ms. Kelly Acton: Mr. Chair, I would offer that, in terms of coordinating amendments, there were changes made to the inadmissibility regime under Bill S-223 around trafficking in human organs. In bringing these additional changes to the inadmissibility regime, there are coordinating amendments to—

Hon. Robert Oliphant: It's my understanding that there would need to be technical amendments to coordinate Bill S-223—Senator Ataullahjan's bill, sponsored by Mr. Genuis—to make sure that we don't superimpose something over a bill that we just passed.

Ms. Kelly Acton: That is correct—and that we not undo—

Hon. Robert Oliphant: We may have some amendments that the government would need to bring on that issue. That's not my department, but I understand that may happen.

Okay, I wanted to clarify that.

The second issue is that I feel a bit like I'm in an alternate universe, and it seems to me that we have blended a bunch of issues. I just want to make sure that, if I'm explaining this to my constituents, I'm correct.

We have a sanctions regime that is operated—very different from criminal checks under our immigration or public safety—under three possible acts: SEMA, the Sergei Magnitsky Law and our UN agreement. That is a process that you do. We have people who may have fallen through the cracks and been allowed to come in because there's been discretion in the system where visa officers may not be following this. We're making it very clear under IRPA that, if you're sanctioned under these sections, you are inadmissible as opposed to discretionarily inadmissible. Am I correct on that?

Ms. Kelly Acton: Yes, I'm just—

Hon. Robert Oliphant: The process of sanctioning is a temporary measure taken, hopefully, inshallah, to make sure people

change their behaviours. You can get off that list if you change your behaviour. That's the nature of a sanction. Am I correct?

Mr. Stephen Burrige: I would say that sanctions ultimately have a number of goals, one being to change the behaviour of states or individuals. There are other impacts sanctions can have, including signalling, preventative, etc.

Hon. Robert Oliphant: Yes. You're sending a strong message. What we're adding through this kind of housekeeping bill is making sure the three regimes we do sanctioning on are in agreement with the Immigration and Refugee Protection Act admissibility. It would then be implemented through a Public Safety removal order, if they're in Canada. CBSA would be monitoring this, so we have double checks.

This is, to me, not a big deal. Am I missing something? We have procedures whereby you can be taken off a sanctions list. There is an appeal process under those. The UN one is a bit different, but under that.... We'll get into that in our sanctions. However, there is still some degree of discretion if mistakes have been made. Largely, this bill is to take the discretion out of that, to ensure the bad people don't get to squeak through and get into Canada when they've been sanctioned—trusting that our sanctions regime, which is very rigorous, is correct.

Am I getting it, so I can explain it to the people of Don Valley West?

Ms. Kelly Acton: Thank you.

Yes, I think this is a closing of the gap. It is an alignment of regimes. I think it's also fair to say that it doesn't necessarily introduce new discretion. As you say, it is about alignment across all regimes.

Hon. Robert Oliphant: I have a last question, but I'm probably running out of time.

Other countries have sanction regimes. We try to do our sanctions in concert with other countries, because they're more effective that way. We do it with the EU, the U.K., the U.S., like-minded partners, etc.

Do other countries have a similar thing about inadmissibility with sanctions? Are we getting in step with them? Are we leading the pack? Are we behind the pack? Where are we with other countries on the relationship between admissibility and sanctions, knowing we have a very different Immigration and Refugee Protection Act?

Mr. Stephen Burrige: Thank you, Mr. Chair.

Very quickly, yes, this would be bringing us in alignment with the measures a number of our allies are able to impose, including our G7 partners. Some of them are linked to sanctions directly. Others, including the United States, have other mechanisms that allow them to impose things like visa or travel bans.

This will give us the ability to ensure that all of those listed under our sanctions are inadmissible.

• (1250)

Hon. Robert Oliphant: In any time I have left—

The Chair: No, I'm afraid not, Mr. Oliphant. You have no time remaining.

At this point, we conclude the questions.

Allow me to thank all the officials who appeared before us today. Thank you Mr. Bush, Ms. Acton, Mr. Aubertin-Giguère, Ms. Fradette, Mr. Chan and Mr. Burrige. I'm very grateful for your time, and for your patience in explaining this framework to us.

Now we will give the officials a few minutes to leave. We will very soon be going in camera to talk about the travel proposal.

[Proceedings continue in camera]

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