

**NOTES ON BILL C-293: AN ACT RESPECTING  
THE PROVISION OF DEVELOPMENT ASSISTANCE ABROAD  
(DEVELOPMENT ASSISTANCE ACCOUNTABILITY ACT)**

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**NOTES ON BILL C-293: AN ACT RESPECTING  
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(DEVELOPMENT ASSISTANCE ACCOUNTABILITY ACT)\***

**BACKGROUND**

On 17 May 2006, Mr. John McKay introduced Bill C-293, an Act respecting the provision of development assistance abroad (short title: Development Assistance Accountability Act) (the bill) in the House of Commons. This bill is very similar to Bill C-243, introduced in the House of Commons on 1 May 2006 by Ms. Alexa McDonough. Prior to this, similar private Member's bills, Bill C-204 and Bill C-446, were introduced by Mr. Daryl Kramp on 6 April 2006 and by Ms. Bev Desjarlais in the 38<sup>th</sup> Parliament. One notable feature of Bill C-293 and Bill C-243 that did not appear in the predecessor bills is the proposed creation of a new Advisory Committee for International Development. (See description below.)

Bill C-293 establishes a legislative mandate for Canada's official development assistance with a clear purpose for aid spending that focuses on poverty reduction, and is intended to improve transparency and accountability in Canada's aid spending. Bill C-293 expressly defines "development assistance" and establishes specific criteria for the disbursement of Canadian development assistance, consistent with the purpose of the proposed Development Assistance Accountability Act (the Act). In addition, Bill C-293 sets out a reporting requirement for aid spending. In introducing the bill in Parliament, its sponsor stated that "[t]he purpose of the bill is to concentrate on reducing poverty and promoting compatibility with Canadian values, foreign policy and international human rights standards."

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\* This is a revised version of an earlier paper prepared by the Library of Parliament. The earlier paper was written by Emma Butt, intern, and Margaret Young, analyst, in the Law and Government Division.

## A. Canada's Official Development Aid

Currently, there is no legislation clearly defining the mandate and purpose of the Canadian International Development Agency (CIDA) or the parameters of Canada's international development assistance.

The International Assistance Envelope (IAE) introduced in the February 1991 Budget, funds Canada's Official Development Assistance (ODA) and Official Assistance (OA) initiatives.<sup>(1)</sup> Official development assistance is defined by the Development Assistance Committee (DAC) of the Organisation for Economic Co-operation and Development (OECD) as:

[funding transferred to] developing countries and multilateral institutions provided by official (government) agencies which meets the following tests:

- (a) it is administered with the promotion of the economic development and welfare of developing countries as its main objective; and
- (b) it is concessional in character and conveys a grant element of at least 25%.<sup>(2)</sup>

CIDA is the federal agency charged with planning and implementing the majority of Canada's development cooperation programs, and administers approximately 80% of the aid budget.<sup>(3)</sup> The authority of the Minister of Foreign Affairs over CIDA, the provision of international development and assistance by Canada, and the role of the Minister of International Cooperation, through whom CIDA reports to Parliament, are set out in the *Department of Foreign Affairs and International Trade Act* (DFAIT Act).<sup>(4)</sup>

## B. Parliamentary Studies and Reports

Previous parliamentary studies and reports have recommended a legislative mandate that focuses on poverty reduction for Canada's official development assistance.

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(1) Canadian International Development Agency (CIDA), CIDA Estimates 2005-2006, Part III, *Plans and Priorities*, 24 March 2005.

(2) *Ibid.*, footnote 22.

(3) Canadian International Development Agency, "About CIDA-FAQ," 31 July 2006.

(4) R.S.C. 1985, c. E-22.

In May 1987, the Standing Committee on External Affairs and International Trade (SCEAIT) released a report on Canada's official development assistance policies and programs, entitled *For Whose Benefit?*<sup>(5)</sup> In its report, SCEAIT recommended that the Canadian government adopt a "Development Assistance Charter as part of a legislative mandate for Canada's development assistance program."<sup>(6)</sup> SCEAIT maintained that the Charter should contain several principles, including the principle that "the primary purpose of Canadian official development assistance is to help the poorest countries and people in the world."

On 9 June 2005, in accordance with its ongoing study of Canada's International Policy Statement, the Standing Committee on Foreign Affairs and International Trade (the Committee) adopted its Twelfth Report on International Aid (the Report). The Report supported establishment of a clear legislative mandate for Canada's ODA. It called on the federal government:

To introduce legislation prior to the next federal budget which establishes poverty reduction as the priority for Canada's Official Development Assistance (ODA), as outlined in the historic February 17, 2005, letter from all Opposition Leaders to the Prime Minister, to ensure that aid is provided in a manner consistent with Canada's human rights obligations and respectful of the perspectives of those living in poverty.<sup>(7)</sup>

The Report was presented to the House of Commons on 13 June 2005 and concurred in by the House on 28 June 2005.

## DESCRIPTION AND ANALYSIS

### A. Short Title and Interpretation (Clauses 1 and 3)

The bill is entitled the Development Assistance Accountability Act (clause 1).

Clause 3 contains a number of definitions for the purpose of the bill, including those of "Committee," "competent minister," "development assistance," "international agency," "Minister," and "non-governmental organization."

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(5) House of Commons, Standing Committee on External Affairs and International Trade on Canada's Official Development Assistance Policies and Programs, *For Whose Benefit?* 2<sup>nd</sup> Session, 33<sup>rd</sup> Parliament, May 1987.

(6) *Ibid.*, at 12.

(7) House of Commons, Standing Committee on Foreign Affairs and International Trade, *Report 12 – International Aid*, 1<sup>st</sup> Session, 38<sup>th</sup> Parliament, 9 June 2005, <http://cmte.parl.gc.ca/cmte/CommitteePublication.aspx?COM=8979&Lang=1&SourceId=120069>.

The “Committee” refers to the Advisory Committee for International Development Cooperation, which is established under clause 6 of the bill.

The “competent minister” is defined as any minister designated by the Governor in Council to provide development assistance.

“Development assistance” is defined as official development assistance as it is defined by the Development Assistance Committee (DAC) of the OECD (as set out above). Canada’s foreign aid expenditures, which it reports to the DAC, are evaluated every three years.

“International agency” is defined as any intergovernmental organization whose objectives include global poverty reduction or international humanitarian assistance.

“Minister” is defined as the Minister of International Cooperation.

Finally, “non-governmental organization” is defined as a not-for-profit or charitable organization whose governing structure is independent of government direction and whose objectives include global poverty reduction or international humanitarian assistance.

## **B. Purpose (Clause 2)**

Clause 2 establishes that the purpose of the Act is to ensure that all of Canada’s overseas development assistance is provided with a central focus on poverty reduction, as well as in a manner that is consistent with Canadian values, Canada’s foreign policy, and international human rights standards. Clause 2(2) requires that all Canadian international development activities be carried out in accordance with the principles of sustainable development; sustainable development is explained as development that meets the needs of the present generations without compromising the ability of future generations to meet their own needs.

## **C. Criteria for Providing Development Assistance (Clause 4)**

Clause 4 of the bill sets out criteria for the disbursement of Canadian development assistance to reflect the Act’s purpose of maintaining a focus on poverty reduction. Before providing international assistance, the Minister must be satisfied that development assistance: a) contributes to poverty reduction; b) takes into account the perspectives of the poor; and c) is consistent with Canada’s human rights obligations. In order to determine whether development assistance meets these criteria, the Minister may consult with international agencies and Canadian non-governmental organizations [clause 4(2)].

#### **D. Humanitarian Assistance (Clause 5)**

Although the Act requires that development assistance meet the criteria set out in clause 4, an exception is made for humanitarian assistance in cases of natural or artificial disasters or other international emergencies.

#### **E. A New Advisory Committee for International Development (Clause 6)**

Clause 6 establishes an Advisory Committee for International Development (the Advisory Committee), appointed by the Minister, to advise the Minister on matters related to the exercise of his or her powers under the Act. In addition, in accordance with the purpose of the Act, the Advisory Committee may on occasion review any matters relating to development assistance. [Clause 6(2)] Also set out in Clause 6 are the requirements for the composition of the Advisory Committee, including the number of members, as well as their relevant experience and background. Clause 6 also requires that the members elect a chairperson and deputy chairperson from among the Advisory Committee members. Furthermore, Clause 6 sets out the tenure of the members, allows for the payment of remuneration and expenses to members in amounts set by the Minister, and provides for the removal of members by the Minister at any time for cause.

#### **F. Petition to Committee (Clause 7)**

Clause 7 establishes a process for the Advisory Committee to receive petitions from residents of a developing country who believe that the development assistance being provided to that country is inconsistent with the purposes of the Act. Such residents may make a petition to the Committee in writing, with a description of the deficiencies of the development assistance program and the corrective action that is requested.

Upon receipt of a petition, the Advisory Committee is required to make a record of it and forward the petition to the competent minister within 15 days. This minister must then, within 15 days of receipt, send an acknowledgement of receipt of the petition to the petitioner, with a copy to the Advisory Committee. The competent minister is then required to consider the petition and send a reply to the petitioner, with a copy to the Advisory Committee, within 90 days after the competent minister's receipt of the petition, or within a longer time, with notification to the petitioner and the Advisory Committee. The reply must contain details of any corrective action required by the competent minister, the time by which the action will be taken, and the reasons for the decision. Once the competent minister has sent a reply, the Advisory Committee is required to monitor the reply.



## **G. Reporting Requirements (Clauses 8-10)**

### **1. The Advisory Committee (Clause 8)**

The bill sets out reporting requirements for the Advisory Committee, the Minister and the Minister of Finance. Clause 8 requires the Advisory Committee to submit to the Minister an annual report including a description of results achieved with respect to the implementation of the purpose of the Act, a description of any petitions received, the status of the petition, any corrective action required by the competent minister, and any other matter the Advisory Committee deems necessary.

### **2. The Minister of International Cooperation (The Minister) (Clause 9)**

The Minister is also subject to reporting requirements set out in the Act. Clause 9 requires that the Minister, after consulting with all competent ministers, submit an annual report to the House of Commons and the Senate within six months of fiscal year end. The report must include a description of all activities related to the Act, a summary of the Advisory Committee report, a summary of the annual report submitted under the *Bretton Woods and Related Agreements Act*,<sup>(8)</sup> a summary of representations made by Canadian representatives related to priorities and policies of the World Bank and International Monetary Fund, and a summary of CIDA's *Departmental Performance Report*. The Minister is also required to submit an annual statistical report to Parliament on all ODA disbursements of development assistance, within one year of the fiscal year end.

### **3. The Minister of Finance (Clause 10)**

Finally, Clause 10 requires the Minister of Finance to submit an annual report to the House of Commons and the Senate, containing a summary of the operations under the Act, a summary of representations made by Canadian representatives related to priorities and policies of the Bretton Woods institutions, a summary of the manner in which Canada's activities under the *Bretton Woods and Related Agreements Act* have contributed to carrying out the purpose of the Act, and details of any operation that has directly affected Canada.

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(8) *Bretton Woods and Related Agreements Act*, R.S. 1985, c. B-7, <http://laws.justice.gc.ca/en/B-7/index.html>. The Act authorizes Canada's participation in the World Bank (WB) and the International Monetary Fund (IMF). In addition, the Act mandates Canada's Minister of Finance to report annually to Parliament on the operations of the WB and the IMF, and on the management of Canada's interests in them.

## H. Coming Into Force (Clause 11)

The Act will come into force on the day or days fixed by the Governor in Council. It may be noted that a coming into force clause was absent in Bill C-243. In the absence of a coming into force provision, a statute comes into force on the day it receives royal assent.

## COMMENTARY

For years, calls have come from parliamentary committees, as well as from non-governmental organizations, and other interested parties, for a legislative mandate for Canada's official development assistance that would focus aid on poverty reduction.<sup>(9)</sup> With respect to the accountability of aid spending and aid effectiveness, Mr. Gerry Barr, President and Chief Executive Officer of the Canadian Council for International Co-operation (CCIC), maintains, "There is no more effective tool to address that than the idea of a legislated mandate for aid spending, which sets out very clearly the purposes of aid spending, and creates, because of that clarity, a framework in which accountability becomes truly possible."<sup>(10)</sup>

Other countries such as the United Kingdom (U.K.) have already established legislative mandates for their international development assistance. The International Development Act (IDA 2002), which came into force in the U.K. on 17 June 2002, is the central piece of legislation authorizing disbursements of development or humanitarian assistance, including in what form and on what terms it can be given.<sup>(11)</sup> The IDA 2002 establishes poverty reduction as the overarching purpose of the U.K.'s international development assistance.

During the debate on second reading, the Parliamentary Secretary to the Leader of the Government in the House of Commons stated that the bill was procedurally not in order because it had financial implications and required royal recommendation. However, the Acting Speaker held that a ruling on the procedural admissibility of the bill would be made before the question was put at third reading.

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(9) Canadian Council for International Co-operation, "Briefing Note: A Legislated Mandate for Foreign Aid," [www.ccic.ca](http://www.ccic.ca).

(10) House of Commons, Standing Committee on Foreign Affairs and International Trade, *Evidence*, 1<sup>st</sup> Session, 38<sup>th</sup> Parliament, 19 May 2005.

(11) United Kingdom, Department for International Development (DFID), [www.dfid.gov.uk/aboutdfid/ida.asp](http://www.dfid.gov.uk/aboutdfid/ida.asp).