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Tuesday, February 15, 2005

Chair

Mr. Paul Steckle

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● (1530)

[*English*]

The Chair (Mr. Paul Steckle (Huron—Bruce, Lib.)): We will begin our meeting.

Before we have our witnesses come to the table, we'll deal with a housekeeping matter. Madam Rivard had put forward a motion and given the proper 48 hours notice. The motion reads:

> That the Standing Committee on Agriculture and Agri-Food study the feasibility of regionalizing agricultural health practices.

In the course of hearing from some of the witnesses we've had before the committee we've discussed various aspects of this. What Madam Rivard is asking us to do now is perhaps a more in-depth review of that issue of regionalization in terms of how we would deal with such issues as avian flu. BSE is more difficult, of course.

That's the motion. I'm open to any commentary before we go to the vote.

Yes, Gerry.

Mr. Gerry Ritz (Battlefords—Lloydminster, CPC): I guess, Mr. Chairman, my concern, looking at our calendar, is that we're fairly booked up through spring. How timely does Madam Rivard feel this is? Do we have a timetable in mind?

The Chair: I guess we have to take the matters of priority in the order in which they become priority. I would not see this as a matter that's as urgent as some, but if you want it on the table and want to support it, we would put it on the table and deal with it according to our time schedule.

Does that seem fair? If time permits, we'll have it on as soon as possible, provided the motion carries.

Any other comments?

Yes, Mr. Drouin.

[*Translation*]

Hon. Claude Drouin (Beauce, Lib.): I would like to make a comment; I'd like to make sure I understood correctly.

Following certain discussions, it was said by a witness that regionalization already existed. We saw that in the case of avian flu. However, in the case of mad cow disease, the principle was not the same and it did not apply. I was under the impression that we already had regionalization but it was not applicable in all sectors where diseases might occur.

If it already exists, then it is simply a matter of reinforcing it, is that not so?

Ms. Denise Poirier-Rivard (Châteauguay—Saint-Constant, BQ): It was never brought to my attention that it was already in existence.

Hon. Claude Drouin: It was mentioned by one of the witnesses. They gave the example of avian flu. They said that regionalization did apply when avian flu first appeared and the disease affected only the region of British Columbia. But that was not the case for mad cow disease. That is what I understood from the witnesses' comments.

[*English*]

The Chair: Mr. Easter.

Hon. Wayne Easter (Malpeque, Lib.): Just so I'm interpreting this right, Mr. Chair, is zoning under the CFIA in terms of diseases—you might have an Atlantic zone, a Quebec zone, one in the west, whatever—really what is meant here? Is that what this motion we're looking at really means?

● (1535)

The Chair: Madam Rivard, do you want to respond to that?

My understanding is that it's really zoning rather than regionalizing. They're somewhat the same. But I think your first term was “zoning”; now it's regionalization.

[*Translation*]

Ms. Denise Poirier-Rivard: Exactly. I would like to hear from the president of the Union des producteurs agricoles and a representative of McCain's, for example, who could tell us whether we are on the right track and whether there is any reason to apply the principle of sanitary zones. That is my motion. That is how I see the request.

[*English*]

The Chair: Okay.

Mr. Kilgour.

[*Translation*]

Hon. David Kilgour (Edmonton—Mill Woods—Beaumont, Lib.): Mr. Chairman, can I ask our colleague whether there are not more important issues, ones that are more critical for Canadian producers in all regions? For example, it was mentioned that our producers have a debt amounting to $44 billion. Wouldn't it be more important to study other issues?

Ms. Denise Poirier-Rivard: I think that this is the important issue because if another epidemic were to occur, I wouldn't like to see Quebec producers penalized. I see this as prevention and it is very important.

[*English*]

The Chair: I think the chair will take the prerogative to suggest that when we reach the point in our agenda when we've exhausted Bill C-27, the chair will take direction from the committee on what the committee deems to be the priority items that we need to put forward. If that's deemed to be one of the highest priority items, it will get that priority. If not, it will move to wherever it happens to move. But I think that's the way the committee should operate.

(Motion agreed to)

The Chair: I should say to Ms. Rivard that I think the motion has carried, but you'd better speak to your colleague. He is undecided at best.

Some hon. members: Oh, oh!

The Chair: I call our witnesses to the table: Mr. Laforge, Mr. Doyle, and Ms. Marcone.

We want to continue today to look at how Bill C-27 would impact on the various industries. We want to look at how Bill C-27 would impact on the Dairy Farmers of Canada. We also have, from the Further Poultry Processors Association of Canada, Robert de Valk. He's not in the room, but when he arrives we'll have him come to the table.

From the Dairy Farmers of Canada we have a regular here, Jacques Laforge, president; Richard Doyle, executive director, also a regular; and Marguerita Marcone, assistant director, policy and government relations.

Mr. Laforge, you're going to speak on behalf of the Dairy Farmers of Canada. You're on.

Mr. Jacques Laforge (President, Dairy Farmers of Canada): Thank you very much, Mr. Chairman.

I'll do the first part of the presentation in French and the second part in English. I'll read through the text, because there are quite a few extremely important things we want to make sure we don't miss.

[*Translation*]

On behalf of the Dairy Farmers of Canada, I would like to thank you for this opportunity. We truly hope that our concerns regarding the proposed Bill C-27 will be heard and addressed.

The proposed enforcement act, otherwise known as 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 these acts and to amend other acts in consequence, is described in its legislative summary as a new legislative initiative intended to consolidate, modernize and enhance the existing inspection and enforcement powers of the CFIA for food, agricultural and aquatic commodities.

As you know, Bill C-27 is the result of the consolidation of enforcement and inspection provisions already contained in eight distinct pieces of legislation under CFIA's mandate. More significant is the jurisdictional outreach of the proposed act. The Enforcement Act defines an “Agency Act” to mean the CFIA Act or any act whose provision or enforcement is the responsibility of the CFIA by virtue of Section 11 of the Canadian Food Inspection Agency Act. In essence, if this bill is passed, its provisions will apply to the acts already existing under the CFIA, including the Canada Agricultural Products Act and the Consumer Packaging and Labelling Act.

It has been demonstrated that the “agency acts” the CFIA is seeking to enforce are ambiguous and have many loopholes. It is the acts themselves that undermine the ability to enforce. Dairy Farmers of Canada would like this committee to consider changes to Bill C-27 that address DFC's long standing concerns about labelling and product regulation in order to support the enforcement activities envisioned in Bill C-27.

As mentioned, present regulations administered and enforced under the authority of the CFIA contain loopholes, are ambiguous and incomplete. The proposed CFIA enforcement act does not address these loopholes. Given this fact, the question remains as to which regulations C-27 will enforce and how enforcement will be attained in light of existing ambiguities. Dairy Farmers of Canada encourages this committee to consider amendments to Bill C-27 that address these ambiguities in respect of labelling and product regulations.

At this point, I would like to bring to your attention several pieces of legislation under CFIA's mandate subject to the proposed enforcement act.

The Canada Agricultural Products Act, including the Dairy Products Regulations and the Consumer Packaging and Labelling Act, are all administered by the CFIA. If passed, the CAPA, including the DPR and the Labelling Act would be enforced under the auspices of C-27.

● (1540)

[*English*]

It is the Dairy Farmers of Canada's view that the CAPA, and primarily the dairy product regulations, contain provisions that are incomplete and outdated. DFC has emphasized for many years and continues to stress that the provisions of the CAPA under the CFIA necessitate amendments.

In particular, dairy regulations under the CAPA require significant change. When federal dairy regulations and compositional standards were drafted some 25 years ago, dairy processing had not advanced to the point where substitution of milk by dairy ingredients produced through ultrafiltration and other separation techniques could take place. Consequently, current regulations are ambiguous on which milk components are allowed in standardized dairy products.

Advances in dairy processing technology, combined with poorly monitored border operations and ambiguous dairy regulations, have allowed for the unfettered importation of various milk proteins to be substituted for domestic milk in Canadian dairy products, consequently affecting the consistency of Canadian-produced dairy products, which is extremely important.

DFC encourages the committee to consider making amendments to Bill C-27 that could address its concerns. Dairy Farmers of Canada propose selective amendments to the CAPA by way of Bill C-27. In particular, most committee members are aware that DFC has proposed the development of standards of identity for dairy products, defining the process of standardized products and limiting the use of dairy ingredients for standardized products to milk and cream.

The proposed amendments to the CAPA, including the dairy product regulations, are found in DFC's draft of amendments, all of which are tabled today.

Through labelling provisions, CFIA's legislative ability to deliver on its mandate to administer food labelling policies and protect consumers from misrepresentation and fraud with respect to food labelling, packaging, and advertising is questionable. In addition to this, labelling legislation has consistently been undermined. For instance, in an upsetting decision in recent years, a trademark board ruled the “Guide to Food Labelling and Advertising”, a legislative tool having consumer protection as an objective, to be without force in law. Even more recent CFIA consumer studies confirm that consumers continue to be victims of misrepresentation resulting from unfair labelling practices. CFIA has ignored the result of such studies, as well as the consequences of the board ruling, and continues to neglect its mandate to protect consumers from misrepresentation and fraud in food labelling, packaging, and advertising.

The proposed enforcement act does not address this issue. Current labelling provisions, as defined by the proposed enforcement act and included in the Consumer Packaging and Labelling Act, necessitate amendments that must be addressed. The success of Bill C-27 will be undermined if such labelling provisions are not corrected beforehand.

DFC supports the efforts of MPs to address its concerns about labelling and product standard abuses. The House agriculture and agrifood committee is aware of the many initiatives to clarify regulations and close the loopholes that undermine Canada's milk production sector. Some examples include private members' bills proposed in the past. It is also our understanding that other MPs have considered the introduction of measures that would make corrective amendments to both dairy regulations and labelling provisions, as applied to dairy terms.

We understand that Bill C-27 has been referred to this committee before second reading. As such, DFC believes that this standing committee maintains the legislative right to add additional amendments and to further the principles of Bill C-27. Such amendments are necessary to correct current legislative imperfections and ultimately ensure the success of Bill C-27.

DFC acknowledges that Bill C-27 is part of a three-stage process in CFIA's plan to modernize and consolidate provisions under its mandate. The third step will involve the modernization, consolidation, and enhancement of a regulatory base as part of an overall government move toward smart regulation. DFC contends that these amendments be considered today and not in a third stage in the years to come. In particular, DFC encourages committee members to consider amendments to Bill C-27 that would address the issues DFC has raised here today.

● (1545)

The success of the Enforcement Act depends on the revision of the current legislation under the authority of CFIA. Rather than work in a patchwork or piecemeal framework, we suggest that amendments of CFIA legislation, including the CAPA and the Consumer Packaging and Labelling Act, can be accomplished through amendments to Bill C-27. In addition, the DFC urges that these amendments be considered at this stage and before this committee. Support has already been granted by a representative of Parliament. Unfortunately, the CFIA has held back from making any changes.

On other preoccupations to Bill C-27, the DFC also has some concerns with specific provisions in the act. For example, clause 56 allows the government to make regulations for carrying out the purpose of the act and specifically provides new regulatory authority to establish quality management programs and systems and tracking and trace-back systems. This is found in paragraphs 56(o) and 56(u). In addition, DFC notes that subclause 44(1) permits the Crown or the CFIA to recover any costs incurred in relation to anything required or authorized to be done under the act. These provisions may be good or bad. The devil will be in the details of how they are implemented if they become law. Where such broad regulatory provisions are made law, there will likely be a need for transparent and effective oversight. DFC will be working with CFIA to analyze the potential impact of such provisions and may wish to comment further at a later date.

That's our submission for today, Mr. Chairman. This is an issue that has been one of the biggest irritants to try to resolve ever since I've been around the dairy industry, nationally and provincially. We've been spinning in circles. I'm sure through this process we will accomplish it properly this time.

● (1550)

The Chair: We'll dig a little deeper as we go into the question area.

Is Mr. de Valk in the room? Would you like to come to the table and do your presentation now, if you have one to make?

Mr. de Valk is here as general manager of the Further Poultry Processors Association of Canada.

Mr. de Valk.

Mr. Robert de Valk (General Manager, Further Poultry Processors Association of Canada): Thank you, Mr. Chairman.

As Further Poultry Processors, we're in the same boat as our diary colleagues in the sense that we've been wrestling for a long time with a lot of these issues that are being addressed today. We're certainly looking forward to this framework revisit, in effect, to try to deal with some of those issues in the past and to see if we can build a stronger food industry as a result.

It may be useful for some of the committee members to know just what FPPAC stands for and what we are. The Further Poultry Processors Association Canada is a trade association where manufacturers of value-added poultry products have the opportunity to share visions and concerns. The association was founded by three independent further processors—those are people without slaughter facilities—in August 1985.

The common cause that brought the members together then was the concern of adequate raw material supply, and today this remains a key issue. Our members are engaged in adding value to chicken, turkey, fowl, and meat by way of sizing, marinating, breading, cooking, forming, and adding other ingredients to ready-to-eat or cooked poultry products and meals.

Currently the association is made up of 40 active further processors and 9 associated supplier members from across Canada. Based on our most recent membership survey, the bulk of the membership is based in Ontario, where well over half of Canada's further processing capacity is located. Across Canada, our members account for sales of about $1.2 billion, made up of both retail and food service products, and employ more than 4,600 full-time positions. Our members are also exporters to various markets, such as Russia, Cuba, and South Africa, as well as the U.S.

As further processors, what are the key concerns we have with our inspection system? These concerns are probably common to a lot of food processors in Canada. The three that most often irritate us are unfair competition from provincial or uninspected plants—as a federal plant, you face competition from those kinds of situations; the lack of uniformity in inspection and regulatory enforcement among federal plants; and unfair competition from imports. Those are the three biggies. If you pull anybody apart, you're going to get some form of those kinds of things, and you've heard some of them from the dairy people already.

Does Bill C-27 address these concerns? The answer is yes, no, and maybe. It is all over the place in this regard. Certainly the recent animal health crisis demonstrates that there are gaps in the current legislation and enforcement activities. We feel the CFIA is probably testing the waters here in terms of a sympathetic Parliament that will move quickly to put in place a new framework, because to most people watching AI and BSE and how we've handled some of those things, it's obvious that we need to fix things up. Certainly the terrorist situation that has forced us to take a look at some of our border activities and how we're exchanging information back and forth similarly has indicated that we have gaps, and we need to move quickly to fix those gaps up.

We do feel that “quickly” seems to be the operative word here, and that the due diligence normally taken in this kind of major overhaul perhaps wasn't taken here. Although we had the forerunner Bill C-80, which we spent some time on but which died on the order paper, a lot of the concepts that were in Bill C-80 haven't carried through in this one. This is apparently a less ambitious project, and as indicated, it has three steps to it.

We very much see this step as a framework-building step. We agree with the CFIA that it's a useful exercise, and we support the attempt of CIA officials to build the necessary authority to take actions when food safety is at risk.

We also support the addition—as a matter of fact, we were partly responsible for requesting that this change be made—in terms of dealing with tampering. We feel that was certainly something that was not dealt with very well, and we're happy it's now in there and that an attempt is at least made to address this. It's a serious thing. Our plants are concerned about it, and certainly it's timely that we have moved on it.

The other really important thing in the framework is the enhancement of the authority to collect and exchange information, especially with foreign governments. This is becoming more and more important, because Canada, as you know, is certainly not an island. We're very much in the world market. Our food industry is one of our best export opportunities, so the ability to collect and exchange information is critical to that operation.

Bill C-27 is, in our understanding, an attempt to bring together ten statutes and basically see how they can be better put together to get rid of the overlap and make sure that any gaps between those ten statutes are covered off. The second step is the consolidation of thirteen acts, so the next step will include the additional three acts. The third step, and the most important one for those of us in the industry, is the consolidation of the 39 sets of regulations, in which we get into the real meat. Those are the things our members get impacted with on a daily basis.

It's not often that we get a chance to comment on the framework in which these acts operate. In other words, we seldom get a chance to look at the act, but we often get exposed to the regulations. We therefore feel this opportunity to look at the act and the framework is very important. We're really happy that the committee has taken on this bill and is getting a chance to look at it very seriously, but our industry hasn't had as much time as we need to look at this bill and provide as much input as we could.

● (1555)

We definitely feel this needs a hard look and the opportunity shouldn't be missed. We don't get these opportunities very often, every 20 years maybe; that's not very often, so let's do it right. I think that's the same thing the dairy people are saying to you: let's do this right; we don't get this opportunity often; let's correct some mistakes; we know they're there.

As you know, as a government you're looking at redoing the Canadian health legislation. Much of the enforcement that comes out of the CFIA is based on the Food and Drugs Act, so as we're redoing the framework for that, it's our opportunity to bring those two frameworks into close harmony.

We feel that in doing this kind of framework exercise we really should be using a few guiding principles to judge whether these frameworks are adequate and are doing the right thing. These are not too different from those in the framework we tried to put in place for Bill C-80, so I think it may be useful for the committee to understand where we're coming from when we look at this kind of legislation.

Our guiding principles are the following.

Wherever possible, simplify the legislation or framework and make it understandable to those affected. This speaks to the language that is often in acts and bills, as it takes reams of officials and lawyers to interpret it. We're saying, look, use the opportunity to make it a little bit simpler; the people who need to live by these regulations are the ones who need to use it, not the lawyers.

Ensure that the legislation is comprehensive and that it applies to all food production, processing, manufacturing, handling, and distribution establishments or persons, whether inspected by federal, provincial, or municipal resources or currently not inspected at all.

Now, we're sure this is the objective of this framework, but we're not sure if it's been achieved. Certainly, I think this committee should satisfy itself that if that's the objective, it has been achieved—because there are gaps in the current legislation—and we're sure that now, if you're producing food in your backyard or in your garage and you happen to also sell it to someone else who comes down the street, you're going to get captured by the framework. Whether the regulations are in place is another story.

Certainly, the intent of the framework is to capture all food production in Canada. That would be a major achievement if we could achieve it, because right now we don't do that. That's a weakness in our system, and it is also a weakness our trading partners can exploit, because, as you well know, at the border we really shouldn't be enforcing any regulations greater than what we're enforcing domestically. If domestically the weakest is a garage that isn't inspected, guess what? Our trading partners can make that argument. It's not the way it is now, but as these trade issues get more and more dicey, who knows what they can argue? We have an opportunity to clean up our own backyard, so to speak, so let's do it and let's do it right.

Also, in keeping with the whole approach of HACCP and food safety, create flexibility in the legislation so operators can achieve the desired outcomes in more than one way. In other words, whenever the framework specifies a certain outcome must be achieved in one way only, we know that's not the right way to go. They have to specify that you have to produce safe food but then leave you as an operator to determine how best to do that, and that's the way we're going with our inspection system.

Delete prescriptive quality standards and make the use of accepted scientific risk assessment to ensure food safety the driving force in the legislation, allowing us to refocus the inspection resources using a risk-based approach. You will remember the Auditor General, when the CFIA was formed, made this very point, that we could be more efficient in using our inspection resources if our approach was risk-based. Well, we now have a chance to ensure that. This framework has to put that principle in place; otherwise, we'll never get there.

We're looking at that framework very carefully and we're seeing some of it, but again, we're not 100% sure whether that risk-based approach is deeply ingrained in that piece of legislation because every once in a while the word “quality” keeps creeping back in and some of the old stuff still seems to be there.

● (1600)

Whenever possible, we'd also like to see the use of sunset clauses. We'd like to see allowance for consultation before making regulations—and again, that should be a principle in this framework. In other words, it's not very hard to simply add an amendment that says, okay, we haven't made the regulations yet, but if we do make them, we're going to be consulting with industry before we do. That's a principle in the bill, a principle in the framework that we're going to operate under, and we'd like to see that.

They tell us again, “Yes, we're going to do that. It's part of our modus operandi. We do that all the time. You don't need that in the act.” But it's comfort. I think it's appropriate that it be there, and we would certainly ask that you take a look at that.

Also, we'd like appeal mechanisms created. As we go through some of the specifics, I think you'll see that the need to create appeal mechanisms is something that has to be done, given the kind of scope that this framework has embraced.

Those are the principles, and I would only draw out one principle a little bit more, and that is, the federal-provincial coordination thought that we have in our principles.

This bill provides the Canadian food industry and the Government of Canada and its various departments an opportunity to correct the long-standing problem of federal-provincial differences in enforcement and requirements that continue to undermine our competitiveness and credibility and compromise our food safety image.

If the legislative renewal or the new framework here does not result in a harmonized national legislative framework.... In other words, all the pieces don't have to be together right now. You don't need to have all the provinces on board with this piece of legislation today. But you have to have the framework such that if the provinces step up to the plate and say “Yes, we want to work with you on this, we want to have the same system”—and Ontario is definitely moving very much in this direction of food safety as well—you have the framework to accommodate that and you can come back and say, “Yes, we can work with you there.”

That's what we're asking, that you keep that in mind, that no matter who delivers, for instance, the inspection enforcement activity or the oversight, whether it be a provincial inspector, a federal inspector, or a municipal inspector, we're all using the same framework and the same legislation. That's a pie-in-the-sky goal that industry has had for a long time, but with this bill, I think we can take a step closer to that world.

The enforcement framework should result in a regulatory approach that applies from gate to plate. I'm sure committee members have heard that phrase over and over again, but it has a meaning, and it means we're going to try to cover everyone in the food system, all the way up and down the chain. But it also applies to all levels of government, because government is part of our food industry, whether we like it or not. So again, we want to make sure that the enforcement mechanisms cover all aspects, all the way up and down.

The common goal should be a legislative framework that builds a strong and competitive Canadian food industry. If we're going to be competitive on world markets, we have to have a Canadian food industry. We can't have an industry that's 10 or 12 food industries; we need one. The way this bill develops the framework will go a long way to ensuring that happens.

We'd like to now raise some specific issues and questions surrounding the bill itself.

● (1605)

The Chair: Can you abbreviate those comments? We've already given you a lot of time. We're going to run out of time for our questioners, and we have a lot of questions for you.

Hon. David Kilgour: Could you pass a copy around?

The Chair: We can't allow you to submit your document to the group here because I understand it's not in both languages.

Mr. Robert de Valk: Yes. Sorry about that.

The Chair: We will have it prepared and copies distributed, but not today.

Perhaps you could take about two minutes to finish your presentation, if that's possible.

Mr. Robert de Valk: All right.

One of the things we noticed in going through the bill is that the Codex standards are not cited as references. Canada is a big supporter of Codex. There are lots of Codex standards that should be acceptable to Canada and it's something that I think we should work on.

In subclause 7(3) it states that written notice must be given to a customs officer or inspector before importing. We would suggest that word "written" be taken out and that simply notice be given. Obviously, notice can be given in many forms. The word "written", at this point, is probably just a carry-over from an old act.

The intentions of the prohibitions stated in clause 15 are clear. They cover operating and establishments, importing and exporting, but we're wondering whether interprovincial trade should not be treated with similar prohibitions in various sections of the bill. In other words, we don't see a section in there saying, interprovincial trade: if you don't meet the regulations you can't do it. Again, it's something about which they say, "I think it's covered somewhere", but we haven't been able to find it. I think our international trade obligations require that we treat imports the same way we do domestic products, so if we are not willing to apply these regulations to interprovincial trade, how can we apply them to imports? There's going to be difficulty.

The Chair: I'm going to cut it off there because we've gone way over time here and we're going to run out of time. Could you give all those comments to the clerk at the end of this meeting? You have prepared comments there, and some of the questions we have may well address some of them.

We must get to questions.

Mr. Ritz, first, for seven minutes.

Mr. Gerry Ritz: Thank you, Mr. Chairman.

Thank you, ladies and gentlemen, for your presentations here today.

As you well know, we're just getting started in the look at Bill C-27, or old Bill C-80, which died on the order paper in 1999.

I think one of the things Robert said was "simplify". That doesn't work in government, sir. It just never seems to happen. I certainly agree with your direction on that, but we never seem to be able to get a simplified version of anything. It just doesn't happen.

This particular bill now will contain 25 regulation-making authorities. That's not simplifying. There's going to be huge overlap. And you made the point about interprovincial trade barriers, and importing food and exporting food, and so on, and I agree with you.

My biggest concern, as a former producer—and we saw this in Food Freedom Day last week—is who ultimately pays? With all of these great regulations that we're putting in place, who do you suppose is going to get the bill at the end of the day? It's not a trick question. It's the producer. That's who's going to get the bill for all of this wish list at the end of the day—all of these new regulations, all of this new regulatory regime. But at the same time, those producers have no oversight and no accountability from CFIA, or the government that drives them, the political process, the practical process, and so on. So how do we build those types of things into a bill to make this thing producer-friendly? Because that's who's going to pay for it.

● (1610)

Mr. Robert de Valk: You might want to also address the consumer side of that ledger—

Mr. Gerry Ritz: I'm not concerned about the consumer. They're doing very well. Producers are in trouble.

Mr. Robert de Valk: No, there are aspects here, too, that will probably result in additional cost to importers, for example, to insure themselves against the agency saying you must take this import out of the country, just because you happen to be transporting it or possessing it, storing it. Those kinds of things that increase costs are going to be passed on to the consumer. So we're also concerned about the kinds of costs that we might have to incur and pass on to our customers. I think you've raised some very legitimate situations. Where's the cost to do this kind of thing going to come from? Where are we going to cover them? And what kinds of costs does this regulation impose?

Mr. Gerry Ritz: Yes. There are clauses in the bill that really don't stipulate.... As you said, the little guy in the garage and the huge multinational processing food—there's really no differential between that. And that's not all bad, but at the same time there are costs incurred that the large guy can amortize out over millions of dollars worth of product, whereas the little guy can't.

There was a letter here from someone who was looking for a different regulatory regime when it came to assessing potatoes. The small guy gets hit by the same kinds of fees. The inspector is there and it's a blanket cost. We have to address those types of things in here.

The changes and updates to this piece of legislation are going to be posted in the Canada Gazette. Do you guys read that every day? You're up to speed on it? Do you have somebody assigned from your organizations to stay right on top of the Canada Gazette? I know the large organizations do. I see Richard nodding his head. You must read that to go to sleep every night, Richard.

I know my guys don't. There are many smaller processors out there that are contributing in a big way, value-added producers and so on, and how are they going to stay up to speed on these things if they don't subscribe to the Canada Gazette?

Mr. Robert de Valk: As the dairy people have already indicated to you, some trade associations watch these things, and hopefully it gets filtered through the web and in other ways. But smaller firms definitely do not participate in that gazette review process. If the CFIA wants to reach out to those people, and the framework seems to indicate that, then it's going to have to find other ways of getting out there and making sure the population is contacted, because people who are affected need to be consulted.

Mr. Gerry Ritz: And be told about it before they're considered guilty as charged when they didn't even know about it.

Mr. Robert de Valk: Exactly.

Mr. Gerry Ritz: This bill doesn't give them that excuse. As long as it's posted, they're supposed to have known about it. Of course, in the real world that doesn't happen. The devil is in the details, as I think Jacques said in his presentation. You're absolutely right.

I'm very concerned about this piece of legislation. I wasn't involved in 1999, but I know the folks then had the same concerns. We're told it's a housekeeping bill. It's actually going to streamline things and make things better. That's great if that happens.

But the problem is oversight and accountability, order in council appointments, ministerial permits and prohibitions, and the lack of recourse or compensation when things go sideways. We need to hear from groups like you that you've already seen that in certain instances, and to get that highlighted so that we can make those changes in the bill as well.

● (1615)

Mr. Robert de Valk: I fully agree with your comments. As a matter of fact, we have a concern with subclause 32(5). That arises out of animal health situations. The A1 situation was probably what prompted that. They're saying they can search and seize without a search warrant. That might be necessary in an emergency situation, but wouldn't it be useful to put in there that the head of the CFIA or at least two people have to agree it is necessary? Even people operating under the combines act don't act in that way. It seems to me you need something here to prevent misuse. You can't have one inspector say, "It's extenuating circumstances, so I'm just going to search."

Subclause 35(6) says you can only execute the warrant during the day. If you're in such a hurry to get it that you can't even go through the regular protocol, is the effort you make under subclause 35(5) covered by subclause 35(6)? If you have to wait overnight, then you might as well do it right. The two don't seem to flow.

Then in subclause 35(4) it says you can do all of this electronically. That would allow you all the speed you need, I would think, to take care of things properly. You could even engage people in Ottawa if you were out in B.C and you had to make a decision.

It needs more work.

Mr. Gerry Ritz: Thank you.

The Chair: We'll now go to Madam Rivard for seven minutes.

[*Translation*]

Ms. Denise Poirier-Rivard: Thank you, Mr. Chairman.

Thank you, gentlemen. Your answers will certainly prove to be enlightening for us and will help us make our decisions.

Since we're talking about money, I'd like to put the following question to you. Why do you think that the government decided to draft a new bill rather than amend the present act? If Bill C-27 is merely an act to correct administrative details, would it not have been possible to simply make amendments to the act?

Mr. Jacques Laforge: The dairy industry has been calling for amendments for several years now. I think that the purpose of Bill C-27 is mainly to reinforce the powers of the agency with respect to its present responsibilities. We would like it to be complementary. When certain powers are reinforced, we must ensure that the appropriate legislation operates properly. Let me give you a simple example.

The Department of Transport operates under an act. There has never been a clear definition of the difference between the terms "stop" and "yield", but people who do not make a proper stop are fined. This is similar to what the dairy industry is requesting. Before we go any farther, we must make sure that certain corrections are made so that the agency can be held accountable.

Ms. Denise Poirier-Rivard: Do the Dairy Producers of Canada consider that the mandate of this new act is too wide in scope? Do you think that this approach will be effective?

Mr. Richard Doyle (Executive Director, Dairy Farmers of Canada): I would say that this is incomplete. The problem is not so much the implementation of the regulations, nor the centralization of the administration with respect to food and agriculture-related matters under a single inspection agency. That is logical in view of the fact that there are so many laws and regulations.

The problem, as we see it, is that a consolidation appears to take place only with respect to the implementation side. Let me give you an example. On the one hand, there are regulations on dairy products under the Food and Drugs Act, setting out the definition of dairy products: milk, butter, etc. On the other hand, there are regulations that come under the Canada Agricultural Products Act with different definitions of butter, milk, cheese, etc. The agency is consolidating its role in respect of all these laws. However the question remains, what regulations will it be applying?

It is fine to consolidate the implementation of regulations but what regulations will be applied? If the regulations are not consolidated as well, which regulations will be applied? That is the first concern we have. In our view, it does not go far enough.

The second problem we see relates to the way in which the agency interprets its own role. There is nothing wrong with the agency having certain powers. We are not against this, particularly with respect to agricultural products. However, it does have far too much flexibility in the interpretation of these powers.

Let me give you an example. Recently the agency received a complaint about the fact that certain products used the term “milk” when they are soya products such as soya milk. A regulation specifies that milk is the mammary secretion of an animal: that is the definition of the word “milk”. When we promote milk, we do not talk about cow's milk but simply milk. Soya milk is certainly not the mammary secretion of any kind of animal. Mr. de Valk talked about the Codex Alimentarius, and Canada has agreed on the use of dairy technology. This standard approved by Canada does not allow for the use of the expression “soya milk”, but it is assumed that the consumer does understand that this product is not a mammary secretion. That does not make sense. A milk processor cannot use the term milk unless it is in compliance with the regulations. If it is not, he must use the term “drink”. However, someone who is not subject to any regulation is allowed to use the term. It is ridiculous.

In this respect, it may be a good thing to have this power in the bill, but we must also consider how it can ensure a certain harmonization of the regulations that the agency is responsible for applying.

● (1620)

Ms. Denise Poirier-Rivard: You refer to soya milk. As far as I know, it is a soya beverage, not soya milk. That is what you are saying, isn't it?

Mr. Richard Doyle: I've just received a letter from the agency saying that the term “soya milk” is quite acceptable and accepted.

Ms. Denise Poirier-Rivard: It doesn't seem clear to me. By increasing the number of categories of products that an inspector may inspect, is there not a risk of creating confusion?

I will give you a concrete example. I have a cheese factory. One day, an inspector showed up. He had just been inspecting some fish and then he came to inspect a cheese plant. What do you think of the fact that an inspector may be assigned to inspect different products in succession?

Mr. Roger Gaudet (Montcalm, BQ): Especially when he hasn't had a shower!

Mr. Richard Doyle: The same problem occurs in the case of an inspector who goes to a farm and then to a plant. There are certain rules. Everyone in the industry knows that this is not to be done. You cannot visit a farm and then go to a plant immediately afterwards. There are certainly health and hygiene conditions that must be respected.

It is by way of regulation that the agency must insure that inspections are carried out in keeping with the appropriate recognized practices followed by people in the field. Such practices must be established and clarified. It may be that they have not been incorporated into the act but at the very least they must be referred to in the act. I think that it is clause 59 that deals with this.

I agree with Mr. de Valk that we should refer to the Codex Alimentarius. In my view, this is one of the relevant organizations. Reference is made to the WTO and the International Office of Epizootics. That would mean that the act would refer to codes of practice or guidelines in order to insure that the matter is properly handled.

[*English*]

The Chair: We move to Mr. Easter for seven minutes

Hon. Wayne Easter: Thank you, Mr. Chair.

In the first point, and basically the whole substance of the Dairy Farmers of Canada brief, I think you bring up a valid point about those who are using the laxness in the packaging and the labelling to basically undermine the dairy system, whether it's via soya milk or butter oil or whatever.

My concern here, Mr. Chair—and maybe this question is more to Ms. Garbig—is that we are opening up the Consumer Packaging and Labelling Act, but only for a consequential amendment to apply. Can we deal with the points that Dairy Farmers of Canada want us to deal with while we're dealing with this act? If we can't, how can we? I think it is an extremely valid point. It goes to the essence of whether we're really supporting the supply management system or not.

So my question is really to Ms. Garbig. Can we do what Dairy Farmers of Canada is asking us to do under Bill C-27, and if we can't, how can we?

● (1625)

The Chair: This is what Mr. Easter is asking for. He says we've talked many times about, and there have been a number of initiatives to place before the House, a “dairy terms act” bill.

That would be what you're asking for; that's what the dairy people are asking for.

Yes, Ms. Garbig?

Ms. Joann Garbig (Procedural Clerk): It's true that the committee has received the bill before second reading, and, as was indicated in the presentation, this gives the committee more scope for amendment than would be the case if the bill had come after second reading.

It's hard to say whether this sort of amendment would be admissible at that stage without actually seeing any amendments. I guess the best advice I could give at this point would be for members who are interested to have those amendments drafted by counsel. The drafting service exists for all members who might be interested in amending bills in committee or at report stage.

Have the amendments drafted. I'd be happy to look at them.

The Chair: Might I add that I have already done that—I can present those to you very quickly—and others have as well. Many of us have seen them, so it's not a new....

Mr. Gerry Ritz: Well, there was a private member's bill.

The Chair: Yes, and we've taken it and slightly revised it to adapt to the kinds of changes the dairy people wanted. So it's already there. We just need to do it, and we'll certainly do that.

Hon. Wayne Easter: Thank you, Mr. Chair. Let's get that in the mill, because I would worry that we can't amend it unless we actually open up the Consumer Packaging and Labelling Act. I really think in fairness, if we're going to deal with this properly, we have to deal with this issue of labelling or Bill C-27 for at least dairy farmers. There are an awful lot of consequences.

On page 3 of your brief, in point 2 on labelling provisions you talk about “misrepresentation and fraud in respect to food labelling, packaging and advertising”. Is what you mean what we've already been referring to—soya milk, butter oil? Can you expand on that a little bit, Richard?

Mr. Richard Doyle: Among others, I could come up here and give you 55 or 1,000 different examples of how this is misused. The problem we're having is there's a bit of a farce now being made of the regulations on products. It means absolutely nothing. Soy milk is one example in labelling, and you've seen this before, the buttered popcorn with no butter.

We're very concerned that we had a process going on before. The CFIA was reviewing its labelling legislation. When they did a consumer survey as to the understanding of consumers, which proved that they were completely wrong in their approach, they dropped the ball and stopped everything. That's a big concern of ours, because it exactly proves that the consumer perceives that if you're going to use a term like “cheese” or “butter” on the label of a product, they expect that product to contain the name. If it doesn't, what's the point?

I'll give you an example, which proves the point. We have butter tarts. Back in the forties or thirties when margarine was introduced there was a huge debate in this industry. Basically, margarine cannot be called an “imitation butter”. It has to be called “margarine”. It has a standard, a regulation, that defines exactly what margarine is, and that's fine. It has been very successful in the market. Butter is butter, as defined, and so on.

You can use margarine in a tart and call it a “butter tart”, and CFIA has no problem with this. I'm sorry, but we do. We spend millions of dollars promoting butter. Our competition is margarine or soya. There's nothing wrong with these products. All I'm saying is, stand on your own. Having regulations on these products and letting everybody use it is making a joke of it. This is about enforcement. That's what this is about.

● (1630)

Hon. Wayne Easter: That makes the point, and we have to deal with it, I guess. Thanks.

In your presentation you basically stuck to the whole idea of packaging and labelling and you didn't go into a lot of areas, other than paragraph 56(o) and paragraph 56(u). Are there any other specific areas of the bill that you're concerned about? It was expressed by the committee itself the other day, whether it should be the president of the agency who makes the ultimate decision, or whether it should in fact be the minister, as an example. Who should have final authority in terms of entering into discussions with foreign countries, organizations, etc.? Should it be the president of the agency, or should it be the minister? Do you have any concern in those areas?

Mr. Richard Doyle: I think basically you want transparency. You could have the president of the agency and it doesn't mean his authority should not come from the minister in the end. You cannot ever deny that direct linkage, even if you're the chairman or the president of an agency, and that's directly in the CFIA Act itself. It's clear that when you deal with areas like representation at the OIE, for example, you're not going to have the minister there. So you have a chief veterinarian going there from the CFIA, and that makes a lot of sense. You do establish standards.

You're talking about accountability, about who's accountable for these processes. Clearly you have a role and responsibility from the agency, but the final accountability always rests with the minister as to which agency to report to.

The Chair: For this round that's it, Mr. Easter.

We'll move on to Ms. Finley.

Ms. Diane Finley (Haldimand—Norfolk, CPC): Thank you, Mr. Chairman.

I'll address this to both groups present today. There has been some discussion on both of your parts that some areas of this may need revisiting in terms of accountability and the scope of the powers of the CFIA, particularly in the event of someone being accused of an infraction and at a subsequent date being found innocent of that charge. Do you have any concerns, or are there any recommendations you would make in terms of amendments to counteract this?

The Chair: Mr. de Valk.

Mr. Robert de Valk: We looked specifically at clause 30 and clause 50 as areas where we feel some different wording is needed in order to mitigate the possibilities of mistakes and that kind of thing. We haven't actually developed an amendment that might work there, but one thing jumps to mind when you see these kinds of things. Perhaps we're not privy to all the information that led to this draft, but if you have a good argument for why it needs to be there, could you not at least put in a provision for being caught under clause 30 or clause 50?

Under clause 50, an innocent person such as a label adviser, for example, could provide advice to a company bringing products into Canada that the CFIA subsequently seizes, feeling the product is not in compliance. Under this section, they could charge the person who provided the label advice, if they thought he or she was somehow involved. You need an appeal mechanism that covers not only these two sections but various other places as well. A lot could be corrected if somehow the moment someone was caught under one of these provisions there was a mechanism to explain there was a mistake and to look at the information. You could then prevent something from happening.

However, there's nothing like that. They seem to say it's up to the inspector, the inspector is right no matter what he says, and his reports are going to be deemed correct as well. We know inspectors make mistakes. We've all been through it. There has to be some backup somewhere.

We think the best way to do that is to create some kind of appeal mechanism in this provision that covers the eleven different ways, as someone mentioned, enforcement action can be taken. Then we can create at least one appeal mechanism where there is a section in CFIA that you can go to, or even an independent field mechanism of some kind that you can appeal to, saying, there's some information, please take it into account, because you're making a big mistake here.

It has worked in the U.S. I know it's a situation that occurs from time to time there. Before the draconian actions take place, there are at least two steps where industry has an opportunity to intercede. I think that can be developed here, and that's where I think we need to spend some time on the wording.

● (1635)

Mr. Jacques Laforge: From the dairy sector, I'll be quite frank, we didn't look at that angle and that perspective, for different reasons. We basically looked at more powers being given to an agency that we felt was not properly carrying out some of its functions. We concentrated on that from a dairy perspective.

The other issue in dairy is that for inspections, responsibilities, and so on, the industry is quite different. Basically, we collect milk. It's a farm product, but it cannot be sold at all until it goes to a plant to be pasteurized, at least. The focus is on the milk going on one truck, and the focus of CFIA, for us, was a bit different.

That's why, at the end of this brief, we reserve future comments until we know that the Canadian Federation of Agriculture has looked at this and we have had a chance to consult with them.

Ms. Diane Finley: I'd be very interested in hearing any future thoughts you have on this, particularly in terms of the broader picture. These powers will be affecting many different types of operations. I think it's very important that we hear from groups such as yourselves, who bring different perspectives on how it could have an impact on your industries.

I would also suggest that it may be time to give some thought to how this act could be applied, on a day-to-day practical basis, and what things we need to do to make sure it's applied justly and fairly to all.

Thank you.

The Chair: That was inspired, Ms. Finley.

Mrs. Ur, for five minutes.

Mrs. Rose-Marie Ur (Lambton—Kent—Middlesex, Lib.): Thank you, Mr. Chair.

I thank you for your presentation.

I'm all for improving things, streamlining and all the rest. We went through that with PMRA. I see a bit of a red flag when it comes to what could happen that is, hopefully, positive.

When looking at the numbers that are being put together on this legislation, there's such a variety of expertise: the Canada Agricultural Products Act; fish inspections; meat inspections; the Seeds Act; the Feeds Act; fertilizer; health of animals; and plant protection. All of those have inspectors, and I respect the people who do a good job there.

To now have one person wear eight different hats and have a wealth of knowledge is of some concern, under some of those numbers that I've put forth, because of the crucial elements that may happen that they're called upon to serve. Do you feel we're going to be better served by putting those eight together out of the ten? Is it better to have the expertise under one person versus eight different people?

Mr. Robert de Valk: I think the answer is yes, there are a lot of opportunities, especially with Canada's geographic challenges, to have the same person do a number of tasks. I think you have to take it out of the framework of what we're used to inspectors doing.

We're hoping that down the road inspectors will be more oversight people and will simply come to look at some paperwork that you've completed as part of your HACCP plan or as part of your food safety plan, things of that nature. If you look at inspection that way and look at it also as risk-based—so the frequency with which that inspector might be visiting a fish plant as opposed to a seed operation, or something—that would also play a role. I think we can rationalize and make better use of our inspection resources that way.

It doesn't mean the person who has meat expertise will be doing grain. I think those kinds of knowledge-based activities will still be very much taken into account in assigning inspector resources. But if all the inspector has to do is verify that your HACCP plan, for instance, is operating properly, then the level of knowledge you need in terms of the specific plant you're visiting starts to decrease. But you have to have a good, high knowledge of manufacturing activity overall and of how food safety is compromised.

● (1640)

Mrs. Rose-Marie Ur: In your presentation, sir, you indicated that this seems like a less ambitious project than Bill C-80 was. What do you feel is missing from Bill C-27 that was evident in Bill C-80?

Mr. Robert de Valk: Well, three acts, to start with.

I think the CFIA, as I said at the top, is taking a cue from the AI situation, BSE, and the terrorist situation. Those three factors have combined to point out to them, in no uncertain terms, that there are gaps and holes and we need to act in certain areas. So rather than wait and bring all the acts together, as they did in Bill C-80, and they found some resistance at that time as well, I think they're chopping off a little bit less, hoping there's a nice environment in Parliament and in this committee for moving forward to cover the gaps, because everybody knows they're there and hopefully putting this in place.

Mrs. Rose-Marie Ur: You mentioned that there should be an appeals mechanism, that this is lacking. What about an ombudsperson?

Mr. Robert de Valk: An ombudsperson? Well, that is a form of appeal. Any of those kinds of things would be helpful. We don't see a lot of that here. There is reference to a tribunal, but I'm not sure if that is going to go wider than the fruits and vegetables side, where it has been operating, or if the intent is to use it in a broader way. I don't know, but a lot of that is missing.

Mrs. Rose-Marie Ur: You said there was a lack of consultation.

Mr. Robert de Valk: I don't think that's news to you, is it?

Mrs. Rose-Marie Ur: No, it isn't, but I'm saying, what venue do you think the committee can use to help you in your consultation process, or how can we be of help to you in that respect? Do you feel there's a role for us to play to deliver your concerns as to Bill C-27, so perhaps it's another tool we can put in the toolbox to make Bill C-27 palatable for everyone?

Mr. Robert de Valk: Yes. The fact that you have the bill in front of you after first reading is a clear signal to us that they want you to play a role, and we're delighted with that because we missed the opportunity, obviously, through the regular mechanism. We're going to give you all the help you need. Just ask.

Mrs. Rose-Marie Ur: I appreciate that. Thank you.

The Chair: Thank you very much.

We'll move to Mr. Gaudet, for five minutes.

[*Translation*]

Mr. Roger Gaudet: Thank you, Mr. Chairman. My question may be a simple one.

In CFIA, you look after supply management. How do you explain the fact that exports and imports are such an important issue? Under the agreement, they should not account for more than 3 per cent. It so happens that at the present time, products are entering the country in huge quantities.

I know that it is important not to allow unsafe products into the country, but in view of the supply management provisions in the agreement signed by the parties, I wonder why so much importance is given to this issue. I don't mean that there should not be any imports or exports.

Mr. Jacques Laforge: I think that your question is rather far-reaching. Let me attempt to give a brief answer.

When a product enters Canada, our first concern is to find out how it is classified. There are different classifications relating to the tariff. It is a matter of finding out what the product is, analyzing it and testing it to determine whether it is in fact what it purports to be. We often take for granted that that is so. It is an important question for which we do not have an answer. We do have import programs that are ultimately geared to re-exporting. The products that enter are supposed to leave the country again.

Mr. Roger Gaudet: There are more of them that come in than leave.

Mr. Jacques Laforge: Yes.

Mr. Roger Gaudet: Don't be afraid of saying so because that is what is happening at the present time. It doesn't bother me at all. We have to tell the truth.

Mr. Jacques Laforge: As far as the CFIA system goes, there is no doubt that products that come into the country are not subject to as rigorous an inspection system as those that are used in the case of Canadian dairy products. Even when it comes to ingredients, it quite often happens that when they come into Canada, we do not know under what standards they were produced or even what country they come from. We are required to respect all sorts of standards as milk producers. When ingredients like butter oil with sugar come into the country, I often say that it's like buying already used bubble gum. We know nothing about its composition.

● (1645)

Mr. Richard Doyle: With your permission, Mr. Gaudet, I'd like to clarify something.

We are talking about legislation that will confer powers here. It's all very nice to have that power, but the agency will have to use it properly.

As Mr. Laforge was saying, we have a classification problem right now. This is because lactalbumin, protein isolates, concentrated proteins, skim milk power and lactoserum are all white powders. They resemble each other totally. Therefore, if the verification is based only on what is indicated on the import form—a given tariff rate, for example—without further verification, problems will appear. In fact, under our tariff list, there are different tariffs and controls for each one of these products.

Thus, in the case of industries that have import problems, the agency will have to ensure that tests and verifications are carried out in order for the appropriate classification to apply.

Mr. Jacques Laforge: I would like to add that in cases where dairy products or ingredients are imported for re-export, no one can trace any particular shipment that arrives here, is diluted in dairy plant basins and later exported. In many cases, two weeks after a product arrives in Canada, it is made into a product that is later exported.

Personally, I have no idea of the quality of what is produced abroad and enters into Canada; I have no idea how this was produced. The agency has some responsibility in this regard.

Mr. Roger Gaudet: Thank you.

[*English*]

The Chair: Thank you.

We now move to Mr. Kilgour for five minutes.

Hon. David Kilgour: You're all on the ground. Maybe I could ask the dairy people first. I sat with one of your members on the plane recently all the way back to Edmonton, so I learned a lot about the dairy industry. I'd better not identify him. I don't want to get him into trouble with anybody.

One of the points he made was that every carton of milk you buy says it contains one or two percent fat, when it should say ninety-nine or ninety-eight percent fat-free.

Is it true that you haven't been able to persuade the CFIA to allow you to put it in this more positive way—and if so, why not?

Mr. Richard Doyle: Technically the rule has always been—it's applied differently, and that's part of the labelling issue again—that you should claim what you have and not what you don't have. That was true, but again, when you get into food and drugs, how many times have you seen "no cholesterol" on a label? It's the same type of issue. I've seen a no cholesterol sticker on bananas.

This kind of practice should never be allowed. It makes a joke of the whole process of labelling regulations, and it has been stopped. There's not a lot of cohesion necessarily on the application of some of these regulations, but we've never been permitted to claim something we don't have.

Hon. David Kilgour: Wouldn't it increase the amount of milk consumption enormously if people, instead of feeling guilty every time they buy it because it has fat in it, could see that it was virtually fat-free? What I'm really saying is, the CFIA doesn't seem to be cooperating with you on this issue—and maybe it isn't cooperating with you on other issues, many of them in this bill. Why isn't it cooperating with you?

Mr. Richard Doyle: That's a good question. You should ask the CFIA.

Hon. David Kilgour: I wish I had. The CFIA isn't here this week.

Mr. Richard Doyle: Jacques may want to speak on this.

Mr. Jacques Laforge: I think your point is that milk is not a high-fat food to consume. I use this example quite often.

My own accountant, who does my book-work at the end of the year, three years ago asked me a question. He'd been seeing all kinds of things about milk and so on—and he's a big milk drinker—so he asked, how much fat is in milk? I told him there are different categories of milk. I asked, "Don't you know how much fat is in 2% milk?" And he's an accountant. "It's written right on the package, 2% fat." He said, "Why don't you say 98% fat-free; then I would know."

Everybody has this assumption that milk is...that's what we have to deal with, I guess. I think in the long term, from a dairy product perspective, we'd rather say what's in it because it's more consistent.

● (1650)

Hon. David Kilgour: My five minutes are going to be gone, if they aren't already.

Could you give us your proposed amendments you'd like to see made to this bill? Would you mind giving those to us?

Mr. Jacques Laforge: Yes, we can provide them to you.

Hon. David Kilgour: And I'd like to ask a question of Mr. de Valk.

Is it Miss Twiggy who used to make potato chips? I heard this story—and I guess you've heard it, too, Wayne—but apparently she went through the tortures of the damned to get her labels approved. She had to get them in two languages and then do them differently for another province, and it was just a nightmare for her. And if I heard the story correctly, at the end of it all—she's not in business any more, unfortunately—if you had gone to her office, you would have seen all of the labels from the other potato chips coming into Canada that didn't have to go through this process.

Are we going to make it worse for the Miss Twiggys of the world if we enact this now?

Mr. Robert de Valk: No, I don't think you'll make it worse. I'm glad you asked the question because it gives me the opportunity, I think, to say something prompted by the other questions as well. I think we have to be careful that we don't mix up the results of inadequate resources with inadequate legislation.

We've had the rule on the books for years that all imports or products sold at retail must be bilingually labelled. You can go to any retail store and pick up products that are not bilingually labelled. It's not because we don't have the legislation in place; it's because we don't enforce it. We don't have the resources to enforce it. So that's another issue here. Are we putting in place, in this framework, the necessary tools for us to do the right thing?

I think in a lot of cases they've maybe gone a bit too far. I mean, the tools they've put in place here have been very broad. I think you could sharpen the tools a little bit. In my quick dealing with this act so far, we've probably put in place the right tools, but the question is still, is it going to make any difference, because if we don't have the resources it doesn't matter?

Hon. David Kilgour: Could you give us your proposed amendments to the bill, too? Would you mind, or just give us the ideas, if you like.

Mr. Robert de Valk: I'm certainly going to give you the areas where we have problems. We'll try to do that.

Hon. David Kilgour: Would he hand them in, or what does he do, Mr. Chair?

The Chair: I think what we would do, Mr. Kilgour, is have all groups who come before us with suggestions and amendments leave them with the clerk. As we go through....

I'm being corrected.

The Clerk of the Committee (Ms. Bibiane Ouellette): I can't receive amendments from the organizations; they have to come from members.

The Chair: You can present them to the chair and the chair will distribute them to the members. Is that legal, Madam Clerk?

The chair has a lot of prerogatives and he will exercise every one of them.

Some hon. members: Oh, oh!

The Chair: You don't have even 2% of your time left. You're out of time.

We'll move to Mr. Miller.

Mr. Larry Miller (Bruce—Grey—Owen Sound, CPC): Thank you, Mr. Chairman.

I was going to spend a fair amount of my questioning on the labelling issue and, as always, Mr. Easter has used up quite a bit of that.

Hon. Wayne Easter: Great minds think alike!

An hon. member: Oh, oh!

Mr. Larry Miller: We've heard quite a bit from the dairy farmers on labelling and what have you.

Mr. de Valk, I'm just wondering if there is anything further from a poultry producer group that you could add to it, such as problems that haven't been talked about—and if they have, we'll move on to something else.

Mr. Robert de Valk: If you're talking about labelling, one of the big differences between us and dairy is that we're a meat product. As a result, we have prior registration requirements for labelling, and there is a group of people at the CFIA who reviews our labels. I would judge that there is probably 98% compliance with those rules, because we can't market the product, we can't produce the product, and we can't import the product without a label that's registered.

So they have a nice way of putting the sword to us. That's not the case in dairy, but that's just a difference that probably makes us a little less vulnerable to these kinds of situations.

But we can still point out to you imports that don't meet those regulations; we can still point out to you inconsistencies between one company and another. It's difficult. Food is moving rapidly. Consumers don't want the same thing every day, as you well know, as you're one of them. To respond to those needs, food manufacturers are continually making new foods and new products and new ways of doing things, and the regulatory system is always behind—and that's the problem.

● (1655)

Mr. Larry Miller: I think it was you as well, Mr. de Valk, who mentioned the tribunal that is suggested as one option for resolving disputes "could be messy", was the expression I think you used. Could you outline or describe a worst-case scenario under a tribunal system or something along that line, something that might happen that would really make us stay away from that option altogether?

Mr. Robert de Valk: I wouldn't stay away from the tribunal type of option, but can I imagine worst-case scenarios for which you would need a tribunal? Yes, all kinds of them. The simplest thing is an honest mistake by an inspector who shuts down your plant, and all of a sudden you have to phone up Loblaws and some other people to whom 50% of your product might be going and say, "Look, I've been shut down by the CFIA." "Why?" "Well, they allege there's a food safety issue or something." Three days later, the CFIA says, "Oh, gee, we made a mistake. It was really not your fault; it was really the consumer who threw some glass into your product." In the meantime, you're already off the shelf, the damage has been done, and there's very little you can do to recoup in those kinds of situations.

So there are horror stories out there, no doubt about it, and there needs to be some kind of situation in which, very early on, before CFIA says it's shutting a plant down and recalling the plant's product....

Even in the case of tampering, we like the tampering legislation, but how do you know when tampering is really tampering? The CFIA says they'll be calling us and talking to us and all that kind of stuff. Well, that's comforting, but what if somebody just jumps the gun a bit and says they're not going to talk too much longer, they're just going to recall the product because they think something has happened? Once that decision is made, a lot of consequences roll. And there are jobs on the line, there are families involved, there are investments made—there are all kinds of things. So they can't take this lightly, and we shouldn't take it lightly, because people are investing their good money in the food industry in Canada.

So we have to make it fair, but we also have to give everybody a fair opportunity to be heard.

Mr. Larry Miller: I have one other thing here, and it was a comment you made earlier. You were talking about the lack of uniformities in the legislation or in the proposed bill. You used the expression "yes, no, or maybe". It gave me the feeling that you thought some parts may be partially dealt with. Could you enlarge on that a little bit?

Mr. Robert de Valk: What I'm really thinking of is that the principles that we, as an industry and as government, walk down the same road with are food safety and HACCP. Those principles have allowed us to develop uniformity across Canada much more than we've ever seen before. The other inspection systems were very much prescriptive, and that led to different inspectors taking different views in different provinces.

We now have a uniformity committee at work at the CFIA and we've been able to pretty well put food safety across Canada in place on much the same footing. That's the yes side. We've been working toward that. If this bill embraces that concept of outcome-based inspection systems, we have a good chance to improve the situation. This bill embraces it in some areas, but in other areas it goes backwards a bit. We therefore need to ensure that this is the central theme throughout the whole bill, and then we'll be on a good track.

The Chair: We'll go across the table to Mr. Drouin, for five minutes.

[*Translation*]

Hon. Claude Drouin: Thank you very much, Mr. Chairman.

Our witnesses have already answered several of my questions and I wish to thank them for their presentations.

My question is for either Mr. Laforge or Mr. Doyle. I want to make sure I understand the situation correctly. Did you say that the control measures of the Canadian Food Inspection Agency with regard to imports were non-existent or insufficient?

● (1700)

Mr. Jacques Laforge: I don't think the problem is one of controlling imports, but rather quality control. We must make sure that these products meet Canadian standards. We have no idea of what the Canadian Food Inspection Agency is doing in this regard. This is not even related to its mandate.

Hon. Claude Drouin: Indeed, that would be important. Consumers who don't know what is in a product can take some things for granted and consume the product anyway. However, if the information was explicit, they might make different consumption choices, which would have a major impact on our producers.

Mr. de Valk, you talked about a lack of resources. Were you referring to the agency? What's your estimate of the additional resources that would enable the agency to do the necessary work? I'd like to hear your views on this.

[*English*]

Mr. Robert de Valk: We're definitely talking about the agency, although the border service is also involved in classifying products. But certainly we haven't seen a problem in that area at this point. There have been enough resources, and the classifications are done in a timely manner. We may complain about the types of classification decisions being made, but it's not due to a lack of resources.

Especially when you see them handling animal health diseases like BSE and AI...we can often approach the Canadian Food Inspection Agency on some matter that we've needed to be done and we get the message, “I'm sorry, most of our staff is tied up in this situation and we can't handle it.”

So other issues get pushed aside, and you definitely get the impression that there are a certain number of people at the CFIA and the demands on the CFIA exceed that number of people.

I think one of the things that has never been done since the CFIA has been formed is...the government has given the CFIA various tasks and acts and has said, you must enforce those, and here are the resources to do it because you inherited these people. But no one has sat down and said, okay, to do this right, to enforce this Bill C-27, for example, to do a good job on this bill, how many resources does that take? Is that greater or fewer than the number you already have? I don't know what the answer is, but my own gut feeling is that it probably is going to take more resources than what they have. Is there scope in government to put that in place? I don't know. But certainly that's a question that needs to be raised in terms of this bill. Do you feel, CFIA, that you have enough resources to enforce this act the way it should be enforced? Never mind asking for the powers. Do you have the resources to do it?

[*Translation*]

Hon. Claude Drouin: From what we can see, Bill C-27 would combine eight pieces of legislation. Greater flexibility would be given to the staff of the Canadian Food Inspection Agency, which in principle—and we'll have to see what the result will be—would increase the efficiency and effectiveness of the agency's employees. Mr. Doyle seem skeptical. Passing legislation is all very well, but the follow-up has to be adequate and it has to meet the needs of our industry. That's what is important.

Of course, we also have to assure consumers that in addition to being safe and effective, products meet Canadian health and safety standards. I understand that has to be taken into account when legislation is drafted. I'm convinced that the Department of Agriculture will take note of this and that the Canadian Food Inspection Agency in particular will put in place the mechanisms required to apply the measures in question.

It would be important that you provide us with your suggestions, in both official languages if possible and as quickly as possible, so that we can improve this bill.

Thank you very much for your presentation.

[*English*]

The Chair: Thank you.

Now we go to Madame Poirier-Rivard.

● (1705)

[*Translation*]

Ms. Denise Poirier-Rivard: I'd like to get back to the issue of labelling.

At the beginning of your statement, you referred to labelling and the distinction that has to be made between soya milk and real milk. As dairy producers, what kind of measure would be satisfactory to you once and for all in this regard?

In my opinion, when you buy soya milk at the grocery store, it's not really milk because it's a vegetable based product. I've been hearing for years now that you're not satisfied with the labelling. Do you have any recommendation for us so that we can settle the matter of the distinction between these two products once and for all?

Mr. Richard Doyle: Right now, for example, the term “drink” is used. The standards applied are the same as for a dairy product. The word “milk” cannot be used; it has to say “drink”. I don't know why that applies to us. Soya producers don't have to submit to that type of requirement. They can use their product as an imitation product.

In terms of regulation, Mr. Vellacott's bill, passed in 2002, is probably one of the most complete bills ever drafted with regard to the protection of dairy terms. That's one way of going about it, but there are other ways. We asked that a reference be included in the Codex Alimentarius. What's ironic is that Canada has already accepted this. It's simply a matter of referring to the international standard for dairy terms, which will solve the problem of soya milk.

Some terms are recognized, for example when there's a texture involved. No one is going to start arguing about the term “night cream” even though the word “cream” has been standardized. We don't get involved in those types of situations. However, we do know that soya milk is a direct imitation of a product that has been regulated. It's from that perspective that we feel it is necessary to make a correction here. Let me give you the example of melted cheese, a recent product for which there is a very specific regulation. In order to have some flexibility, we also have melted cheese food. That too is subject to regulation. It can thus be produced in slices, which contain a little more water and fewer dairy products. That too was regulated. Melted cheese spread has also been regulated.

Next time you do your shopping, I invite you to take a look at what are called “melted cheese products”. Just the fact of using the word “product” means that all those products are no longer regulated. But the term “melted cheese” is still used. The industry uses the word “product”, namely the term that is regulated, and from that point on, everyone can do whatever they want on the market.

Does the consumer understand that when the word “product” is used, no regulation has been imposed? The consumer expects that this is melted cheese and that national standards have been respected. The regulations to which we are subjected are more or less a farce. We have told the agency that in our opinion, it's high time they called everyone to order so that there can be compliance with existing regulations.

Mr. Jacques Laforge: I'd like to add that every year, dairy producers invest $80 million in their market to promote dairy products. Anyone who wants to use these terms already has a vehicle in a way. The English term for this is hitchhiking. People who do this opt for long established brands and products. That way, they benefit from the money we invest in promotion. This is all very frustrating.

Ms. Denise Poirier-Rivard: I suppose that you're going to submit your recommendations to the chair.

Erroneous labelling is another topic of some concern. Is this situation serious to the point where an ingredient that consumers could be allergic to is not indicated on the product label?

Mr. Richard Doyle: Labelling with respect to ingredients is also the subject of discussions but it is part of an overall approach. For example, the dairy industry is able to use a whole range of dairy ingredients and include them under the general term “dairy ingredients”. People who are allergic to milk proteins or who suffer from an intolerance to lactose cannot find out whether these ingredients may be lactose, protein or another substance when the product simply indicates “dairy ingredients”. There are some products that do not contain any lactose whereas others containing lactose do not have any milk proteins.

As far as we are concerned, we wonder why it is difficult to identify the ingredients being used. If this were done, people would clearly know what was used by the processor. The process would be more transparent.

● (1710)

Ms. Denise Poirier-Rivard: Thank you.

[*English*]

The Chair: Mr. Bezan is next for five minutes.

Mr. James Bezan (Selkirk—Interlake, CPC): Thank you, Mr. Chair.

I'm a cattle producer, and one of the things we deal with a lot out in the country these days is inspectors, particularly ones who work for one department in the federal department called Fisheries and Oceans. These super inspectors are running around causing a lot of problems for municipalities and the farm community.

Now there are going to be a lot of powers granted to these new food inspectors. Is there any concern from you, as farm organizations and processors, that these inspectors are going to be carrying the type of heavy hand we see in the Department of Fisheries and Oceans? Has there been any discussion on that?

Mr. Jacques Laforge: As I stated a while ago, directly from the farm perspective we never thought about that concern. Maybe there is. But the way the milk is picked up, it's a collective pick-up. You have eight to ten farms in a tractor-trailer load, and so on.

That system is extremely well established for us. We already have barn inspectors, and so on, who are under provincial jurisdiction. I don't think we have that concern from a dairy perspective. At the plant level, at the packaging level, we are more concerned about what they're supposed to do and what they're not doing than the empowerment we're giving them, unless it changes.

Mr. James Bezan: But you're not going to get into situations here.... You're going to have inspectors who will have the ability to cross-pollinate—go back and forth between commodities—rather than being specialized, and they'll still having that heavy hand. I'm just wondering if there is going to be a concern.

Mr. Richard Doyle: I think we're all having the same problem. Bob was also having this problem. You're looking at legislation that provides empowerment. I think de facto when you look at abuse on the other side you say, “Yes, you're absolutely right, CFIA must have the empowerment to enforce this legislation.” Then you go to the other side and say, “But what are the checkpoints to ensure that CFIA itself doesn't abuse this empowerment?”

I think the idea is to say we need to have appeals, and we need to have transparency in terms of the process and decision-making. We need to understand how they're going to do it. If there is abuse, we need to have a fall-back process of some sort. I think maybe that needs to be looked at more precisely in the legislation proposed.

Mr. James Bezan: We definitely need more accountability in the act to make sure everything flows back up to the minister. I know there are a lot of presidential powers here as well, but I really feel we should be taking all of those right back to the minister, where there is the ultimate accountability.

In the section of the act under offences, I didn't hear a lot of comments made about the size of the fines, or the two years to file a summary conviction. Are there any concerns that these fines are too heavy, or not heavy enough? I'm concerned they're not really that proportionate to the size of the industry, or the size of the company that's in violation.

Mr. Richard Doyle: I must admit we didn't look at it. People who are in violation...to what extent do you really worry?

I heard what people were saying about the guy in a small garage versus a large company. A fine of $5,000 for a large company might not make them change their practice whatsoever, because it's more remunerative to just continue and to pay the fine. Then you have to look at the fact that you can be convicted. That becomes a little bit more serious, because that power is there as well.

Again, there are checkpoints. The fee is there and acts as a disincentive. Let's face it, if you're in the food industry, not knowing is not an excuse any more. Whether you're big or small, you must have food safety and everything to ensure that the consumer has a safe product and a high-quality product.

So ignorance is not an excuse, and up to a point you have to be careful of not having a small fine. But I think you're going to have to look at whether or not the second fine should be linked to a conviction for the large companies. Then you would have more teeth. That's what this bill is about, as we look at it. It's to provide more teeth than what the CFIA has had. They've had the inspection powers. They haven't had a lot of teeth to make sure they could actually enforce the regulations.

● (1715)

The Chair: Is there anyone on the government side?

Wayne.

Hon. Wayne Easter: I just want to come back to the Codex. Ms. Poirier-Rivard raised that as well.

What are the implications of referring to the Codex for a definition of products? I know as a country we've agreed to it, but sometimes the government will agree to things that industry might not necessarily be on side with. You say you are on side with the definitions as agreed to at Codex.

Mr. Richard Doyle: Yes and no. Let me answer that.

Hon. Wayne Easter: I'm sitting here thinking, is there any way we could indicate in the bill that the definitions that should apply are those we've agreed to internationally at Codex? That may not work if we have problems with some of those definitions. So just what are we talking about?

Mr. Richard Doyle: We see the Codex as the lowest common denominator. The problem about labelling we were raising is that we've approved that lowest common denominator as one standard in labelling, but we don't even apply it in Canada. That's a different story from then saying, let's look at what 50 countries have agreed is the definition of, say, butter or cheese, or whatever it is, internationally. Well, they've agreed to what everybody was doing, so now you have the lowest common denominator. As an industry we have to sit down and decide, do we want our cheese standards to be the lowest common denominator?

Right now we have a situation where the rules under CAPA for the regulation of cheese are basically the Codex. The U.S. and the Europeans have more prescriptive standards. We're under supply management. Cheese is about the best-value product we can do something with, and we're talking about an APF that wants to brand Canada. How am I going to do that with a standard that's the world's lowest common denominator?

We're suggesting that we improve the standards. Make Canadian cheese much better recognized as having quality and composition standards that are better than those of the U.S. and the Europeans. But that goes a little bit against what the processor wants, which is having the least prescriptive standards you can. There's a bit of a clash there, I'll admit, but I think we need to have a better vision as to whether we want to have the lowest minimum standards or whether we want to have, as a strategic positioning for our products, the best in the world.

Hon. Wayne Easter: That clarifies it. Thanks for that, Richard.

The Chair: We're running out of time, but I did promise the Conservatives one more question.

Mr. Gerry Ritz: Thank you, Mr. Chair.

I know you gentlemen have said all the way through that you have not taken a good, hard look at the costs and liability part, clauses 44 and 45, and the ones following. I would really invite you to do that, and please give us some written submissions on that. The punitive damages, jail terms, and everything are prescribed there and they're horrendous. Jacques, if you have disgruntled employees, they can send you up the river and you don't even have the right of appeal. I'd hate to see that happen.

So please take a look at those and give us some direction on that.

The Chair: Thank you very much, both panel and committee members, for a great afternoon. I think we've learned a lot this afternoon, certainly as we go forward.

If you have recommendations you might feel are appropriate to this bill, as I said earlier, have them brought to me and I will see that the committee deals with them, because we've just begun this process. This is not going to be over in a couple of weeks. I think this is going to be going on for a while, so please do that.

At this point in time we'll have to adjourn so we can go and vote. The meeting is adjourned.

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