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Mr. Paul Steckle

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• (1535)

[English]

The Chair (Mr. Paul Steckle (Huron—Bruce, Lib.)): I will call the meeting to order.

As your agenda will indicate, today we are beginning what we haven't done for a long time, and that is to study a bill. We want to study clause 1 today of Bill C-27, an act to regulate and prohibit certain activities related to food and other products to which the acts under the administration of the Canadian Food Inspection Agency apply and to provide for the administration and enforcement of those acts and to amend other acts in consequence. And the short title, of course, as you may or may not know, is the Canadian Food Inspection Agency Enforcement Act.

We have with us this afternoon from CFIA Kristine Stolarik, executive director for liaison, preparedness, and policy coordination; and Mark McCombs, head and general counsel, legal services.

I presume, Mr. McCombs, that you are a lawyer.

Mr. Mark McCombs (Head and General Counsel, Legal Services, Canadian Food Inspection Agency): That's a good presumption, Mr. Chair.

The Chair: We need to know that before we begin this meeting.

We want to welcome the members of the committee as we begin this process. This is a process for which we cannot predetermine the length of time it will take, but we will begin today. We'll go into the general meat of the bill. Clause 1, of course, is what we determined the first part of our meeting will be about today. I might also indicate that there are some brief comments to be made before we begin.

We will follow the same rotation of speakers today, but there will be no limit on time. You may have one or two minutes as we go through it. We won't be quite as rigid on the timing today. We do have an hour for this presentation and then another hour and fifteen minutes following it.

Let us begin.

Kristine, are you on?

Ms. Kristine Stolarik (Executive Director, Liaison, Preparedness and Policy Coordination, Canadian Food Inspection Agency): I am. Thank you, Mr. Chairman.

I am pleased to appear before the committee to provide a technical briefing on the CFIA Enforcement Act, Bill C-27. We'll provide you with a brief overview of how we've arrived at this point and why the

bill is important. This will be followed then by our technical review of the bill.

The bill is the second step in a three-step process. The first step was the creation of the CFIA in 1997. It brought together, as you all know, under one agency the responsibility to administer and enforce 13 federal acts and their respective regulations. Bill C-27, the modernization and consolidation of our enforcement inspection legislation, is step two, and that's what we're going to be discussing today.

The third step will involve the modernization, consolidation, and enhancement of our regulatory base, the 36 sets of regulations that we have. It's part of an overall government move towards smart regulation, which we hope to begin work on in the future.

[Translation]

The bill has three main objectives, first of all, to consolidate and modernize the CFIA's legislative base so it can provide the CFIA with the basic inspection and enforcement tools that it needs to continue to protect Canada's food supply, and animal and plant resource base; secondly, to allow CFIA inspectors to do their jobs more effectively and efficiently; thirdly, to provide Canada with modern border enforcement tools that will be more consistent with recent US legislation.

[English]

At present, in certain cases we have an antiquated and inconsistent approach to inspection and enforcement activities. This bill is going to change that. It will modernize, consolidate, and enhance our inspection and enforcement powers to meet present and future needs. The proposed bill will provide all inspectors with the same consistent powers and authorities.

This new legislation will also give CFIA inspectors the tools and authorities they need to do their jobs more efficiently and effectively. This increased efficiency will be an advantage to stakeholders and consumers, both domestically and internationally.

The bill provides inspectors with a consistent set of powers and authorities, regardless of which commodity is being inspected. For example, fish inspectors will now have the same powers as animal health inspectors, and vice versa. Training will be provided to familiarize both CFIA inspectors and Canadian Border Service Agency officers with the consolidated and modernized inspection and enforcement powers and authorities in this proposed act.

The bill will also improve efficiency at the borders. Currently, the legislative authority to order removal of imported products is inconsistent. Essentially, we let products regulated under the current Food and Drugs Act in, and then we recall them at the retail level if it's determined that they don't meet the requirements. The ability to stop these products before they enter the marketplace will be more effective, and will reduce the risk of such products even reaching the consumers.

In effect, the bill will give the agency the authority to deal with an imported product before it reaches the Canadian retail level. Overall, it will help make the border a more effective line of defence against the transmission of animal and plant diseases and unsafe food products. It will also be an important tool against bio-terrorism.

The bill will also enhance existing inspection enforcement tools at the Canada-U.S. border, providing the CBSA officers and CFIA inspectors with better controls when enforcing CFIA legislation at airports and other points of entry.

So with that brief introduction, I'd like to now proceed, with the assistance of my colleague, Mark McCombs, to provide the committee members with a technical briefing on the contents of the bill.

The Chair: Thank you, Ms. Stolarik. You may proceed.

At any point, if you have some misunderstanding or need some clarification, feel free to simply advise the chair and we will have your intervention.

I should also point out that we have with us today at the table Joann Garbig. She's the legislative clerk. This is a bill, so there has to be someone here from that department. She will be helping us through this process.

Mr. Anderson.

Mr. David Anderson (Cypress Hills—Grasslands, CPC): I just have a question. I'm not sure if this is the appropriate time to ask it or not, but I'd like to hear a little bit about the oversight that will be present on the CFIA once this is done. I don't know if we need to talk about that now or later, but during this hour I would like to hear about that.

• (1540)

Ms. Kristine Stolarik: Sure. Could we address it later?

Mr. David Anderson: Okay.

Ms. Kristine Stolarik: Thank you, Mr. Chair.

The Chair: Ms. Stolarik.

Ms. Kristine Stolarik: Perhaps I can then talk about some of the key definitions we'll be introducing in this proposed legislation. There are going to be two key definitions I'd like to advise the members of. The first one is something we call "agricultural or aquatic commodities". We use this term to consolidate the definitions of an agricultural product, a fish or marine plant, animal product, and food and meat product, as they apply to their respective acts, in order to reference them collectively, as opposed to always repeating those terms over and over again. That's one new definition we've introduced.

As for the second one, we'll put it into context as we deal with the licensing framework provisions.

I'll move on then to a regulated product. This definition of "regulated product" is also new and is going to be used to refer to all the things the agency is responsible for regulating under the various pieces of legislation we're consolidating and modernizing—the ten pieces of legislation. Once again, it's a term to reference them collectively throughout the bill.

The majority of the other definitions that you see are already existing in our other pieces of legislation. They are a consolidation. They're going to be consolidated in this new act for consistency purposes. They'll be housed in one single act for the inspectors.

I'll move on then to clauses 3 and 5. That's the licensing provision. This establishes the authority for the minister to license a person to engage or operate an establishment and to engage in some activities: one, the importation of a regulated product; two, exporting an agricultural or aquatic commodity; three, the preparation of an agricultural or aquatic commodity for export or interprovincial trade; and four, the preparation or sale of a feed, fertilizer, or seed.

This proposed scheme is based on the authority currently contained in the Fisheries Act. You may know that CFIA currently has a dual system of registration and licensing. The ultimate goal of these provisions is to eliminate that dual system. Basically we feel that the benefit of requiring a licence is that of a privilege and not a right. This allows licences to be governed by strict conditions, so there's the authority to set conditions on licences as well in here.

I'll move on then to the provision on classes of licences. There's a provision to allow that persons will be required to be in a prescribed class. What we mean by this is we may use a prescribed class as food importers. This is a current gap in the system where we don't have the authority to license food importers. This would be a class of licensees we would establish under this regulatory-making power.

We talked about conditions. Also there's a provision in here that the licence may be revoked or suspended if the conditions of the licence have been contravened.

The Chair: Mr. Gaudet had a comment.

[Translation]

Mr. Roger Gaudet (Montcalm, BQ): I'll ask you a question that was put to me by a number of farmers. Why is it the same organization that looks after agriculture and agri-food? At a meeting of milk producers yesterday evening, I was told by farmers that it would be better to have one organization looking after agriculture and another that is concerned with agri-food. What is your view on that?

Ms. Kristine Stolarik: We did not separate these two areas because our agency regulates all products. Our intention was to have the regulation apply to all products. Licences are granted for certain products, and not for others. We must obtain authorization to grant licences not only in the field of agriculture but also in the agri-food sector so that we may begin doing so in three years or more.

• (1545)

Mr. Roger Gaudet: Let me reformulate my question.

Ms. Kristine Stolarik: Maybe I misunderstood.

Mr. Roger Gaudet: You understood very well. There are countries that have a department of agriculture and a department of agri-food. Why in Canada do we have a single department rather than two? That is my question. Perhaps Mr. Easter could respond.

[English]

The Chair: I'm going to go to the parliamentary secretary, and then I'll come back to you, Gerry.

Hon. Wayne Easter (Malpeque, Lib.): Thank you, Mr. Chair.

Roger, it's really the Prime Minister's prerogative how the ministry is organized. I've heard what you've said out there, that maybe the primary producers should be separate from agrifood. I've also heard that aquaculture should be brought in under agriculture, and so on. So there are all kinds of different ideas out there; but simply put, it's the prerogative of the Prime Minister how he makes up his ministry. For quite a number of years now, it's traditionally been the Department of Agriculture and Agri-Food—which contains both producers and the agrifood industries.

So it's the prerogative of the Prime Minister, basically.

The Chair: Okay. We'll move to Mr. Ritz.

We want to keep our questions short, because I know there's a lot of material to go through here.

Mr. Gerry Ritz (Battlefords—Lloydminster, CPC): We were just getting into clause 5: “The Minister may suspend or revoke a licence”. But what happens to goods in transit? We are talking about foodstuffs, and there is a best-before or a due date. We've seen this happen on a few commodities already.

Is there going to be an appeals process? Their idea of a problem may not be the importers' idea of a problem. So what happens to goods in transit?

Ms. Kristine Stolarik: I'm going to ask Mark McCombs to respond to that one.

Mr. Mark McCombs: The legislation doesn't contain a specific provision for that, but it would be no different from what happens today when we suspend a licence in a plant: materials that were adequately inspected and met the requirements of the regulations or the legislation would continue to be brought through the process. It's the licence itself that would go.

Today, if the individual had brought in goods that hadn't yet been sold in the marketplace, as long as they met their criteria for sale of a foodstuff under the Food and Drugs Act, the goods would continue to be sold.

Does that answer your question?

Mr. Gerry Ritz: Somewhat.

I just see that there's going to be a bit of a problem with some of this further down the road. I think we need to have oversight on a lot of these things before we increase powers to anyone. I mean, you need a quick appeals process.

The Chair: I wonder if we can move through this. We're going to have a lot of opportunity to ask questions and to make changes, if changes are required, but we want to get through the technical thing here. But again, I'm not pre-empting anyone from interrupting and wanting to have some clarification.

Mr. Miller.

Mr. Larry Miller (Bruce—Grey—Owen Sound, CPC): Just on that, you said that we have lots of time. I know there are some days scheduled. Without looking at the schedule, which I don't have right in front of me, do you have an idea of just how many days we have?

The Chair: We do have the calendar set, but that's not suggesting that it will be the end of it.

Mr. Larry Miller: No, okay.

The Chair: We have two meetings next week, and the week of March 21 we have two more days of meetings. And we may have many more than that; I can't predict at this point in time.

We'll continue, Ms. Stolarik.

Ms. Kristine Stolarik: Thank you, Mr. Chair.

In clause 6 we have what we call our presumption clause, a presumption of federal jurisdiction. What that basically means is that any agricultural or aquatic commodity within an establishment for which a federal licence is held falls under federal jurisdiction, regardless of whether or not the portion of it is destined for interprovincial sale. This is necessary because it's not possible to specify where each hamburger patty or each fish filet in a registered or licensed establishment will be sold. This is basically carried over as well from the fish act.

On the importation clauses, which is clause 7, this basically provides authority and instructs persons importing regulated products on the proper procedures for doing so. It's been expanded as well to cover food, feed, fertilizers, and seeds.

I mentioned earlier that we had some authorities that were missing at the point of entry. This is one of the authorities for the presentation, to actually present the imported product, including supporting documentation, to CFIA inspectors or CBSA inspectors at the point of entry.

I'll move on to the exchange of information, clause 8. This strengthens the authority to enter into arrangements for collection, use, and disclosure of information for the purposes of enforcement. It provides legal authority to disclose information to other prescribed government departments and agencies and other organizations in Canada, where the exchange of information relates to the administration or enforcement of any law or to carrying out a lawful investigation. These arrangements entered into by the agency are required to be consistent with the Privacy Act and the Access to Information Act requirements and conditions.

I'll move you on, then, to clauses 9 to 11, foreign inspection arrangements. This provides authority for the CFIA to enter into arrangements regarding the import and export of regulated products between Canada and other jurisdictions. For example, CFIA sends its inspectors to Holland to conduct inspections on tulip bulbs, to ensure that they meet the Canadian requirements prior to their importation into Canada. So this new provision would have explicit authority for the CFIA to do such activities for other commodities as well. It allows us to enter into these arrangements with foreign governments whose systems, facilities, and legal requirements are comparable to the Canadian system's facilities and legislative requirements. The purpose of these arrangements would be to allow Canada to apply an appropriate level of control to products based on how they are prepared, and hence the risk they pose to Canada. This is consistent as well with government strategy towards smart regulation, where we're attempting to reduce overlap and duplication of inspection enforcement in approving overall efficiencies.

• (1550)

The Chair: Can we just pause for a moment?

Mr. Easter first, and then Mr. Angus.

Hon. Wayne Easter: This is a question that perhaps I should have picked up on earlier.

Say, as an agency in your own right, you enter into negotiations with whoever—it could be an agency in the United States. Who has ultimate authority? Does the Minister of Agriculture, as the overall minister? To put it simply, can the agency, in its own right, sign off on an agreement with a foreign agency without the knowledge of the Minister of Agriculture or the Governor in Council?

Mr. Mark McCombs: The legislation is flexible enough to allow the agency to do it in its own right, as well as for the minister to do so.

Under the CFIA Act the minister has overall direction and control over the agency. Any arrangements of this nature would be brought to the attention of the minister. It would then be the minister's determination whether the agency should or should not assign it.

Hon. Wayne Easter: I'll come back to this one more time. Does the legislation—and I should know this—specifically state that the minister must be consulted before the agency does enter into an arrangement with a foreign agency, organization, or whatever?

Mr. Mark McCombs: Expressly, no, it does not.

The Chair: I know that the parliamentary secretary made note of that.

Mr. Angus.

Mr. Charlie Angus (Timmins—James Bay, NDP): Thank you.

I find this to be a very broad clause with very little definition. It seems to me that the CFIA could be taking on the role of doing international trade promotion, as opposed to regulating safety in food. I don't see any definition as to how these arrangements will be made. It could be done without the minister knowing and without other organizations that should have a say in this being involved. It just seems that the CFIA is allowing itself a very broad scope.

Ms. Kristine Stolarik: This basically is the authority. There's also a regulation-making provision for it, so the details will come out

when we start scoping out the regulations with regard to entering into these foreign inspection arrangements.

• (1555)

Mr. Charlie Angus: Does that happen after the bill has been passed? Is that how it works?

Ms. Kristine Stolarik: Yes. We need the legislative authority before we can enact the regulations.

Mr. Charlie Angus: Before we get the promise.

Ms. Kristine Stolarik: There is a provision in the legislation that talks about what the content of the arrangements may include, such as the establishment of compliance and monitoring systems and the recognition of foreign inspection certificates. So there is that scope in the actual legislation. But also keep in mind that this will be a regulation-making authority as well.

I'll move now to clause 12, ministerial orders. This provides the Minister of Agriculture and Agri-Food with the authority to create a temporary order to deal with a significant risk to public health or safety, the environment, or animal or plant health where immediate action is necessary. This clause would be used where no standard exists for a product. We encountered this when we were dealing with domoic acid in mussels. No standard existed in Health Canada or DFO to prevent mussels from coming in. This would allow the minister to create a temporary order, and then for 365 days he'd have a limitation period in which an actual regulation or standard would have to come into effect.

Mr. David Anderson: I'm wondering why that isn't in the provision. It doesn't put that restriction on it. It just says he may make the provision. He can take immediate action, if required, to deal with any of these issues. It doesn't specifically say where there is no present standard. It's wide open. No restrictions or boundaries are put on it.

Mr. Mark McCombs: It is broad in the sense that it is restricted for those particular purposes. It must be set for those purposes. It's a temporary order only.

The Chair: I think I heard Ms. Stolarik mention 365 days.

Let's move on.

Ms. Kristine Stolarik: I'm dealing with the ministerial order, which is an order that provides the minister with the authority to grant exemptions during emergency situations. It has to be scoped out as a public emergency or natural disaster as defined in the Emergency Preparedness Act, provided there is no risk to the environment or to animal or plant health as determined by the Minister of Agriculture and there's no risk to human health as determined by the Minister of Health.

We also call this clause the "ice storm clause" because during 1999, when we had no power in our dairy plants in eastern Ontario and western Quebec, we basically had an oversupply of milk. In order to save that milk supply, we had to send the milk to Michigan to have it transformed into skim milk powder. Then it was returned to the area it came from so it could be divested into other manufacturing products like skim milk powder for bakeries and so on to maintain the supply for that area.

This would basically allow the minister to exempt himself from the labelling requirements so it would still be deemed made in Canada as opposed to saying it was made in the U.S. and then having to go through all the requirements. It's an order that would only be used in the event of a natural disaster or public emergency—and that's very prescribed—to make sure of the continuous flow of the food supply. It's so there's not one area that has a food shortage; we can divert food to other areas.

Clause 14, recognition of results, provides the minister with authority to make regulations prescribing inspection bodies and to recognize inspection results in associate documents from those bodies. These inspection results may also be used as evidence in the case of prosecution. This would, for example, allow CFIA to use provincial inspection results and certificates as our own and allow CFIA to act on those results if it wanted to do that.

We have an example, the use of OMAF or MAPAQ inspection results from the investigations they've conducted on maple syrup. If there was a problem with maple syrup, the province would conduct the investigation and then pass those results on to CFIA, and we would be able to take those results and use them as evidence.

I'm going to get into the prohibition area now, clauses 15 to 22. I just want to highlight the prohibitions that are being reflected in this bill. We basically have a prohibition called unlicensed activities, and it supports the licensing clause you saw up front. It prohibits activities specified in clause 3 for which a licence is required, unless the person has the required licence. It requires the person licensed to operate the establishment to do so in accordance with the act and to ensure that the establishment and equipment within it meet the requirements of the act.

We also have a prohibition on the importation of regulated product. Basically, this is a carry-over from existing legislation to support the existing prohibition so the import authority in the individual acts will be retained. What this does is prohibit the importing of any regulated product unless it is conducted in the manner prescribed in the acts.

The next one is basically the prohibition for export of a regulated product. Once again, the export authorities currently exist in individual acts. They'll be retained, but it prohibits the export of products unless they're exported in accordance with the requirements of the act. This authority will be expanded here, though, to apply to food, feeds, and fertilizers as well.

I will move you on, then, to the sale of regulated product. There's a prohibition against the sale of a regulated product.

• (1600)

The Chair: Pardon me.

Mr. Gerry Ritz: I have a question on what's under the heading "Prohibitions". Does this bill give the CFIA licence to go back and amend these new acts as far as prohibitions go? There are eight new acts coming under the CFIA, and that's what this bill does. You're talking about prohibitions, and they may not be in a certain act that's there now. Does the CFIA then have the right to go back and amend those acts under this prohibition clause, or does it have to come back and get it legislated?

Mr. Mark McCombs: The prohibitions in the bill are with reference to certain new aspects in the bill, and there are consequential amendments toward the end of the bill that deal with any items that we were repealing.

Mr. Gerry Ritz: You can technically then go back and change the fish act and labelling act and all these other ones without it coming back to Parliament or the minister.

Ms. Kristine Stolarik: We'll be going through the consequential amendments, and you'll see the sections that we're amending, and that's where that appears.

The Chair: When we have questions in the future, if there's a question that has an answer to it in the remainder of your commentary, refer to it then, rather than deal with it now, please.

Ms. Kristine Stolarik: Moving on then to the possession of a regulated product, again this is a prohibition on possession of a regulated product unless it complies with the requirements of the act. There are certain things possession of which is prohibited. For example, a puffer fish is something that is banned. We don't allow it in the country. If someone comes in with a puffer fish, then he would basically be in contravention as being in possession of a regulated product that doesn't comply with the requirements.

Moving on now, clauses 15 to 22 contain a new provision. It's a tampering provision. Within the act itself tampering means making a product unfit for human consumption or injurious to human, animal, or plant health. For example, a couple of years ago we did have some animal rights activists who claimed to have tampered with turkeys from a Vancouver grocery store by using cyanide, prior to the Thanksgiving holiday. What this prohibition would do would be prohibit tampering and claims of tampering as well.

In the Criminal Code right now tampering is considered to be mischief. So if there is a claim, and you call the RCMP for assistance, they are so busy with murders, rapes, and other things that it's not a high priority for them, so it takes them time before they'll address it. This will allow the CFIA to start the investigation into the claim, and then if it becomes criminal, the RCMP will definitely be involved. This is a provision that is very much supported by the poultry industry and is something they thought would be very useful to have in here.

The next provision I want to talk about is the safe water provision. This is something we currently already have in our Fish Inspection Act and Meat Inspection Act and it is also found in the Food and Drugs Act. What we wanted to do was to make it apply to the rest of commodities, so it would be a prohibition to preparing food with water that is not safe.

Safe water has been defined by Health Canada. The reason you don't see "potable" there is because "potable" is drinking water, and for a lot of the commodities we regulate, for example fish, we use salt water. That's why it's "safe" water as opposed to "potable" drinking water. Also we did learn from some of our provincial counterparts that use "potable" water that they had some problems with the term.

•(1605)

The Chair: Mr. Miller.

Mr. Larry Miller: There is something here that is very obvious to me right at the start. I think you'd need to add at the very minimum the words "knowingly prepare". With the strict water regulations in Ontario and I'm sure in other parts of the world today, water could be contaminated without somebody knowing it. So I think something along that line....

The Chair: A definition of "safe" I guess would be another way of dealing with that as well. We'll get into these amendments and kinds of things, but it's good to note them as we go along.

Ms. Kristine Stolarik: We've noted it.

The Chair: All right, carry on, Ms. Stolarik.

Yes, Mr. Angus.

Mr. Charlie Angus: I was concerned about that because someone be preparing food without knowing that they're causing harm.

I was at a restaurant where everyone got giardia. Is the restaurant then liable for having not been aware of something that wasn't their fault? It could have been a municipal problem. At what point are we using this act to...? We're not going back to the source. We're going to the person who in a sense was caught out quite unknowingly preparing food with unsafe water.

The Chair: Mr. Anderson, did you have a question?

Mr. David Anderson: Is there not an issue of provincial jurisdiction here that you're crossing over into?

Ms. Kristine Stolarik: No, this is safe water use in the plants that CFIA regulates, so it's in the federal plants that we have jurisdiction over.

Mr. David Anderson: It doesn't say that at all.

Mr. Mark McCombs: It's preparation of food. The word "prepare" comes out of this legislation and is limited to this legislation. It doesn't expressly state it, but the word "prepare" brings you back to the definition of "prepare" in the legislation.

The Chair: Perhaps at some point, as we do the final analysis of this legislation, that could be more clearly stated, because obviously it's something that is going to leave some people in doubt.

Mr. David Anderson: Just on that point, "prepare" goes much further than the plants the CFIA oversees. If you look at the definition, it covers all the handling of food.

Anyway, I'm not going to argue that now.

Mr. Gerry Ritz: Mr. Chair, something as simple as "no plant shall prepare a food with water".... You can't, technically, pinpoint one person.

•(1610)

The Chair: Okay. I think we have some substance to work with here.

Ms. Stolarik.

Ms. Kristine Stolarik: The next clauses I want to flag are clauses 15 to 22, which again involve prohibition on dangerous activities. What this does is prohibit a person from engaging in activities such as growing, processing, distributing, or storing animal pathogens or disease agents, toxic substances, vet biologics, and plant pests without a required licence.

We currently issue permits for this. That's what we do: if someone wants to bring this in, we issue a permit. And that's all we do. What this will allow us to do is control the use, the containment, and the disposal of the toxic substances or animal pathogen. This will allow, for example, the CFIA to track anthrax, which perhaps a scientist is bringing in to do some tests on. We can basically know where it's going, whether it's to a level 3 lab, or a level 4 lab, whether it has the proper containment, and how it's going to be disposed of after. This is something that is consistent with what is found in the U.S. Bioterrorism Act on managing some of those pathogens on the animal and plant side.

I'm going to turn it over to Mark McCombs to walk you through some of the other clauses, on the injunctions and the inspector powers.

Mr. Mark McCombs: I'm going to take you through a number of these, and then you'll be back to Ms. Stolarik for the regulation-making powers, just in case you want to know where we're going.

Clause 23 is the provision that deals with injunctions. It permits the agency to apply to the Federal Court for a temporary or permanent injunction. This power exists currently in the Canadian Food Inspection Agency Act, but only for a temporary injunction. What in effect this does is change it to allow for an interim and permanent injunction, and change the court from any court of competent jurisdiction to the Federal Court.

Clauses 24 to 29 deal primarily with the inspection-related powers. Clause 24 allows for the designation of methods and equipment to be used. That's quite a technical authority, designating the type of equipment that's being used in the labs, the methods that are being used for testing, and how analysts and graders perform their jobs.

If we continue.... Yes?

The Chair: Mr. Bezan.

Mr. James Bezan (Selkirk—Interlake, CPC): Throughout the act so far, if anything is going to be designated, it has always been by the minister. All of a sudden we're switching gears here and we're giving it to the president. What's the logic behind that? Why wouldn't we keep in the minister's realm?

Mr. Mark McCombs: Because these types of designations are very technical, in terms of authorities, it's not something the minister would need to be concerned about in his day-to-day activities as a minister. These are normally methods that are accepted by international standards, etc.

Mr. James Bezan: That's fairly broad-sweeping. You can bring in something that might be leading-edge and not acceptable or not well tried out yet. The president might decide to make a move on something like that, and it could be detrimental to the industry. I think the minister would want to be the one who had to call that shot, since there's political consequence.

Mr. Mark McCombs: The point is taken.

The Chair: Okay.

Mr. McCombs.

Mr. Mark McCombs: Clause 25 is the list of the powers of the inspectors. This is a consolidation of various provisions under existing legislation. I'm not going to read them all to you, unless you prefer I do, but I think we can go fairly quickly through them.

They all come from existing legislation except, I believe, that there are a couple of new powers. There are twelve powers: eight are a consolidation of current authorities, and four are new. The new ones deal with the ability to obtain telewarrants, the authority to take photographs—it's provided for in the food and drug regulations but not in the other CFIA statutes—the authority to direct that the operations in relation to a regulated product be stopped, in effect allowing an inspector to stop a line as opposed to shutting down a plant, which I believe was a concern we expressed earlier, and finally, the authority to require information relating to the distribution of a product for the purpose of tracing and recall and that type of thing.

• (1615)

The Chair: Thank you.

Mr. Angus.

Mr. Charlie Angus: I have two questions. The first one concerns the power to get warrants simply by making a phone call. How does that compare with rights that exist for police officers or other law enforcement? Second, could you define the use of force? The use of force to execute a warrant is prohibited "unless... specifically authorized".

Mr. Mark McCombs: I'll answer the telewarrant issue first. The telewarrants are something that is commonly used in the Criminal Code, and there are standard provisions with telewarrants. They just have not transmitted back to the CFIA, as a regulatory body.

As for the use of force, the courts, in authorizing the execution of a warrant, would specify what type of force could be used to enter the premises, so if it's not specified, then you can't use force to enter the premises.

Mr. Charlie Angus: What possible forms of force could a food inspector use if he were specifically...? What do you envision?

Mr. Mark McCombs: I would say there'd be very limited need to use force. Sometimes there is the necessity to cut a lock on a door or something like that in order to enter certain facilities, but I would see there being a very limited use of force.

The Chair: Okay, let's move on.

Mr. James Bezan: What exactly are the four clauses or subclauses—the four new ones?

Mr. Mark McCombs: I'll have those for you in a second. One of my associates here will hand me the number, and I'll read them to you as I finish.

The Chair: Mr. Gaudet, did you have something you wanted to say?

[*Translation*]

Mr. Roger Gaudet: I have a small question. In what circumstances do you require a warrant?

Mr. Mark McCombs: It is sometimes necessary to enter certain premises.

Mr. Roger Gaudet: What type of premises? I had a restaurant and you were able to come in without a warrant.

Mr. Mark McCombs: We are not really talking about restaurants. Usually it would be an establishment that is closed and for which we do not have the key. We know that farm products are to be found in the establishment but we are unable to enter because the owner is away on holiday or absent for another reason.

Mr. Roger Gaudet: I see.

Thank you.

[*English*]

The Chair: Thank you, Mr. McCombs. We'll move on.

Mr. Mark McCombs: I'm going to skip over those provisions. Mr. Chair, in answer to the questions, the parts of clauses are paragraph 25(1)(g), paragraph 25(1)(h), paragraph 25(1)(k), subclause 27(4), and subclause 32(4). The rest of the provisions are contained elsewhere in some of our legislation, but as Ms Stolarik mentioned, not all of our legislation has all of the provisions.

Moving on to clause 29, which provides for a duty to assist an inspector in terms of entering in places and giving authority, in normal situations that would mean providing information to an inspector as to where certain information is, where a particular file could be located that has a distribution list on it for recall, for example. Subclause 29(2) provides that a peace officer is required to assist a food inspector.

Clause 30 deals with the requirement to remove unlawful imports. This is a consolidation of various provisions under acts such as CAPA, the Canada Agricultural Products Act, the Health of Animals Act, the Meat Inspection Act, the Plant Protection Act. This does require that the CFIA send a notice to the person specifying the period when the product has to be removed from Canada, and if the person can't remove the product from Canada, he or she can either consent to its forfeiture and disposal or allow the 90-day period to elapse. This will deal with some of the problems we have with imports when the individual who has brought the product in has no desire to have it destroyed after discovering that it's not worthwhile to market it because it's an illegal import.

Clause 31 deals with the seizure of things by means of or in relation to which CIFA has reasonable grounds to believe an offence has been committed. The agency is allowed to seize those things.

Clause 32 deals with our warrants, which I spoke about earlier. I think I'll just skip along because most of this is seizure, unless there are specific questions.

• (1620)

Mr. Gerry Ritz: How will people know if there've been additions or deletions to this regulated product list? It's going to change from time to time under ministerial warrants and that type of thing. How are you going to get that message out?

Mr. Mark McCombs: They'll all be gazetted, in terms of the regulations—

Mr. Gerry Ritz: Well, not a lot of folks read *Canada Gazette*. I probably don't know anybody who does. How are they going to know?

Mr. Mark McCombs: The normal process would be, in addition to *Canada Gazette*, we have a consultation process with industry associations and directly with other regulated parties. We make decisions on that basis with respect to what would be regulated and what would not be regulated. It would be the same situation for this.

Mr. Gerry Ritz: Will there be a time factor or will it be an immediate thing? Are people who haven't yet seen the notice about it going to get caught when a regulation is changed?

Mr. Mark McCombs: Given that it would take the agency a period of time to gear up to do this for its inspection system for a particular regulated product, I would think there would be a substantial lag time in terms of adding them.

Mr. Charlie Angus: In terms of clause 32, where the officer can search and seize without a warrant, is this a new provision, or do those powers exist already?

Mr. Mark McCombs: That's one of the existing provisions. These existing provisions were already viewed in terms of the charter when they were done previously.

The Chair: Mr. McCombs, we're ready to move on.

Mr. Mark McCombs: I'll take you on to clause 39. I'm not going to deal with details of detentions and items of that nature, unless somebody wants to deal with them. In the interest of economies of time, I'm going to skip over detention and forfeiture.

Mr. David Anderson: Just as a very quick question, is there any provision dealing with compensation at all? Whether people have brought it across willingly or unwillingly, or if you've made a mistake in your application of the rule, if you seize food products—as Gerry mentioned earlier, they have an expiry date on them—are there any rules for compensation to people who have been hard done by, by the CFIA?

Mr. Mark McCombs: There are forfeiture provisions in terms of the legislation.

Mr. David Anderson: Provisions that provide compensation?

Mr. Mark McCombs: No. They would provide for an application to the court to have certain relief from forfeiture in those cases, but there isn't any compensation provision per se.

Mr. David Anderson: So if somebody is trying to recover any costs from you folks, they have to go to court and initiate a civil suit type of thing to be able to do that.

Mr. Mark McCombs: That would generally be the way.

The Chair: Moving on....

Mr. Mark McCombs: Clauses 39, 40, and 41 all deal with inspection-related prohibitions that prohibit individuals from, in clause 39's case, obstructing or interfering with someone exercising their powers under this act. Clause 40 provides that "No person shall make a false or misleading statement...to a person...carrying out any duties". And clause 41 deals with false documents.

The Chair: Mr. Ritz.

Mr. Gerry Ritz: Who decides what's a false or misleading statement?

Mr. Mark McCombs: In terms of...?

Mr. Gerry Ritz: In clause 40, on false or misleading statements, it says "No person shall make a false or misleading statement, either orally or in writing". Who judges what's false and misleading? Is it the inspector on the doorstep?

Mr. Mark McCombs: This is a prosecutable provision.

• (1625)

Mr. Gerry Ritz: I understand that.

Mr. Mark McCombs: The decision to lay charges under clause 40 would be the decision of the Attorney General. This would go through the prosecutorial process, to the Department of Justice, for the federal prosecution services.

Mr. Gerry Ritz: I think you'd need wording in there along the lines of "No person intentionally shall make". You're going to hold my word against me when I haven't been read my rights. It's almost entrapment.

Mr. Mark McCombs: Noted.

The Chair: Let's move on.

Mr. Mark McCombs: Clause 42 deals with alteration of documents, and that requires an intent to deceive.

Clause 43 deals with interference in things. This would deal with situations in which people are moving goods out of areas where the goods are detained, they are trying to have them sold, or are moving things out of quarantine.

Clause 44 allows Her Majesty or the agency to recover costs with respect to anything required to be done under the agency's legislation. Primarily these would be dealing with situations of recall when the agency has been required to recall an illegal product.

Mr. Gerry Ritz: On costs and liability, if a person who is facing these charges countersues, are you going to force them to pay until their countersuit comes before the court, or are they going to be able to run the countersuit prior to your collecting your arm and leg? That's clause 44.

Mr. Mark McCombs: Clause 44 requires the agency to take an action to recover.

Mr. Gerry Ritz: Right, and then the person countersues and says it's not a proper suit on behalf of the CFIA.

Mr. Mark McCombs: Then they'll bring a motion to the court to have that suit dismissed.

Mr. Gerry Ritz: So your suit is held in abeyance until the civil suit is handled.

Mr. Mark McCombs: I would anticipate that normally they would attempt to defend themselves against any collection of costs. At that point in time, we would be into litigation.

Mr. Gerry Ritz: It's counterproductive in clause 45, on Her Majesty or the agency. No one "is liable for any loss, damage or costs, including rent or fees, resulting from a person being required to do anything to..." yet it may be a false charge.

Mr. Mark McCombs: If they're required to comply with agency legislation, it would not be a false charge in that sense. This provision, clause 45, is similar to what currently is in the Health of Animals Act and the Plant Protection Act. It's designed to protect the crown from liability for cost, loss, or damage when it's the other person who is required to take action pursuant to the agency's legislation.

Mr. Gerry Ritz: I have a specific instance in mind that is counter to what you're trying to do here. I'm not going to tip the person's hand, because there is a civil suit pending, and so on, but what you're saying does not follow through.

Mr. Mark McCombs: I couldn't comment on anything.

The Chair: It's a good matter that we need to discuss, but I don't think we have the time to do it today. We'll have to come back.

Mr. Angus.

Mr. Charlie Angus: It deals with clauses 44 and 45. I am very concerned about the broad sweeping powers in this bill. Basically, the way I read it, the agency can recover any costs on anything for any person or any reason. It seems to me that is how clause 44 reads in simple layman's language.

I'm thinking of a small producer who might have been caught out. Something might not have been up to standards, and every penny that the agency feels is applicable to get back can be squeezed out of him. It's completely broad.

On the other hand, on clause 45, as my colleague points out, the agency is not liable for costs for anybody on anything. I find that unbelievable.

The Chair: Duly noted. We need to deal with those matters.

Ms. Ur.

Mrs. Rose-Marie Ur (Lambton—Kent—Middlesex, Lib.): I basically have the same viewpoint on that. There seems to be protection for the crown and the agency, but little for the individual.

Mr. Gerry Ritz: There's no presumption of innocence.

The Chair: You people will hear from us on that, as we go through this process.

Mr. McCombs, carry on.

•(1630)

Mr. Mark McCombs: Clause 46 deals with the disposition of samples that have been taken.

Clause 47 establishes the levels of offences and the penalties. There are essentially three levels of offences being created under this legislation. The bottom end of the scale is two years for conviction on indictment and summary conviction is \$100,000 or one year. These are all maximums, obviously. Tampering is the higher provision. It deals with \$500,000 for indictment conviction and a five-year penalty, and \$250,000 and two years for summary conviction. Obviously, those types of provisions are only going to be used in the most severe cases, where we're talking about tampering that has caused major economic loss or loss of human life.

The general contribution to the regulations in clause 49 is \$50,000 and six months.

Clauses 50 and 51 deal with offences by corporate officers and employees and agents. They set out the responsibility for corporate officers for the activities of their company.

That takes me to clause 52, which deals with the location of a prosecution. Essentially, prosecutions will be heard at the place where the offence was committed or the subject matter of the prosecution arose, or where the accused was apprehended, or where the accused is carrying on business.

Clause 53 deals with the limitation period. It sets out a limitation period of two years maximum for a prosecution. It now changes that from the time when the subject matter of the proceedings arose, the previous provision in some of the legislation, which required the minister to become aware of the incident. Essentially, it's two years from the time that the incident occurred. The exception to that is with respect to seeds in terms of variety, name or purity, and that is three years. The reason for the three-year limitation period is that it's sufficiently long enough in order to grow a plant from a seed and conduct a complete investigation.

The final two that I'm going to speak to, before I turn it back to Ms. Stolarik, are the provisions in clause 54, which talk about the admissibility of evidence. It's fairly straightforward.

Clause 55 deals with the review tribunal. This is the tribunal that deals with administrative and monetary penalties. Currently, the two scheduled acts are the Plant Protection Act and the Health of Animals Act. The provisions in this bill will allow people to apply to the review tribunal for return of the seized product from the tribunal, for a violation under the act, and will allow the tribunal to order the seized thing to be disposed of.

This is where I'm going to turn it back to Ms. Stolarik.

Mr. Gerry Ritz: Just before you wrap up there, I have one question. On all of these proceedings against someone, charges, and so on, are we back under the purview of the minister? Is he kept up to speed on this on a blow-by-blow basis, or is this strictly done by the president?

Mr. Mark McCombs: The minister becomes aware of prosecutions as they are laid, but he has no role in deciding who to prosecute.

Mr. Gerry Ritz: But not to the lead-up of...?

Mr. Mark McCombs: No.

Once the prosecution process starts its investigation, it moves forward through the agency approval process and into the Attorney General's department, the Department of Justice, where the federal prosecution service then makes decisions.

Mr. Gerry Ritz: So there's no ministerial oversight on any of this.

Mr. Mark McCombs: There's no ministerial involvement in prosecutions.

Mr. Gerry Ritz: So once you start the ball rolling down the hill, nobody can stop it.

Mr. Mark McCombs: The Attorney General is given the authority to determine whether to lay charges, and only the Attorney General can make that decision.

The Chair: Mr. Gaudet.

[*Translation*]

Mr. Roger Gaudet: If you take legal action against an owner who is found to be not guilty by the court, does he have any redress against the agency?

• (1635)

Mr. Mark McCombs: If the court is of the opinion that we have seized a product by mistake, then we will return it to its owner.

Mr. Roger Gaudet: The product may be returned to him but it may have a harmful effect on the morale of the company or the person arrested. He must go to court and the court determines that the product that was seized was fit for consumption. In the meantime there is coverage in newspapers, the radio and television. That is a serious problem. In the present state of affairs, you simply protect yourselves but you do not protect the main stakeholder, namely the producers.

Mr. Mark McCombs: In the circumstances, Mr. Chairman, the person may take several actions against the agency.

Mr. Roger Gaudet: Yes, but—

[*English*]

The Chair: Okay, we must move on. I know Ms. Stolarik wants to conclude with the balance of our material here.

Mr. Gerry Ritz: I just have two other quick points on this issue.

The Chair: I don't think we have time right now, I'm sorry. I know there's a lot more material. Make note of it.

Mr. Gerry Ritz: We may not have these people back.

The Chair: Well, we may have to bring them back again.

Ms. Kristine Stolarik: We'd be happy to come back for further questioning.

I just want to touch upon paragraphs 56(a) to 56(y), which outline the general authority of the Governor in Council to make regulations on the recommendation of the Minister of Agriculture and Agri-Food.

There are 25 authorities contained in this section. I want to flag that 12 are existing authorities that are contained in one or more of our acts that currently exist or form our legislative base. Of the remaining 13, five of them support the licensing provisions we talked about; three of them support the information and document

requirements; one establishes pre-clearance and in-transit requirements; and another one supports foreign inspection arrangements. Then we have a couple of new ones that I'd like to flag as well.

Mr. David Anderson: Do you have time to break those twelve down for us?

Ms. Kristine Stolarik: I'll have officials do that and report back. Thank you.

Continuing, then, on new regulation-making authorities, there is a new one for the establishment of pre-notification and pre-clearance requirements in order to allow for the movement of products into Canada. This is also complementary or similar to what was put through in the recent U.S. legislation.

There's also new record-keeping and use of electronic regulation-making authority. This would require us to modernize ourselves—as some of our acts are dating back to the 1940s—to deal with electronic information, whether it's an electronic certificate or information received in electronic format, to modernize the requirement for electronic information and also record-keeping.

We have a requirement here for mandatory record-keeping. There are certain commodities that don't have this provision right now. This would have been very useful for us during a couple of our recent incidents in doing our trace back and trace forward.

Another new one is a complaint mechanism relating to human health and safety. This would basically allow individuals from the public or from CFIA to complain about incidents they see in plants or other areas.

I talked about the requirements to support our licensing regime—the prescribing of classes of licences, the conditions of a licence, and whatnot—and also requirements in support of our foreign inspection arrangements, regulation-making authority for that.

The other new one I want to flag is the requirement for quality management, quality control, and other similar programs. When we talk about quality management, we mean quality in the broadest sense of the word, to include our food safety systems, such as giving us explicit authority for perhaps a HACCP system or a food safety enhancement program system, to make that explicit.

The consolidation side of the fence for these regulation-making authorities are the inspection functions and duties, including the conveyances, places, regulated products, and other things, and also the regulation of or prohibiting imports, scoping out the function duties of inspectors and officers, regulation-making authority for conducting tests and making analyses, authorities for seizure and forfeiture of regulated products, detention, and storage, and then collection and publication of information. As I mentioned, these are already currently existing; we're just consolidating them into this package as well.

I will move you on very quickly, then, to clauses 57 to 59. These are the incorporation-by-reference sections or provisions. These sections would allow explicitly the incorporation of standards, guidelines, and procedures, allowing the agency to reference them into their regulations. It would save a lot of time and reinventing the wheel. If you know something exists out there, you then incorporate it or reference it in your regulations—keeping in mind, though, that it would still have to go through the same gazetting procedure, notification, and consultation procedure.

Then I'll move you on to probably the closing of this. We have what we call the consequential amendments and transitional provisions, and then consequential amendments and coming into force.

To summarize quickly, just to respect time here, a transitional provision would allow the limitation period provided to respect a lot of the provisions, so it will only apply when the bill comes into force. It allows for the regulations made under those regulation-making authorities that are repealed to remain in force until such time as new regulations are made. So everything doesn't become *ultra vires* on us.

On consequential amendments, this is where we're going to amend and repeal the number of provisions in our current CFIA legislation. I believe a question was asked earlier on how we were going to do that. This is the mechanism we use to take out the inspector powers in the ten acts, repeal them, and put them in this new act.

• (1640)

With consequential amendments, we are basically amending other pieces of legislation—for example, amending the Customs Act to explicitly allow for the sharing of information between us and CBSA. Then, coordinating amendments include procedural amendments—notwithstanding which act, whether it's the CFIA Enforcement Act or the CBSA Act—to come into force, in whatever order, to ensure that the CBSA officers have the appropriate enforcement and inspection powers and authorities to do what they have to do. As you know, Bill C-26 is right before this bill, which is the CBSA enforcement bill as well.

Then of course the last one will be clause 129, which would basically tell us when the act would come into force.

On that note, Mr. Chair, I'd like to terminate our very quick technical briefing and leave it in your good hands.

The Chair: Well, I think we've had enough points made today that probably we may have to see you again, but at least we've stayed within our time limits, and I appreciate that very much. It's very difficult, and I apologize for cutting short some of the commentary, but obviously we have an agenda.

I've just been notified that the legislative summary that has been done by the Library of Parliament will be made available in both languages to all members of this committee. It's a very helpful document.

I want to thank both Mr. McCombs and Ms. Stolarik for coming today. If we feel the need, we will call you back again. We certainly want clarity, and you've been wonderful, really, in providing that for us today.

While you dismiss yourselves we will have the other witnesses come to the table so that we can immediately begin the next part of our meeting.

Mr. Gerry Ritz: Mr. Chair, while they're doing that, when will we be entertaining additions to our suggested list of witnesses for Bill C-27?

The Chair: We can take the names, but we haven't....

Mr. Gerry Ritz: There was that paper the other day.

The Chair: Yes. For next week, we'll just give you the names: the Dairy Farmers of Canada and the Further Poultry Processors Association of Canada, and that's on the February 15. Then we move to February 17—

Mr. Gerry Ritz: The Dairy Farmers of Canada, that's wonderful, but they were under the lesser priority, but of great interest.

The Chair: I guess we can....

The Clerk of the Committee: For next Tuesday or Wednesday, it was difficult to—

Mr. Gerry Ritz: They're here today.

The Chair: It's always tough.

Then on February 17, which is next Thursday, we have the Canadian Meat Council and the Canadian Council of Grocery Distributors.

• (1645)

Mr. Gerry Ritz: Should we just submit names to you, then, Bibiane? Okay.

The Chair: Sure, we'll work them in, if it's a case that they're okay to come.

Mr. Gerry Ritz: And I'll have given this one back to the Grain Commission.

Do you want me to resend it to you? It's for March 10.

The Clerk: I'll change the schedule and send that to your office.

Mr. Gerry Ritz: Okay.

The Chair: Mr. Angus.

Mr. Charlie Angus: I was trying to listen, but I couldn't hear. We haven't decided on the witness list yet?

The Chair: Yes, the witness list for next Tuesday is the Dairy Farmers of Canada and the Further Poultry Processors Association of Canada.

Next Thursday, it's the Canadian Meat Council and the Canadian Council of Grocery Distributors.

Mr. Charlie Angus: Is this for the bill we're dealing with now?

The Chair: Yes, Bill C-27.

Mr. Charlie Angus: What about the other witnesses we've asked for?

The Chair: We're working them in. We have some of them on our schedule, but I think we should perhaps move on. We're not limited; we're still taking names.

Mr. Charlie Angus: Okay, thank you.

The Chair: We must move on to the next part of our meeting.

We have with us, from Agriculture and Agri-FoodCanada, Michael Keenan, director general, research and analysis directorate; Cameron Short, chief, agri-food support measurement and analysis; and Jan Dyer, executive director, policy analysis.

I presume that Mr. Keenan will be speaking first.

Are you doing similarly what we've done before? Are you leading us through this as the bill, the proposed act, and how changes in the bill would affect you, and how that would affect Agriculture Canada? How are you prepared to do this?

Mr. Michael Keenan (Director General, Research and Analysis Directorate, Department of Agriculture and Agri-Food): Thank you, Mr. Chair.

I propose making about 45 seconds of opening comments, and then we have a presentation about measures of farm income, which I understand has been handed out to members.

The Chair: I would ask my panel of questioners to refrain from asking questions on CAIS today, because we're going to be dealing with that at another meeting where we can talk specifically to that issue. Otherwise we're going to be consumed by that and we won't get through the agenda.

I know you're smiling, but there's a reason for this. We have to follow an agenda here or we won't get through it.

Mr. Keenan, we'll take your guidance on this.

Mr. Michael Keenan: Thank you very much, Mr. Chair.

We're very happy to be here today, and we're pleased that the committee has taken up our offer to provide a technical background briefing on the measurement of farm income. It's an issue that's always timely, simply because farm income numbers and statistics are frequently discussed and measured. Statistics Canada puts them out on a regular basis, in conjunction with provinces and industry. They use them as part of their whole system of measuring the GDP of the country. Our department, in collaboration with all provincial governments, does a consensus forecast of farm income at least once a year.

We're now at the final stages of completing a farm income forecast, in collaboration with the provinces, and hope to be in a position to release that in the near future.

We propose today to have Cam Short walk through a short presentation outlining some of the concepts and definitions. For some members this will be familiar territory; for others it may be new territory. We promise not to spend too long on the presentation. After that we'll be in your hands. I'll quarterback a collective effort by the three of us to answer whatever questions we can related to the concepts, definition, and measurement of farm income.

The Chair: Do you prefer to do the presentation and then entertain questions, or do you want us to interrupt you as we go through the process?

Mr. Michael Keenan: We're in your hands. Perhaps if there's a question of clarification as Cam is going through it, members could speak up. Then we will simply endeavour to answer all general questions at the end.

The Chair: So we should limit ourselves to very brief points on the matter.

Mr. Larry Miller: For the sake of time, the first part of this is something you'd show to a grade three class.

The Chair: But that's not for us to judge at this time. Let's go through it.

Mr. Larry Miller: If any of us don't understand this or have not been through it we shouldn't be in this room.

• (1650)

The Chair: You and I happen to come from this community, but there are some people who maybe don't, so we have to run through this.

Mr. Michael Keenan: We also come bearing additional gifts. It's a package of background technical documents related to different measures of financial performance, which we are prepared to leave for members. I'm sure they've seen some of them before, but just in case they haven't seen the whole package....

I'll turn it over to Cam. He won't take that long. On part of the reason for going through this, some members have great familiarity with this, but questions are raised every time these stats come out, so we want to pre-emptively cover them off.

Cam, go ahead please.

Mr. Cameron Short (Chief, Agri-Food Support Measurement and Analysis, Department of Agriculture and Agri-Food): Thank you, Mike.

I have two purposes. As you can see from slide 2, I'm going to talk about the three main measures of farm income, and then I'm going to answer a couple of frequently asked questions that arise out of the different measures of farm income.

The reports published every year come from Statistics Canada and Agriculture Canada. Stats Canada releases estimates of farm income for the sector in May and November of each year. AAFC produces an annual forecast, and, as Mike said, we expect to have a forecast in the near future. Statistics Canada also publishes other information on farm financial conditions, such as average operating income, farm assets, liabilities, and net worth. This information is usually based on the census or surveys.

The focus of this presentation is going to be on aggregate farm income. The three main measures of aggregate farm income are outlined for you on slide 5. You can see the three main measures there in the red boxes—net cash income, realized net income and total net income. I'm going to try to explain those three measures, the major components of them, and the differences between them.

On slide 6 you can see the farm receipts. Farm receipts are made up of market receipts and program payments. Market receipts are the sales of crops and livestock commodities—all crops and all livestock sales. Program payments include payments made directly to producers from the federal and provincial governments. All of these are shown on a cash basis for the calendar year in question.

One feature that is not always appreciated is that farm-to-farm sales within each province are netted out. Since these would appear both as a receipt and an expense, they are not shown.

Slide 7 shows the net cash income. Net cash income is the difference between farm cash receipts—the market receipts and program payments—and operating expenses. Again, operating expenses are recorded on a cash basis in the calendar year in which they're received. Net cash income is the net cash flow from farming for debt repayment, for investment, or for withdrawal by the farm operator. It's the first measure of farm income that is used.

Slide 8 shows realized net income. Realized net income is net cash income, plus income-in-kind, minus depreciation. Income-in-kind is the value of farm products consumed on the farm, so if an animal is slaughtered for consumption on the farm, an estimate of that value is netted out. That's a very small adjustment. Depreciation, of course, is a much larger adjustment. Realized net income represents the net cash flow after an allowance for depreciation of the capital assets during the year.

The third measure of aggregate farm income is total net income. Total net income is realized net income after an adjustment for the value of inventory change. There is a plus-and-minus sign there, because it's going to be higher or lower than realized net income, depending upon whether inventories are moving up or down in the year. Realized net income could be thought of as the total net return from agricultural production during the year. It is the best—perhaps the only—aggregate measure of the accrual return to farm income. We have some quotation marks or *guillemets* around “accrual” in this expression, because it is only a partial adjustment. It takes into account the value of inventory changes, but it doesn't include changes in the value of receivables or payables, for example.

•(1655)

The slide on page 10 gives a history of the three measures between 1989 and 2003. You can see the drop in net cash income and realized net income in 2002 and 2003 due to the effects of the droughts and the BSE in those years. You can see that total net income increased a bit in 2003. Again, we think this is a response to the holding back of cattle and the building up of grain inventories after the droughts. So there's that different response in those two areas in 2003. Those are the three main aggregate measures that are used.

As I said at the beginning, a lot of other measures of farm income and indicators of financial performance are referred to and used for other purposes. Slide 12 lists a few of those. Net income per farm, assets, liabilities, and net worth are also very important indicators of farm financial performance. We may be looking at these both on an aggregate and per-farm basis. Farm family income is also reported.

I'm going to turn to a couple of frequently asked questions that arise in discussions of aggregate farm income. Why do the estimates

change so often? Revisions are made when more information becomes available or there's an improvement in how something is measured. I've already mentioned that Statistics Canada publishes revisions in May and November. In May of this year they will produce their first estimate for 2004 and a revision for 2003. In November of this year they will produce a revision for 2004, 2003, and 2002. This is based on more information coming in throughout the year on what happened in the previous years. Every five years we have a new census of agriculture, which is the cornerstone of most statistical measures for the agriculture sector. Revisions are made based on the census of agriculture. Although revisions are frequent, they're also predictable and regular.

Another question that sometimes arises with regard to the farm income estimates is why are parliamentarians provided with different numbers for some government programs? As you know, government programs are reported in the farm income estimates, so you'll see numbers for government programs in the farm income estimates and forecasts. Financial expenditures are reported to you in a number of different ways. Federal expenditures are reported on a fiscal-year basis in the main and supplementary estimates. Program benefits to farmers are sometimes reported on a crop-year basis in an effort to match payments to the year that triggers the payments. Program payments are also reported on a cash basis by calendar year in the farm income forecast. This is what we're talking about today. These program payments, as I've said, are funded by the federal and provincial governments and of course the producers.

On page 16 there's an example, using production insurance, of how this works. Every year you will see the federal contribution to the production insurance in the main estimates. This is shown in the bottom left-hand box of the diagram on page 16. The federal contributions go into an indemnity fund, together with contributions from the provincial governments and the producers.

When you look at the farm income estimates, you will see payments to producers out of the fund. That's shown in the top row. These are going to be reported not on a fiscal-year basis, but on a calendar-year basis. Of course, there may be differences in the payments out of the fund in a particular calendar year and the payments into the fund by the federal government in a particular fiscal year.

That brings me to my last slide. If you are looking for additional information, there are three different sources we would suggest to you.

•(1700)

This particular presentation has been based upon this booklet. I think someone will give you a copy of this in a minute if they haven't done so. This is a booklet prepared by us and Statistics Canada, and it is really the basis for this presentation.

If you want additional information on farm income, financial assistance, and government assistance, we have another book that we produce every year. It provides a bit more detailed information and more broadly based information. It, too, will be provided to you if you want it.

If you're interested in an even broader overview of the Canadian agricultural system, we have a third book, which has farm income estimates but also looks beyond to the agrifood sector, trade, and other issues.

Thank you.

The Chair: Thank you, Mr. Short.

If you're ready to entertain questions, we'll begin with Mr. Ritz. We'll try to keep things short so that we can all get a round in. We have half an hour.

Mr. Gerry Ritz: Mr. Chairman, it won't take long, because I'm just at a loss for words. This is the most juvenile presentation I have ever encountered. I have a grandson in grade five. He knows more about agriculture than I see in this.

I hope you got a sponsorship grant for that last page. The only things you have right in here are net cash income, realized net income, and total net income in red. That's the only factual part of this thing that I... I'm just appalled. StatsCan numbers are so out of date when we finally get them that they are totally irrelevant.

You're talking about forecasts, assumptions, and so on. Let's talk about realities. We have 11,000 producers out of agriculture now. Net realized farm income for 2003 was minus \$13 million. This is ridiculous. It's a total waste of my time. We're working with a very detailed piece of information here and we cut our time short so that we can sit and listen to this? It's ridiculous!

The Chair: Mr. Gaudet, do you have anything to say? Nothing?

We'll go to Mr. Easter. He has plenty to say.

Hon. Wayne Easter: No, I don't have plenty to say, Mr. Chair, but I do think it's unfair of Mr. Ritz to attack the people who came here with the numbers, because....

•(1705)

Mr. Gerry Ritz: I knew you would.

I didn't attack anybody. It's reality.

Hon. Wayne Easter: Sitting here, that's certainly the impression I got.

I think page 10 does tell the story that certainly realized net income is below the line. We know we're in the negative region on farm incomes, but when next year's figures are announced, we hope they'll be up.

The concern I have in regard to the numbers is the impression that's left out in the public, in the national press. If our current levels

are minus \$2 billion and incomes were to go up to minus \$1 billion, then the national press would write about it as though farm incomes had doubled.

In terms of the release of that information, I'm wondering if there's any way either you and your statistics division or StatsCan can somehow wage against that, because it does leave the wrong impression. I've been out there in the farm community and I've seen the headlines. The general public is then asking why these guys are yelling that they're in trouble, since their income just doubled. The public just doesn't understand.

The Conservatives may say this is a simplistic presentation, but you could show this presentation to somebody in downtown Toronto and they won't have a clue what you're talking about, no matter how simplistic it is.

I'm just wondering, Michael, Cameron, or Jan, if there's anything we can do in that area to have the general public understand the reality of the difficulties out there. We need to call the facts as they are.

Mr. Michael Keenan: I think that's a very good point. Perhaps we're guilty of some kind of false advertising. We hadn't intended to come and do an analysis of the trends of farm income today, simply because we're very close to having a forecast of what the situation was in 2004, because there are these lags that the other member had referred to, and also what it's looking like into 2005.

I think the point the member just raised is a very important one, because you will see undoubtedly that 2003 is a historically terrible year in agriculture in terms of aggregate farm income. There will be a bit of a bounce back from that, but the numbers will remain in very, very difficult territory.

The CFA recently had a very good conference on the farm income crisis, at which a big debate ensued about technical aspects of measuring farm income. One of the reasons for going through this today was to try to provide a broader display of information about the different concepts and avoid a distracting technical debate about different concepts of farm income when you're looking at the numbers. Our hope is that in doing that we can keep the broader perspective that the member has just raised, that even though things move up a little bit, these numbers, in a broad historical trend, are tough. There's an ongoing deep structural income challenge in the sector that requires further analysis.

That was the long answer. The short one would be yes, Mr. Chair, I think we'll endeavour to take under advisement the direction from the member.

The Chair: Have you finished, Mr. Easter?

Hon. Wayne Easter: Yes, I think so.

The Chair: Does anyone on the opposition side wish to speak?

Mrs. Ur.

Mrs. Rose-Marie Ur: I have a quick question.

Our esteemed colleague here has travelled across Canada visiting the farm sector. He has certainly accumulated much information from the agricultural sector, to say the least. On his travels, it was indicated that this didn't happen in 2001 or 2002; this has been ongoing for about 20 or 25 years. Unfortunately, graphs speak a thousand words.

I wonder if it's at all feasible for your department to put together a graph. It would be a mighty big one, if you're looking at 20 or 25 years. Could we have a correlation as to where we've been?

We keep telling our farmers to expand, to do better in export markets. Well, the export markets have gone here, and they've gone here. If we could see a correlation as to what's happening.... Sometimes it's easier to see it that way than in words, so I think that would be beneficial.

My big problem all the time is that it's wonderful to say we have all these subsidies and programs for farmers, but quite all too often, when the farmers need it, it comes far too late. I know that might not fall under your purview, but it's great to say we have those subsidies and programs, but when they can't access those when they hurt the most, it isn't great, rewarding news to see their incomes at a certain level because of that. They've never been in such dire straits, in years.

So somehow a graph of some sort would certainly be great, to see the highs and lows, to see what approach we can use to correlate what the problems have been in the past, and to see where we're going now.

Mr. Michael Keenan: I have two points on that. First, the member is absolutely right. By only covering the last 13 or 14 years, the chart doesn't give you a true sense of the long-term historical trend. We have published some material, and I think there's some information in the stuff that was handed out. However, we're in the process of pulling together statistical trends, charts, and data that go right to the heart of what the member raised, and try to quantify the general trend and scope of the long-term income trends in the sector, as background support to some of the discussions the parliamentary secretary is undertaking. We hope to have that out within a week or so. I will commit to notifying the clerk as soon as we have it, so it can be made available to the members.

Second, the point about the timeliness of program payments is an important one. There are a lot of policy issues around that, but one fact is interesting and really serves to underscore the seriousness and the acuteness of the income challenge that producers have faced, particularly in 2003. As you can see, the realized net income line fell into negative territory—minus \$30 million. That was after the provision of \$4.8 billion in federal and provincial payments to producers, which was an all-time record high. At least in a statistical sense, the all-time record high in terms of payments came when it was needed most. That's the good news. The bad news is that after \$4.8 billion in all-time record federal-provincial payments, realized net income still didn't quite make it into positive territory. That underscores the depth of the challenges in 2003 as a result of many big factors. BSE was a very large one. It was a really major income hit on the sector, as was drought.

• (1710)

The Chair: Mrs. Ur.

Mrs. Rose-Marie Ur: Has your department done any work on the removal of subsidies from the farming sector—where our farmers would be compared to where they are now? How can we turn this around?

It's been said time and time again that subsidies will never give the farmers sufficient funds to augment their income. But we need to turn this whole picture around. We need to stop the boat, turn it around, and get sufficient dollars from the marketplace. That is our sole solution to this.

Mr. Michael Keenan: The member raises a very fundamental question. How to turn the ship around and help the industry regain momentum to gain more from the marketplace is an extremely complex policy question. The parliamentary secretary has begun consultations, sort of fact-finding work in that area. Because he's sitting here, I don't want describe what he's doing, when he knows better what he's doing.

But as a first step in understanding that, we have done some work and analysis on that, and are continuing to do it in support of that work. We're providing some assistance so the Canadian Agricultural Policy Institute can do some independent analysis around those questions. It is a complex question that needs to be sliced up, and a lot of work has to be done because an answer clearly has to be found.

I'd like to come back to one element that the member raised, which is the question of whether we have done work on the impact of lifting subsidies. I assume by that she means U.S. and EU subsidies. We have done some work in the past, and a fair bit of work is being done on the world stage, at the OECD, among some international research institutes in the general area of trade reform. Trade reform is about putting discipline on these things, and trying to get them down to low or zero levels.

There is an effect. Even though it's extremely important and positive, and would improve the world food economy and the competitive situation for Canadian producers, it's not going to solve all of the challenges. One of the things we've seen is a structural change in the global food economy, whereby in almost any major commodity there is a shift, and a lot of new competitors are grabbing global market share. These competitors don't receive government subsidies, so removing government subsidies doesn't remove the competitive threat from them. In most of the main commodities, the U.S. is losing ground to an Asian country, a South American country, and Australia. So that element is something we're going to have to wrestle with in the context of this broader investigation into the causes of farm income decline, and possible solutions therein.

The Chair: Well, I think we're going to get into a lot more of this on March 8, when we really get into the questioning on this case and how we can deal with that.

James.

Mr. James Bezan: The only comment I have is that slide 10 really draws to our attention, as farmers and policy-makers, that we can't get caught looking at just total net income; we have to look at the realized net income. It makes a point, it tracks, it correlates to actual net cash income, but when you look at total net income, it's just based on increases in inventory because people couldn't sell their animals, were feeding them for nothing, and incurring more losses. That will be reflected in the numbers when they come out for 2004. As policy-makers, we really have to focus on realized net income, and not get caught into thinking that total net income is the way to evaluate.

• (1715)

The Chair: Monsieur Gaudet.

[Translation]

Mr. Roger Gaudet: Do you have statistics on the subsidies given to their producers by the European countries, the United States, Brazil and China in comparison to those provided by Canada?

Mr. Michael Keenan: The OECD has two main statistical databases, figures that give detailed information on how countries subsidize their own producers. That is the first point.

Second, certain countries like Brazil do not offer large subsidies. Their subsidy levels are significantly lower than those in Canada and various other countries. It is the European countries, Japan and the United States that give large subsidies likely to have a nefarious effect on the world food market.

Mr. Roger Gaudet: Farmers live in an agricultural environment and they tell us that the United States, Europe and Japan subsidize their producers to a greater extent than Canada. I'm sorry, but I have to say that we're in the hole.

Do you have any statistics relating to American, European and Japanese producers? How much do they receive from their government? It would be of interest to us.

Mr. Michael Keenan: Yes.

Mr. Roger Gaudet: We could then tell our government that in 1993, for example, \$6.1 billion were given out in the form of subsidies whereas we only provided \$3 billion in 2003-2004. The

government would be able to increase the subsidies in light of such figures.

Mr. Michael Keenan: Yes.

Mr. Roger Gaudet: Based on the presentation of my colleague Wayne, who came to Quebec in January, in 2003, producers had a deficit established at over \$2 billion. Something must be done about this because Canada is in a real crisis situation. I am not talking about a single production. I think that all forms of production are now going through a crisis. What would be necessary to help them?

Mr. Michael Keenan: There are two things. I am looking for the figures.

Mr. Roger Gaudet: If you don't have them today, you can send them to the committee clerk who will provide them to us.

Mr. Michael Keenan: The documents you received contain detailed figures on the subsidy levels of other countries.

There are two points. It is quite clear that European countries do provide much greater levels of subsidy than Canada. As for the United States, the situation is very different. Because of the economic crisis in the farm sector in Canada, the help required by Canadian producers and the high historic level of Canadian assistance, according to the OECD, the level of subsidy, including all forms of subsidy, is now higher in Canada than in United States when expressed in terms of percentage of value of production. The relative situation of Canada and the U.S. is very different from the relative situation of Canada and the European Union.

[English]

The Chair: Mr. Easter, do you have anything else to add?

• (1720)

Hon. Wayne Easter: The only thing I would add is in relation to Rose-Marie's question and Mike's chart on page 10. At the hearings on farm income, Roger mentioned the figure minus \$2 billion, which was George Brinkman's figure, from the market.

I'm wondering if you have any analysis on returns from the market itself, government payments out, that you could chart. This would certainly be useful. Your comment on page 10, when you look at 2003 and you consider that there already was \$4.8 billion paid in there, is pretty startling.

I wonder if there's any way of charting it that way so that we're dealing with the reality there, as well. I think you have that.

Mr. Michael Keenan: Yes, Mr. Chair. In fact, we're in the process now of compiling a bunch of stats along those lines, taking program payments out so you can see what the return is from the market alone. The story that the numbers tell is, as the member indicated, a tougher story. They show a really difficult economic situation in a clearer manner than the numbers that include program payments, such as on page 10.

As I mentioned before, I think we'll be in a position to have that pulled together. We'll put it into an integrated document, and we'll definitely provide it to the clerk to provide to committee members, if it pleases the chair.

The Chair: We've just about exhausted our time. This is a very complex issue.

Bill C-27 is a document that's going to have a tremendous impact on a lot of people from all sectors of the agrifood business. One of the issues we constantly find ourselves trying to do better on is communication. That is, to communicate the message that agriculture at farm gate is at an all-time low in terms of return for dollar invested. Given the fact that we have reached all-time highs in our exports, people simply couldn't understand that. We've doubled our exports in the last 12 years, yet farmers have never been so poorly returned for their investment as they have over the past two or three years. That's something that people don't understand, particularly when they understand that we've given them \$4.8 billion. It doesn't make any sense. In an industry other than the food industry, you would close the doors on that industry. You would go somewhere else.

As the chair, I make the comment—because we've made this a recommendation in a previous report that this committee has done—that agrifood is probably the most important industry we have in this country. Once a nation can no longer feed itself, it no longer has any security of any kind. We become a dependency nation. I can tell you, I think all members around this table, from all sides of the House, understand that this is an important industry. We are here to try to make it a better industry, sustainable for the future.

So you understand the frustrations, and members sometimes express them in various ways. I think it's important for you to take the message back, and I know you will do that. You understand that there is tremendous frustration—not only frustration, but there is a feeling out there of being almost deserted, and do Canadians really care? I guess that's a question we all have.

It's just some food for thought from your chair. I encourage you to put together that information. It's always helpful. We will continue on the aspect of incomes on March 8 with the people from CAIS.

Thank you very much for coming, and thank you to the members for remaining here for the duration of this meeting.

Have a great weekend. We'll see you on Tuesday.

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