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Chair

Mr. Paul Steckle

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Monday, October 24, 2005

• (1530)

[English]

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

As outlined in your agenda for today's meeting, we will be looking at the matter of corn imports from the United States. We have a number of witnesses before us today who we hope will be able to shed some light on this matter, because it's a very controversial issue. We have a number of witnesses who want to testify, and of course the normal procedure is to have our committee members question at the end of the presentation.

We have two hours, and I want to introduce the people at the table. From the Canada Border Services Agency, we have Suzanne Parent, director general, trade programs directorate. Welcome, Suzanne.

We have Wayne Neamtz, director of operational policy, anti-dumping and countervailing. Welcome, Wayne.

We also have Barry Desormeaux, director of consumer products, anti-dumping and countervailing, and Darwin Satherstrom, director of tariff policy.

From the Department of Foreign Affairs and International Trade, we have Paul Robertson, director of the trade remedies division.

From the Department of Agriculture and Agri-Food, we have Mr. Howard Migie, director general, strategic policy branch, and Graham Barr, director, multilateral trade policy division.

I think that rounds out everybody at the table. Welcome all. I would see Ms. Parent as our first presenter, unless you have deemed otherwise at the table.

Ms. Suzanne Parent (Director General, Trade Programs Directorate, Canada Border Services Agency): No, that's correct.

The Chair: You are on. Whatever time you take will be taken out of the question period, and we hope you will give us some time to ask you some questions.

Ms. Suzanne Parent: Absolutely.

The Chair: Thank you.

Ms. Suzanne Parent: Thank you, Mr. Chairman and members of the committee, for the opportunity to appear before you this afternoon.

I would first like to introduce the members of the Canada Border Services Agency who are with me today, to provide a bit more information about their areas of responsibility. Mr. Desormeaux is the director responsible for the current investigation into the alleged

dumping and subsidizing of grain corn from the United States. Mr. Neamtz is the policy director for the anti-dumping and countervailing program. And finally, there is Mr. Satherstrom, the director responsible for tariff policy.

I would like to begin with a brief overview of our anti-dumping and countervailing program. Then I will provide you with information on the current status of the investigation into grain corn.

I note that the witnesses you will be hearing from include both producers and users of corn. These parties will be impacted in different ways if duties are imposed on corn imports from the United States. Therefore, I will also provide you with some information on the public interest provisions contained in the law, as well as the circumstances under which duties relief may be granted.

Canada's anti-dumping and countervailing investigations are governed by the Special Import Measures Act, which is often referred to as SIMA. SIMA is intended to provide Canadian producers with a remedy where it can be shown that dumped or subsidized imported goods are causing material injury to the Canadian industry.

The determination of dumping or subsidization is based on a set of complex rules that have been negotiated by members of the World Trade Organization. Investigations under SIMA are conducted in an impartial and transparent manner. Any interested party may provide information and make representations.

The Canada Border Services Agency, or CBSA, determines whether goods are dumped or subsidized. The CBSA makes factual determinations based on information provided mainly by exporters to Canada and foreign governments.

The Canadian International Trade Tribunal, or CITT, examines the Canadian marketplace and the effect the dumping or subsidizing has on the Canadian industry.

I will briefly describe the investigative process under SIMA. We have provided the clerk of the committee with a chart that explains the SIMA process. I will refer to it in a few moments.

Under SIMA, any Canadian producer has the right to file a complaint under the law. Where the complaint provides satisfactory evidence that the goods in question may be dumped or subsidized, and that the dumping or subsidization may be causing injury to the Canadian industry, the president of the CBSA is obligated to initiate an investigation. At the same time, the CITT will begin its own examination of the injury question.

Ultimately, following a full investigation, if the CBSA determines there is dumping or subsidizing, and if the CITT finds consequent injury, the law requires that duties be collected on all dumped or subsidized imports.

The CBSA publishes information on all of its SIMA investigations. For your reference, we've provided you with a link to our website. Updates to the website will be made at each major phase of our corn investigation.

For your reference, we have also provided you with a copy of our statement of reasons, which we published at the initiation of our corn investigation. This document provides a detailed explanation of the reasons we initiated our investigation.

The corn investigation is at an early stage. It was initiated on September 16, 2005, in response to a written complaint from the Ontario Corn Producers' Association, the Manitoba Corn Growers Association, and the Fédération des producteurs de cultures commerciales du Québec, collectively referred to as the Canadian corn growers.

I will take a moment to take you to the chart on the anti-dumping and countervailing process, which I hope you have before you. Am I correct in my assumption?

• (1535)

The Chair: Yes.

Ms. Suzanne Parent: To give you some context that may be helpful, on the left side of the page you have the CBSA process.

The Chair: Does everyone have that copy so we can follow?

Yours won't be in colour, but you should have that. I have one here that isn't in colour.

Ms. Suzanne Parent: Even if you don't have it in colour, it's fairly simple to follow.

The Chair: It doesn't matter.

Ms. Suzanne Parent: On the left—

The Chair: Do you have one, Mr. Smith?

Is anyone else missing one? Yes, you have it there.

[Translation]

Ms. Suzanne Parent: There are two tables. It's the one called "Canadian Anti-Dumping and Countervailing Measures Process".

[English]

The Chair: There are two different ones.

Ms. Suzanne Parent: Oui, okay.

The Chair: Okay. Go ahead.

Ms. Suzanne Parent: On the left side is the CBSA process and on the right side is the CITT process. To put it in context in terms of our corn investigation, on the left side, on August 12, CBSA received a complaint from the Corn Growers Association. At that point, we have up to 21 days to determine whether the complaint is fully documented, whether all the pieces are there. We did so by August 17. At that point, we have 30 days to determine whether or not there's a reason to initiate an investigation. That took us to September 16, the day we initiated our investigation, and we have 90 days—or up to 135 days if a case is complex—to make a

preliminary determination. We will be making our preliminary determination in this case by December 15.

When we initiated on September 16, we informed the tribunal of our initiation at the same time. They initiated their initial investigation, which will lead to a preliminary determination of injury by November 15.

That is where we are at right now in terms of the initial process.

I'll continue with my notes now.

As I mentioned, we expect to make our next major decision, which is the preliminary determination, by December 15 of this year. If a preliminary determination of dumping or subsidization is made, provisional duties will be imposed on corn imports from the United States. The question as to whether the imposition of duties under SIMA is in the public interest arises from time to time. Parliament has therefore created a legislative mechanism in SIMA, which provides a mandate for the CITT to conduct inquiries as to whether it would be in the public interest to reduce or eliminate duties imposed under SIMA.

We have provided you with another handout on the public interest process under SIMA, which you may find helpful. This process cannot be started until the CITT makes a final decision that dumping or subsidizing has caused injury to a Canadian industry. Interested persons may then ask the tribunal for a public interest inquiry. The CITT will consider the representation it receives and will decide whether a public interest inquiry is warranted. If so, it will conduct public hearings into the matter and issue its opinion on the question.

Finally, the Customs Tariff Act provides for circumstances whereby importers may be relieved of SIMA duties. Under the customs tariff, a drawback of SIMA duty may be granted by the Canada Border Services Agency, where the imported product is re-exported or used in the production of another product that is exported. In all cases, the exporter must provide satisfactory evidence to the CBSA that specific conditions have been met.

I briefly touched on several points this afternoon that I hope will help the committee in its work. If at any time you need further information, we would be available to provide it. We would also be pleased to respond to your questions today.

• (1540)

The Chair: Thank you very much, Ms. Parent.

Mr. Robertson, are you on, or do you have any presentation?

Mr. Paul Robertson (Director, Trade Remedies Division, Department of Foreign Affairs and International Trade (International Trade)): Certainly, Chair, I have a few opening remarks, and then I will turn it over to questions.

Good afternoon, Chair and members of the committee.

I'd like to thank you for including me in the discussion of recent trade remedy initiatives relating to imports of grain corn from the United States and giving me the opportunity to address the interests of International Trade Canada in such issues.

As you may know, the Canadian corn growers, which is a group of associations representing producers in Ontario, Quebec, and Manitoba, developed a three-pronged strategy to address alleged injury to the Canadian industry resulting from dumped and subsidized imports of grain corn from the United States. This strategy has included: one, filing a domestic trade remedy complaint with the Canadian Border Services Agency; two, requesting that the government add grain corn to Canada's product list for Byrd amendment retaliation; and three, requesting that the government initiate a WTO case charging the United States with subsidization that is inconsistent with the agreement on subsidies and countervailing measures.

As our colleagues from the Canadian Border Services Agency are here with us today, I will defer all matters related to the anti-dumping and countervailing investigation to their expertise, since International Trade does not have a role in such investigations.

In terms of the Canadian corn growers' request for corn to be added to the Byrd retaliation list, the industry has been informed that products such as grain corn, which have not received the benefit of public consultations, cannot be considered for retaliation. The government is committed to an open and transparent process and will provide every Canadian with the opportunity to comment on retaliatory options. The industry has been informed that its request has been registered and that the government would consider the possibility of including grain corn on any future retaliation product list, subject to public consultations.

Chair, the government is currently considering the industry's request for a WTO challenge against the alleged U.S. grain corn subsidies. In doing so, we will take into account the merits and possible implications of such a case. It would be premature to comment further on a potential case as it's still under consideration by the government, and public disclosure of the possible strengths and weaknesses of a case could very well prejudice the case, if it should be taken forward into the future.

I think I'll leave it there, Chair.

The Chair: Thank you, Mr. Robertson.

Mr. Migie, I believe you and your people are awaiting questions. Is that correct?

• (1545)

Mr. Howard Migie (Director General, Strategic Policy Branch, Department of Agriculture and Agri-Food): Yes.

The Chair: I think that concludes it, unless there's someone else. We will now entertain questions.

Mr. Anderson, you may go first for seven minutes.

Mr. David Anderson (Cypress Hills—Grasslands, CPC): Thank you, Mr. Chair.

Thank you for coming today, and I wanted to compliment you on this document. I spent some time looking at it today and thought it

was well done. It gave a good presentation and was well worth reading through.

I've got a couple of questions. I'm as much a free trader as anybody else in the room, I would think, but I'm getting sick and tired of our producers having to deal directly against foreign subsidization and foreign governments. We've got a situation in western Canada with a flood of peas and lentils coming into our part of the world that's affecting price, and it's also affecting our transportation system.

Here we've got a situation dealing with corn. Before we can impose any kind of duties, we need to establish that domestic producers are being injured by unfair trade. What do you estimate Canadian losses are so far?

Ms. Suzanne Parent: The issue on injury is one that is directed towards the CITT. That's not under our purview. But when we initiated the investigation....I'd ask Mr. Desormeaux to speak briefly on some of the issues he looked at.

Mr. Barry Desormeaux (Director, Consumer Products, Anti-dumping and Countervailing, Canada Border Services Agency): Thank you. We've had a number of issues as far as injury goes. When you're talking about losses, that information would be privy to the complainants. We don't issue it in our public documents.

Mr. David Anderson: Well, you've made an estimate that the average margin of dumping is around 4.5%, I think. The industry suggested it's somewhere higher than that, from 9.3% to 27.3%. I'm just wondering, if it is 4.4%, do you know how much the cost is? How much has that affected the market?

Mr. Barry Desormeaux: That is based on the difference between what the U.S. domestic selling price has been established to be and what we determine the export price to be—that is, what they sell the product to Canada for. That difference between what they sell domestically and what they're selling to Canada for is represented by the 4.4%. I think we talked about losses of market share.... When we talk about evidence of injury in our statement of reasons, we talk about those various issues—the impact of that dumping.

Mr. David Anderson: In 2003-04, the average price of corn in Ontario was \$3.77 a bushel. This year the estimate is it's going to be around \$2.86. Their cost of production is apparently around \$3.18, so you're looking at—whatever—a 90% decline from what it has been and a 32% drop below what the cost of production is.

The American subsidization in the last year has gone, if I'm reading your report correctly, from \$77 million to \$2 billion on virtually the same production. That works out from 44¢ up to 91¢ a bushel on corn that is being subsidized; that's a difference of 47 U.S. cents. That has to affect what's going on in Canada, when the crop is coming in here.

Mr. Barry Desormeaux: Absolutely, and that's why we initiated this case. When we look at the documentation provided by the complainant, one of the issues they have to show us is that there's enough injury. We're not the so-called experts on injury; it's the Canadian International Trade Tribunal that looks at that. We look at the preliminary evidence to see whether there's enough prima facie evidence indicated to at least initiate a case.

So you're right; we found enough evidence that there was dumping and that the subsidizing was hurting the Canadian industry to warrant the case being initiated.

Mr. David Anderson: On page 17 you say your agency is of the opinion that "there is evidence that the subject goods originating in or exported from the United States have been dumped and subsidized". What level of conclusion is that? Is it a preliminary conclusion you've made? Is it a conclusion we can take to the bank, saying, "Border Services has made a decision that there is dumping"?

Mr. Barry Desormeaux: It's actually a pre-preliminary decision. It's based strictly on the information we were provided by the Canadian corn growers and the information we have access to through our studies. Within 90 days we will analyze information we have requested from exporters and importers and the U.S. government and come up with a preliminary estimate of what we think the dumping should be; then in the subsequent 90 days we will firm it up.

Generally, our preliminary determination, as we refer to it, is fairly definitive. Given the information we initiate it on, I wouldn't say you could take it to the bank, but there's certainly enough there to tell us we can initiate the case. We refine it through the case itself.

Mr. David Anderson: Do you know what the cost of production is in the United States for United States corn in the Michigan-Ohio area?

•(1550)

Mr. Barry Desormeaux: No. We were given estimates on that amount by the Canadian corn growers. We have requested that information from the U.S. producers.

Mr. David Anderson: What number did the corn growers give you?

Mr. Barry Desormeaux: I don't think I have it in front of me now. I can get back to you with that information, if you wish.

Mr. David Anderson: Okay.

Ms. Suzanne Parent: May I make a point of clarification? When we initiate, we do so based on preliminary information. The process at the point when we initiate and up to the preliminary determination is the phase when we do our investigation. We're currently in the process of doing it. Today is the deadline for submissions to be presented to us by all parties. So the analysis phase, the research phase where we really do our work, begins at initiation.

Mr. David Anderson: This has been obvious enough that you feel you can make the conclusion that there has been some subsidization and dumping?

Ms. Suzanne Parent: That's correct.

Mr. David Anderson: Okay.

Just as a second angle on the U.S. cost of production, then, what's typically the price differential between U.S. and Canadian corn? Do you know?

Mr. Barry Desormeaux: It's a commodity product. There usually is not much of a difference on the open market. As far as I know, the difference is minimal.

Mr. David Anderson: Well, I would suggest this 47¢ change in the subsidization is going to change the price quite a bit; it's going to have an impact. It may not change the difference, Canadian-U.S., but it's definitely going to change the price it's coming into this country at.

Mr. Barry Desormeaux: It definitely changes the aspect of whether the U.S. growers can sell at a price that doesn't recover all their costs.

Mr. David Anderson: Okay.

Thank you.

The Chair: Mr. Bellavance.

[Translation]

Mr. André Bellavance (Richmond—Arthabaska, BQ): Thank you, Mr. Chairman.

Thank you for coming to testify on this very important subject.

I would like to come back to what Mr. Anderson just said. First of all, he mentioned damages and asked whether losses incurred by Canadian producers had been quantified. I may have missed your reply.

Do their claims mention a specific figure of losses?

[English]

Mr. Barry Desormeaux: Yes, they have mentioned losses, a specific amount of losses, but because of the confidential nature of the information

[Translation]

it is not in this document.

Mr. André Bellavance: Do you have a figure in mind? Has anyone suggested one?

Ms. Suzanne Parent: That information is confidential.

Mr. André Bellavance: Alright. Are there precedents, in the case of corn? Have there ever been any claims that the Americans have been dumping their corn on the Canadian market? Is this the first time you've been faced with this situation?

[English]

Mr. Barry Desormeaux: We've had two previous cases on grain corn from the U.S. The first one resulted in a finding, which only lasted five years. In the second case, it was a regional case and the tribunal found that there was no injury.

[Translation]

Mr. André Bellavance: You are saying that in the first case, there was not...

Mr. Barry Desormeaux: Yes, there is an affirmative determination.

[English]

There was an injury finding

[Translation]

but only for a period of five years.

Ms. Suzanne Parent: I believe it was in 1986.

Mr. André Bellavance: Have any other crops been a source of conflict with the Americans? Have you also had to make a determination with regard to other products?

Mr. Barry Desormeaux: Are you referring to agricultural products or other goods?

Mr. André Bellavance: Agricultural products, of course.

Mr. Barry Desormeaux: Yes. That was the case for potatoes and lettuce.

Mr. André Bellavance: In Ms. Parent's presentation, she spoke of what was against the public interest. In all these examples, is there one where the CITT had to take position to safeguard the public interest?

Mr. Barry Desormeaux: I don't know. I don't think so but I can check, sir.

Mr. André Bellavance: I would appreciate it. Have there been other cases where a claim was cancelled because of public interest?

• (1555)

Ms. Suzanne Parent: No. The question of public interest does not come into play until after a decision has been rendered. It is only then that the CITT can weigh public interest.

Mr. André Bellavance: Can you explain exactly what is the public interest? If the decision has already been rendered, what use it is to then invoke public interest? What happens? What can that change?

[English]

Ms. Suzanne Parent: Okay, do you want to...?

[Translation]

Can we draw your attention to the table we presented to you?

Mr. André Bellavance: Of course.

[English]

Mr. Wayne Neamtz (Director, Operational Policy, Anti-dumping and Countervailing, Canada Border Services Agency): The chart that we've provided to you describes the public interest provisions as contained in section 45 of the Special Import Measures Act. There are also regulations that provide additional information in the administration of these provisions. They would be contained in section 40.1 of the Special Import Measures Regulations.

As Suzanne Parent has mentioned, this process only starts after there has been a determination by the tribunal that there has been material injury caused to a Canadian industry. If there is no Canadian industry injured, then they never get to that point where the public interest needs to be definitively decided.

You asked what factors might be taken into account by the tribunal in a public interest inquiry. These are contained in the regulations, as I mentioned. I can just read them to you, if you'd like.

The tribunal would take into account factors as to whether goods of the same description are available from other countries or other exporters that are not covered by dumping duties. So in this particular case, there may be corn imports from other parts of the world other than the United States, although in this particular case there are not very many imports.

The tribunal may also consider whether the imposition of the full duties substantially lessens competition in the domestic market, may cause significant damage to producers in Canada who use goods as inputs in the production of other goods, or may significantly impair competitiveness by limiting access to goods that are used as imports in other products, or significantly restricts the choice or availability of goods at competitive prices for consumers. The tribunal may also consider whether a reduction or the elimination of the anti-dumping duty or countervailing duty is likely to cause significant damage to domestic producers of inputs.

These are the factors that are prescribed in the regulations, and the tribunal may consider any other factor that it considers relevant. Basically, in determining public interest, the tribunal may look at anything.

[Translation]

Mr. André Bellavance: For example, even if other producers are satisfied that corn is currently cheaper on the American side, other industries, such as that for ethanol, could struggle if the price were to increase, and all of that should be taken into consideration.

Ms. Suzanne Parent: Yes.

[English]

Mr. Wayne Neamtz: Yes, it would.

The Chair: Have you got a response, Mr. Neamtz?

Mr. Wayne Neamtz: No, I just confirmed that's a correct statement.

The Chair: Okay.

Your time has expired, Mr. Bellavance.

We will move to Mrs. Ur for seven minutes.

Mrs. Rose-Marie Ur (Lambton—Kent—Middlesex, Lib.): I thank the members for their presentation here today.

I believe, Ms. Parent, you said that the estimated average margin of dumping is 4.4%. Is there a level that you look at when you're deciding to move forward on an investigation, on a percentage level? Is that one of your criteria when you look at an investigation?

Mr. Barry Desormeaux: The minimum amount is 2%.

Mrs. Rose-Marie Ur: What other factors are relevant on a criteria basis? Is it different for different commodities, or how do you make that assessment?

Mr. Barry Desormeaux: No, the 2% is the trading organization rule, and it's in our legislation.

As far as the margin of dumping goes, it's strictly a number, based on, as I explained earlier, the difference between domestic selling prices and what they sell into Canada for, and then we look at the injury aspect. So it's the injury and the margin of dumping that allows us to make the decision whether to initiate.

•(1600)

Mrs. Rose-Marie Ur: Do you include the subsidies when you're looking at those prices then?

Mr. Barry Desormeaux: Yes, we do.

Mrs. Rose-Marie Ur: Okay. That's a problem that's affecting....

This was initiated by Ontario, Quebec, and Manitoba.

Mr. Barry Desormeaux: Correct.

Mrs. Rose-Marie Ur: Are they all singing from the same hymn book—

Mr. Barry Desormeaux: They are, and they've become the Canadian corn growers.

Mrs. Rose-Marie Ur: On this particular initiative?

Mr. Barry Desormeaux: Correct.

Mrs. Rose-Marie Ur: I'm hoping this is going to be progressive, to say the least, but when I read that Canada produces the equivalent of less than 3% of the United States' crops, are we tickling the United States with this inquiry, or are they going to take us seriously on this investigation?

Mr. Barry Desormeaux: That's not really something I can comment on. I'm sorry.

Mrs. Rose-Marie Ur: Okay. I just thought I'd note that in case they were looking at this wonderful broadcast here today.

Also, you had indicated that you accept the facts from these three provinces and then you start your investigation. Are they brought back into the picture continually, once you start your investigation, or do you just accept their facts and then you do your own investigation?

Mr. Barry Desormeaux: We accept their facts for the purpose of initiation only. Once we start the investigation, it's based on information we receive from the parties involved—the exporters, the importers, and the U.S. government. The complainants do not enter the picture again until the question of injury is raised at the Canadian International Trade Tribunal hearings.

Mrs. Rose-Marie Ur: Okay.

Do you factor in the cost of production in Canada versus the United States when you're looking at your investigation? Is that part of the criteria you use?

Mr. Barry Desormeaux: No. We may look at the cost of production as an injury factor, for example, if their costs have increased or they haven't been able to recover their costs, or the complainant may use their own cost to estimate the selling prices in the U.S., but we do not refer to it during our investigation.

When we do verification, we will go down and visit exporters and verify their costs of production. We will make reference to the Canadian cost of production as a base point only, just to make sure the numbers jive. It's a reference point for us.

Mrs. Rose-Marie Ur: Okay. Thank you.

Mr. Migie, maybe this is a question you can answer.

With corn production in Canada, present production does not meet our domestic demand. Do you feel that imposing duties on corn could create a shortage in the domestic market?

Mr. Howard Migie: When you use the word "shortage"...if there is a duty, there's a price impact. The market, though, does clear. We have lots of choices, but there's a higher price. So when you say a shortage, if there is a duty put on, we would expect the price to be higher, but the market would clear at that higher price.

Mrs. Rose-Marie Ur: Right.

Mr. Migie, in information that I've been looking at recently, it is stated that increased demand for corn as an ethanol feedstock will not be met by Canadian farmers unless local production increases dramatically. I would ask you to go out to my farming community and tell them that. I'd like to say that you probably wouldn't come back the same man you went out as, because that is really hard to sell in the farming community, to tell them to export more when they are working their hearts out in producing more and their bottom line is going in the opposite direction.

As you in government, if we operated like that here, it would not be good, and our farming communities can't go on any further. So in that statement that was made, what can we indicate to our farming people? In what direction should they be going?

Mr. Howard Migie: I'm not sure what statement you're referring to, in terms of who made it.

Mrs. Rose-Marie Ur: It's just a research paper I—

Mr. Howard Migie: It's just a research paper?

Mrs. Rose-Marie Ur: Yes.

Mr. Howard Migie: Okay. On the question of where the product comes from, if there's a greater demand in Canada and we're already importing, it could come from greater production in Canada, if there is enough price incentive that comes in Canada. But with the United States being such a large producer of corn, I think someone is just making a judgment that unless there was some mandating of Canadian-produced corn to be used for ethanol, the market is suggesting much of the increased demand would come from imports rather than from Canadian production. They're not expressing it as a desire or a wish; it's just that unless the prices were higher for Canadian producers, they don't think we'd produce that much extra. It's just an estimate that I think someone is making.

Mrs. Rose-Marie Ur: Can there be such a mandate made? I'm not aware; I'm asking you.

Mr. Howard Migie: Well, people have proposed that there be a requirement, a regulation that would require a preference for a Canadian-produced product. Normally we would not put in that kind of mandate, but it could be done if.... Well, I shouldn't say it could be done, because it would depend on Parliament and what the law says and what our trade agreements would allow. But in some cases there have been arguments that we should put in some sort of preference that requires Canadian use.

•(1605)

Mrs. Rose-Marie Ur: Would that fall within all the guidelines we have here, say WTO and—

Mr. Howard Migie: Normally we don't do that, because we don't want other countries to do it. We want an open trading environment, so that when there's a greater requirement—let's say there's some incentive for ethanol and greater use of corn—it could come from imported corn just as well as from domestic. It depends on whether Canadian producers want to produce for those prices. That's the normal approach we would take, if there is an extra demand created.

It's the same thing for high-fructose corn syrup. If there's a greater demand for corn, it would either come from Canadian producers or from imports, and the market would determine it.

Mrs. Rose-Marie Ur: But the fact of the matter is, it's all well and good to have those markets, but if they're not using Canadian corn.... Why put out that kind of money incentive for these companies to develop those markets if we're not going to be using our Canadian-based corn? It's rather irrelevant to our Canadian producers then.

Mr. Howard Migie: If that's the choice. But if they can buy locally for a competitive price, I'm sure the companies will—

Mrs. Rose-Marie Ur: Below cost of production.

Mr. Howard Migie: I'm sure they will, but if there's a lower-priced imported product, it's hard for the companies not to choose that option.

The Chair: The time has expired.

I am moving to Mr. Miller for five minutes.

Mr. Larry Miller (Bruce—Grey—Owen Sound, CPC): Thanks, Mr. Chairman, and I thank the witnesses today for coming to answer questions on this important issue.

Mr. Chairman, given that we have nobody here from the NDP today, do I get seven minutes?

The Chair: You have given that to Mr. Anderson.

Mr. Larry Miller: Okay.

My first question is this. The report we have from the CBSA says on page 7:

Dumping occurs when the export price of the goods is below the normal value of the goods sold to importers in Canada.

My interpretation of “dumping” is that it's when the product is actually dumped at below the cost of production. Could some of you...?

Mr. Barry Desormeaux: The “normal value” can be the domestic selling price of the product, but it has to be above the cost of production. So the normal value can't be lower than the cost of production. Then the export price is simply what they sell to Canada for.

Mr. Larry Miller: Okay. I'm not sure that's exactly along the lines...but fine.

Corn production in Canada, as we know, doesn't meet the total domestic demand. Is it not possible that imposing duties on U.S. corn coming in could actually create a shortage on the domestic market? Do you have any opinions on that?

Mr. Barry Desormeaux: That would be a public interest issue the tribunal would look at if they were so inclined, but as far as putting the duties in place is concerned, it would be up to the actual importers whether they were going to continue bringing it in or not.

Mr. Larry Miller: Yes, but to answer the question, in your opinion, do you not think it could? You must have an opinion on it.

Mr. Barry Desormeaux: I have an opinion. I think it's almost impossible to predict what would happen, depending on the commodity. With something like corn, because it's a commodity-priced product, if there were additional duties put on, whether they'd be high enough to cause a shortage, I really don't know.

Mr. Larry Miller: Have you ever seen anything in the past where that was the case, whether it was exactly on this product or not?

Mr. Barry Desormeaux: There have been instances in the past where Canadian users of the product, or Canadian importers, have indicated they were not able to access enough supply in Canada, and they've gone to the International Trade Tribunal with that issue because we don't deal with it. The tribunal then decides whether or not to remove those products from dump duty.

Mr. Larry Miller: Okay.

The next question I have is this. Because of the federal government's initiative to expand the ethanol program, especially for corn-based ethanol, that should raise production considerably in the next few years. How much extra demand will this create for corn in Canada, in your opinion, or from anybody on the panel here?

Mr. Barry Desormeaux: I don't have the answer to that. I don't know.

Mr. Larry Miller: Has anybody got an opinion on that?

Mr. Howard Migie: Maybe I can add that it's hard to know where the products are going to come from. We have incentives, and if all the plans come into place, we can have an estimate of the extra grain that would be required. But we can't say whether it would be Canadian or American. Once each of those proposals gets established, we'll be purchasing grain, and mostly likely corn in the case of the Ontario entities that got the incentives. But we don't know whether or not it's Canadian.

•(1610)

Mr. Larry Miller: Okay. Carrying that a bit further, how sensitive do you think that's going to be to corn prices, especially on this side of the border?

Mr. Howard Migie: I don't know. I expect the groups to be making their case in terms of the impact they think they'll feel from any potential duty. I don't know the answer to that.

Mr. Larry Miller: Ms. Parent, have you seen any information from...?

Ms. Suzanne Parent: We're quite limited to whether it is dumping or subsidization. That's what we determine, so we're really not involved beyond that.

Mr. Larry Miller: Okay.

Under the U.S. Farm Security and Rural Investment Act of 2002, counter-cyclical payments are designed to reduce financial risk. In 2004-05, that counter-cyclical payment was 30¢ per bushel U.S., which was actually 26¢ higher than the previous crop year. How do we explain the variation and the price that triggered the support payment for U.S. corn?

Mr. Barry Desormeaux: You're talking about the trigger for the increase? We don't know that. That's one of the things we will investigate. We will obtain the material information on the program and how much it was used during the period we're looking at and why. At this point, we don't have that information, only the public information available from the States on how much was spent and how much was provided to producers.

The Chair: Mr. Easter.

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

Sorry I was late. My plane was late.

Mr. Desormeaux, in response to Larry's question on dumping, he asked you for your definition of dumping, I think. Could you run through that again? It was a little different than I figured it was.

Mr. Barry Desormeaux: We look at the difference between what we call the normal value and the export price. The normal value is generally reflective of the domestic selling price. So if in the U.S. they sold a bushel of corn for \$3, that would be our normal value, unless it did not recover full cost. So if full costs were \$3.50, we would come up with a normal value higher than that. It would be based on what we found to be the average profit, or a number of factors we would look at domestically. So the normal value would be the minimum selling price to Canada, and we would compare that to what they actually sell to Canada for. If they were selling to Canada for \$2 and we found their normal value to be \$3, then that's dumping of \$1.

Hon. Wayne Easter: Okay. So the normal value or dumping into Canada has no relationship to what the real cost of production is in the United States. Correct?

Mr. Barry Desormeaux: The normal value cannot be lower than the cost of production. They can't sell to Canada at a loss.

Hon. Wayne Easter: I don't know if you put my figures here today or not, but they're doing it this way: the total corn subsidies in the United States for 2003 equal \$2.8 billion, and this is from the Environmental Working Group using USDA data. For 2004, they were \$4.4 billion, and they're estimated to be \$10.7 billion in 2005.

Now, what in effect is happening here is the U.S. Farm Bill. If producers are selling at a normal value, which is really below their cost of production, and the U.S. farm program is bringing their price up by the amount of these subsidies in one way or another, then what you're telling me is these unfair subsidies the United States government is providing their producers will have no impact on the dumping case, or will they?

Mr. Barry Desormeaux: They won't have an impact on the dumping case per se, the dumping aspect of it, but we will offset the amount of subsidy with a countervailing duty. We look at dumping and subsidy as two separate issues.

If there's a subsidy that allows them to sell at a certain price and we determine that to be against the WTO rules, one of the identifying subsidies, then we can put countervailing duty in to offset the effect of that subsidy.

•(1615)

Hon. Wayne Easter: The cost of production then really is considered in one fashion or another.

Mr. Barry Desormeaux: Correct.

Hon. Wayne Easter: I met with the corn producers. How far will you go back in terms of this case?

Mr. Barry Desormeaux: For the duties?

Hon. Wayne Easter: Yes.

Mr. Barry Desormeaux: We don't necessarily go back. Well, we don't go back. We're making our preliminary decision no later than December 15, and we'll apply our provisional duties at that time.

If the tribunal determines that there has been massive importation—in other words, extreme amounts brought in subsequent to initiation but prior to our preliminary decision—it would be up to the tribunal to decide whether or not we can apply duties retroactively. I assume that's what they were referring to.

Hon. Wayne Easter: Yes.

Mr. Barry Desormeaux: But that's not our decision.

Hon. Wayne Easter: If you look at U.S. corn exports to Canada, they really started to increase in about the year 2000. It's interesting that if you look at U.S. farm gate prices and Canadian farm gate prices and farm situation, they basically paralleled each other throughout history up until 1999. From 1999 on, the gap widened between U.S. and Canadian producers in terms of income.

In 2000, U.S. corn exports to Canada increased quite dramatically. They would be fourfold now what they were in 2000. So do you go back and look at that aspect as well, how imports have increased over time?

Mr. Barry Desormeaux: We do, absolutely, for an indication of how much injury there has been to Canadian producers and what has caused that.

We have to make a link between the dumping and the injury. If we see an increase in imports at low prices and an injury resulting from that, then that's the kind of link we're looking for. So from that point of view, we do look at that information.

The Chair: Mr. Easter, your time has expired. I regret to tell you that.

Mr. Lapierre is on for five minutes.

[Translation]

Mr. Réal Lapierre (Lévis—Bellechasse, BQ): We said earlier that the plaintiff had brought forward figures to corroborate the fact that there could be dumping from the U.S. You said that the figures in question would be studied in minute detail. You also said that you will take the necessary measures to check how high U.S. support to its corn producers can go.

Furthermore, we know the approximate cost of producing a bushel of corn in Ontario. Do we know the average cost of producing a bushel of corn in Canada? As the representative of the province of Quebec, I would also like to know if there is a cost differential between producing a bushel in Quebec and the Canadian average.

[English]

Mr. Barry Desormeaux: On the price differential between Quebec and the rest of Canada, because of the nature of the commodity, the prices are standard across the nation.

We have the cost of production from the Canadian producers. We verify that through information received from them and discussions with them. We actually visit the producers where we can. We will use that information to confirm the cost in the United States to make sure that the information we get from the producers down there is exact and correct.

• (1620)

[Translation]

Mr. Réal Lapierre: How reliable are the data provided by the American government or American organizations? How high can their subsidies reach? Relying on experience in other fields, coming to a conclusion does not seem obvious. I read and reread the document and found a number of subtleties in the subsidies granted directly to American producers.

Mr. Barry Desormeaux: We have asked for a lot of information from exporters as well as from the American government. We will check them all.

[English]

We will visit the American government. We will go through information that they provide us. We will verify it to make sure it's accurate and true, and we'll do the same thing with the exporters to determine how much money they receive from the government also. So it's a very detailed verification process.

[Translation]

Ms. Suzanne Parent: The people involved in the audit are accountants, so details are very precise. The decisions we render are therefore well founded: all details are evaluated and reviewed. The information is studied in a very meticulous and professional way.

Mr. Réal Lapierre: Good, thank you.

[English]

The Chair: Have you finished, Mr. Lapierre?

We are moving to Mr. Smith for five minutes.

[Translation]

Mr. David Smith (Pontiac, Lib.): Thank you very much, Mr. Chairman. I will share my time with my colleague, Wayne Easter.

Mr. Lapierre asked for the cost of Canadian corn as compared to that of American corn. Do you have the average costs for the past few years?

[English]

Mr. Barry Desormeaux: We would get that information from the Canadian producers to come up with an average cost over the number of years.

Is that what...?

[Translation]

Mr. David Smith: I only wanted to know the average costs. In Canada, it is a general price, isn't it?

Mr. Barry Desormeaux: Yes.

Mr. David Smith: I suppose you compare Canadian to American products. Is it more or less costly to produce in Canada? If we know the real costs of production and expenses, we therefore know whether it is more expensive to be a Quebec farmer or a Michigan farmer. Your analysis surely allows you to produce figures to compare production costs of a Quebec farmer to those of a Michigan farmer.

[English]

Mr. Barry Desormeaux: You're right. Those are all factors we consider. In fact, when we look at agricultural products, we choose a longer period of investigation to look at information, because we know, especially in the agricultural industry, there are a lot of changes in the market and the costs go up and down every year. So we choose a longer period, but we will absolutely verify the U.S. costs and make sure that what they're telling us is correct and true.

The Chair: Mr. Easter.

Hon. Wayne Easter: Thanks.

Just coming back to Mr. Lapierre's point before I go to the one that I wanted to ask earlier, on coming up with the Canadian price—because there is a substantial difference between corn prices due to different programs in Ontario versus Quebec—in 2004-05, the Ontario average weighted price was \$2.85. The Quebec averaged weighted price was \$3.20. That's estimated. The year before, 2003-04, the Ontario weighted price was \$3.62 and the Quebec price was \$4. How do you come to the determination of the Canadian price for this kind of action?

Mr. Barry Desormeaux: We don't really look at the Canadian price per se. When we come up with our normal values, it's based on all U.S. information.

Hon. Wayne Easter: Okay.

Mr. Barry Desormeaux: We look at trends for injury purposes, but...

Ms. Suzanne Parent: For clarification, one of the things that I think is often confusing to outsiders within our process is that under dumping and subsidy investigations, we're focused externally, outside of Canada. The CITT focuses internally. That's the differentiation.

• (1625)

Hon. Wayne Easter: Thanks. That's a good point.

When you're doing your investigation... Our understanding is there's a substantial difference in where payments go in the United States. I'm told the top 1% of recipients received 18% of the payment, which represented about \$6.7 billion. That's pretty nearly \$500,000 U.S. per recipient.

In your investigation, will you be looking at who benefits from the subsidy provisions in the United States, whether it's the large corporate operations or the small family farms, or will it be just a general across-the-board line? The reason I ask the question is that when I did my farm income consultations, what producers seemed to be saying is that the impact of corporate concentration is increasing, and the bigger corporations are taking more of the investment in the United States.

Mr. Barry Desormeaux: We will concentrate our efforts on those firms that ship to Canada and that ship the most to Canada.

Hon. Wayne Easter: It's just based on bottom line values—that kind of thing?

Mr. Barry Desormeaux: In this case we'll probably come up with a per bushel subsidy amount.

Hon. Wayne Easter: Here's my last question, Mr. Chair.

You mentioned in your submission to the committee today the different situation you find yourselves in, or the government finds itself in, relative to the Byrd amendment. This seems a logical issue to put forward as retaliation for the Byrd amendment. What's the process to get to that stage?

Mr. Paul Robertson: Perhaps I could answer that, Mr. Easter.

We've told the industry... Their desire to have corn considered for retaliation on the Byrd amendment was brought up during the Byrd consultations, and the industry understood that until such time as all Canadians have the ability to comment on possible products for retaliation, they can't be included on any retaliation list.

It's a bit like the public interest discussion that was going on earlier about other interested parties having the ability to make their views known as to what would be the implications for them of having a tariff imposed on a product.

I think the corn growers understood the point, and the government is committed, of course, to transparent consultations on any retaliatory exercises. I think it was accepted by all parties that all Canadians have to have the ability to comment before a product can be "vetted" through the public consultative process.

Hon. Wayne Easter: What's the timeframe?

Mr. Paul Robertson: It depends on the next round of consultations. As you know, the Byrd amendment is an annual level that changes depending upon the liquidation of deposits that have been collected on cases. There will certainly be a gazetting of next year's list, but we have to first determine what our quantum or our retaliation level is before any of that takes place.

The Chair: Thank you, Mr. Robertson.

Mr. Breitkreuz, you have five minutes.

Mr. Garry Breitkreuz (Yorkton—Melville, CPC): Thank you very much, Mr. Chair.

It's no secret that one of the aspects of the farm crisis situation that all farmers are concerned about is that commodity prices are too low, below their cost of production in many cases. I'll make a few comments, but I'd like to get a feel—and this has been discussed already—for what we can go back and tell our farmers are possible scenarios that might happen. What would be the short-term and long-term effects of some kind of retaliatory process? If we imposed duties, what are some of the scenarios that could unfold with respect to the price they receive?

I understand that on December 15, the date your report is released, duties could be imposed on U.S. corn. Isn't that right? There could therefore be a price differential between the U.S. and Canada, and value-added processors such as ethanol plants might have to pay more for their product here in Canada. It wouldn't take too much to

imagine that some of the ethanol plants planned to be built might not then be built here but built elsewhere. That's something that could impact the industry. In the long run, maybe farmers would get less for their product because there would be fewer avenues for that product to be disposed of. I'm just wondering what some of the things are that could happen as a result of this.

Another thing I was wondering is whether other commodities such as barley could take the place of corn in some of these areas, in feedlots and that kind of thing.

Could you just outline some of the long-range implications for grain growers in Canada if we go ahead with this? What are the considerations that have to be weighed? Could you outline this more succinctly?

• (1630)

Mr. Barry Desormeaux: Perhaps my colleagues at Agriculture could respond to that.

The Chair: Mr. Migie, can you?

Mr. Howard Migie: As mentioned, we don't know the length of time. We're getting into a bit of speculation as to how long some type of duty, if there were to be a duty, would be put in place. The length of time would be a factor that would give you an answer to the question. To some degree, you can substitute other feed grains for corn—to a limited degree. Prices go up, and it's changing the dynamic in what's becoming more and more a North American market—or world market—with both grain and livestock. You're creating a differential in price between the two countries.

For the long term, we are looking at a WTO approach that will lessen the extent to which you can have these types of subsidies in the U.S.; that would make the situation a lot better, long-term.

I think my colleagues will have to look at all the arguments people make from the various users' sides about what the options would be for individuals in creating this price differential, depending on how long it lasted and what the consequences would be.

Mr. Garry Breitkreuz: Is there anybody else?

The Chair: Does anyone else want to comment?

We can only speculate. That's the best we can do.

Mr. Garry Breitkreuz: Yes. Farmers might see a price jump initially, but we have no idea how long it would last if these tariffs stay in place.

Mr. Barry Desormeaux: The duties stay in place for up to five years, and then the Canadian International Trade Tribunal can review the situation to see if they're still required to protect the Canadian industry. But anything can happen. If there's a public interest hearing, for example, if the users convince the tribunal to hear that issue and convince the tribunal that the duties we have put in place at CBSA are too high and are not in the public interest, then those duties could very well be eliminated or reduced.

It's very difficult to say. But in general, duties put in place pursuant to a dumping decision remain in place for five years, until the tribunal reviews, and then they can renew it for another five.

Mr. Garry Breitzkreuz: This phrase “in the public interest”...how do you determine that? Farmers have one interest. How do you arrive at some conclusion as to what is in the best public interest?

Mr. Barry Desormeaux: It's the Canadian International Trade Tribunal that looks at that, and they look at a number of different factors. I'm not familiar with the listing—I don't know whether you are, Wayne—but is there a cost to the public? Is there product available elsewhere...? There are numerous factors they look at.

Mr. Wayne Neamtz: Years ago, when we were drafting legislation, we considered what “the public interest” would be. It could not be defined. We came to the conclusion that you know the public interest in a particular set of facts. In a particular situation, it will stare you in the face, and we might be facing one of those at this point in time.

There are always opposing interests in dumping cases. Early decisions by the tribunal in dealing with public interest I think presupposed the idea that there is an act of Parliament that deals with dumped and subsidized goods and that provides a remedy to producers who are injured by those dumped and subsidized goods. That becomes the basis for the public interest consideration.

What other reasons are there that one might mitigate the effect of those duties on consumers, on users of input? I think each case has to be looked at individually. The facts of each particular case have to be analyzed. The tribunal has to hear from all of the parties making their presentations and arguing either that the imposition of duties is in the public interest or that the imposition of a lesser amount of duties or elimination of the duties is in the public interest.

Ultimately, the way the process is structured, it becomes a political decision. The tribunal can only make a report on what it believes is the public interest, and at that point in time it'll be up to the government to make a decision.

•(1635)

Mr. Garry Breitzkreuz: With political interests, often the squeakiest wheel gets the grease, or where the most votes are is where the government will lean. Is that what you're telling me?

Mr. Wayne Neamtz: I'm telling you that I think if there were a public interest inquiry, the tribunal would make a very long report, would cite the evidence they considered and the reasons for whatever opinion they came out with, and would make a recommendation as to either the price, in this case of corn, that would not be injurious, that the duties could be reduced by a certain percentage. It would just be based on an evaluation of the facts that are put in front of them. They consider all the factors and they make a report. That's about as far as the tribunal can go as well.

Mr. Garry Breitzkreuz: There's a lot of material here—

The Chair: Thank you, Mr. Breitzkreuz. Your time has expired.

We'll go to Mr. Eyking for five minutes.

Hon. Mark Eyking (Sydney—Victoria, Lib.): Thank you, Mr. Chairman.

I'd like to thank the witnesses for coming here today.

I have a chart on U.S. corn exports here, and it also has Mexico. It looks like they have the same situation as we have. In 2000, the big spike happened, the big increase in exports to their country. It seems

to correlate very much with the Bush administration's U.S. Farm Bill. So they seem to go in stereo there.

Is there any push-back or anti-dumping actions from the Mexican government to the Americans? That would be my first question. I'll give you the three questions, so see if you have time to answer them.

My second question is, when you're factoring in subsidies on corn, do you factor in the U.S. food foreign aid system where they buy a lot of their products from their farmers?

The third question involves this next round of WTO talks in which the Americans are floating the idea that they're going to reduce their subsidies, maybe up to 50%, like it's a big push. Now when you look at this chart of 2004-05 at 91¢ a bushel, if they go to even a 50% reduction, they're really only going to bring it back to the subsidy they had in 2003-04. I'd like to have a comment on that one too.

Mr. Barry Desormeaux: Okay. I'll address some of your questions.

As far as Mexico is concerned, I'm not aware of any cases the Mexican government has initiated against the U.S.

With respect to the U.S. reducing their subsidies or discussions of that, we're looking at a period that's already gone past. What we do in some instances are re-investigations every couple of years to verify that our numbers are still reflective of the current market situation. If they were to reduce, then our numbers may reflect that. But for this initial investigation, we're looking at what's already happened in the U.S. market. We're looking at subsidy amounts that have already been done. So we wouldn't be reflecting any reduction at this point.

Hon. Mark Eyking: But my angle there is if we're speaking to the Americans in the WTO rounds and there is an allusion that they're doing us a big favour by going to 50%, when you look at your charts, there's still going to be quite a bit left on the table as subsidy, is there not?

Mr. Barry Desormeaux: Graham?

Mr. Graham Barr (Director, Multilateral Trade Policy Division, Department of Agriculture and Agri-Food): You raise a good point. As you said, last week the U.S. put a proposal on the table to reduce their trade distorting support actually by 60%. It does sound very ambitious, and it was welcome because it broke a stalemate in the negotiations. But you're right, it doesn't cut very much into what their actual spending is now or what it would be in the future.

So while we're welcoming the fact that they've finally come forward with something on domestic support, what we've been doing is pushing them to go further. Other countries are doing that as well.

Mr. Wayne Neamtz: If the U.S. government is buying corn from the producers of corn in the United States, and if they are paying more than market value for the corn, that would be a subsidy. This is something we could deal with under our countervailing duty and legislation.

Hon. Mark Eyking: Did you look into that? Are they doing that? Are there any prices out there that you know of that they're paying for their corn for foreign aid?

•(1640)

Mr. Wayne Neamtz: I don't know.

Mr. Barry Desormeaux: That's something we'll be looking at. So far we're only looking at three programs. I don't know if you've had an opportunity to look at them there.

We're looking at those three listed, but we'll obviously be aware or looking out for any additional programs. And we can certainly go beyond those three.

Hon. Mark Eyking: That's been talked about. So it should be checked into.

Mr. Barry Desormeaux: Thank you.

Hon. Mark Eyking: That's it, Mr. Chair, unless Wayne, or anybody else, or Rose-Marie wants some of my time.

The Chair: Rose-Marie, do you have anything else?

Mrs. Rose-Marie Ur: No, I'm fine. Thank you.

The Chair: Okay. In that case, we will move back to Mr. Anderson. We'll give you the rest of your seven minutes.

Mr. David Anderson: I'm just about done now.

I have a couple of questions. Mr. Migie, you said we really don't want to establish a price differential, but there actually is one right now. We're looking at the figures we've been given today. You've got counter-cyclical payments at 30¢ a bushel, direct payments at 28¢, loans and the LDP program at 23¢, and crop insurance contributes 10¢. So if the U.S. producer is getting \$2.86 Canadian that's coming in here, 91¢ U.S. of it is being provided by the U.S. government. That's a huge price differential, even though the farmer's not getting it at the market. Generally, I want to make that observation.

Then the question is, what possible argument are you hearing, or can there be, that the U.S. farm program is not drilling our producers' prices right into the ground?

Mr. Howard Migie: Let me answer the first part. The market prices a user would pay, given that we have no tariff with the United States, tend to be U.S. price plus transport and handling. So they're very close market prices. But I think what you're referring to is that the farmer in the U.S. has access to large commodity payments, which are being taken into account in the investigation. So even though the market prices a user would pay right now are very similar for corn in the two countries—just transport costs and handling and exchange would be the difference—they're going to be looking at the question of the subsidy as well.

In terms of impact of programs, there are more and more studies out there on the impact of U.S. programs on production—first on acres in production, and on price. The OECD did a survey not too long ago. There was a study done for the Canadian Agri-Food Policy Institute. Certainly the implications of U.S. programs are becoming more and more known and accepted in terms of the impact they do have.

Mr. David Anderson: Both the programs, both the counter-cyclical payments and the marketing assistance loans, allow the U.S. farmers to take a lower price, and the government tops that up. Where we're trying to work out of a market, they're not doing that. So there is a price differential, and as we look into it, we need to be talking about it in those terms as well, not saying that a duty is going

to cause a differential. The differential is there. I think we need to level the playing field for our farmers.

In your document you talk about the fact that a couple of the provinces have increased Canadian government support for corn producers. How does that affect your decision, or how does that affect the overall picture of what's going on here?

Mr. Barry Desormeaux: That's one of the injury factors we look at. So it strictly shows the impact that the dumped or subsidized corn from the U.S. has caused—one of the injury factors that it's caused to the Canadian industry.

Mr. David Anderson: So if you find that the injury has been offset by Canadian subsidization, what happens then?

Mr. Barry Desormeaux: I'm sorry?

Mr. David Anderson: If theoretically the injury that you find Canadian farmers are suffering has been offset by subsidization that's already been paid out by governments in Canada, what does that do?

Mr. Barry Desormeaux: We wouldn't look at that. We look at strictly....

Sorry. Go ahead, Wayne.

Mr. Wayne Neamtz: What happens in this situation is that the injury that would otherwise be suffered by the Canadian corn growers is being transferred to government agencies that are paying out subsidy programs. Many of those programs are presumably based on the price differentials.

That is a factor that the Canadian International Trade Tribunal can consider in its evaluation of whether or not the dumping or subsidizing is causing injury ordinarily to the Canadian industry, but in subsidy cases, they can also look to see whether there's injury to the Canadian government or a provincial government that is making payments to farmers to mitigate the injury they'd otherwise suffer.

Mr. David Anderson: Won't the U.S. use that then as part of their bargaining position, that in fact the Canadian government has already made good the injury?

•(1645)

Mr. Wayne Neamtz: They might, but this is a factor that is contained in the international agreement. The subsidies and countervailing measures agreement does contain a provision that says authorities can look at the impact of subsidization on a government support program in determining whether there's injury from that subsidization.

Mr. David Anderson: This is going to be, in my mind, a lot longer-term problem than just this fall.

This may be back to Mr. Migie, but in the ethanol expansion program, there was a decision made to fund, basically, the big ethanol companies. That ran contrary to the original mandate of the program, which is to try to find and put together funding for smaller and medium-sized businesses and proposals. That led to a decision to place the plants in areas of this country where there is and will be a shortage of feedstock, and we know that. The government knew that when they did that.

I assume you knew that when the decisions were made. What's the government's strategy for protecting our producers from subsidized U.S. corn, when we are going to require large amounts of that over the next years, apparently, in order to see through this government's ethanol expansion program?

Mr. Howard Migie: It's not due to the ethanol. The government's long-term approach, first and foremost, is to work through the WTO to get as large a reduction as we can in those types of U.S. subsidies. In addition, we try to have the best programs we can have in terms of business risk management for Canadian producers. I guess the third is to work at programs that do affect the demand or the competitiveness of Canadians, whether it's through an ethanol program or others, even though the product that may be produced... we're not sure whether Canadians will decide to produce more of the product to satisfy that value-added opportunity or it will result in an increase in imports. We let the market decide that. But having a local value-added enterprise normally does have some impact on increasing production around that local plant, because they're not going to be having to pay the extra transport costs.

Mr. David Anderson: My understanding is there isn't any possible way all that feedstock can be provided from the areas where the plants are. It's impossible.

But it seems to me we have a bit of a conflict there, and I think Mr. Breitzkreuz talked to it a bit; that you have corn producers on one side saying they need a decent price for their product and people on the other side saying they need cheap product, they need to be able to feed their chickens or cattle and be able to make ethanol. I'm wondering whether there are any other tools the corn producers could be using to make their point and be able to get the price of their commodities up and make a living growing corn.

Mr. Howard Migie: The corn producers have been part of a larger group in Ontario that has worked at a commodity-specific program similar, if I can call it so, to the Quebec ASRA program. That's one of their proposals, in addition to their three-pronged approach, but it would be a program that goes on top of CAIS, just as ASRA is melded with the CAIS program and is built on top. But it's a commodity-specific program and it is for the province of Ontario. It doesn't answer the larger question affecting grains and oilseeds, and it would require a lot more government spending than we have today. It would be close to \$1.5 billion more across the country, if you tried to apply that particular model.

That's the only one I am aware of that they've proposed, but they're going to be appearing before the committee soon and they can address this.

The Chair: The time has expired, Mr. Anderson.

I'm moving to Mr. Bellavance.

[*Translation*]

Mr. André Bellavance: Thank you. When I spoke of precedents earlier, it was for a reason. Agency witnesses have not developed this subject very deeply. We heard about two precedents relating specifically to corn. Perhaps our analyst should do this work so we can have some facts because any such precedents can have an impact on the case we have before us and maybe even on subsequent cases.

I'd like to address the people at the Department of Agriculture and Agri-Food. Do you remember those precedents? Did they have an economic impact on the agricultural sector? I mean the users of grain, not the producers. Do you remember that? What were the consequences at the time?

• (1650)

[*English*]

Mr. Howard Migie: I have a strong memory of the one that was not accepted, in that there was a lot of objection and concern raised by the users. They were very concerned at that time. Ontario wasn't part of it, so basically we'd not accept it for that large reason. But the users were looking at the prospect of paying more than their competitors in the United States, and they certainly did object to it and felt they would be disadvantaged, in terms of not being competitive.

I don't recall, from the first instance—the one that was there for five years—this being as big an issue.

Mr. Graham Barr: There is one factual clarification I could make. I understand that in the investigation in the late 1980s there was a countervailing duty established at a certain level, and subsequent to a public interest inquiry it was lowered. How it got to that point I'll leave to CBSA to respond to or follow up later.

The Chair: Does someone want to respond to that now, while we're here?

Mr. Neamtz.

Mr. Wayne Neamtz: In the first corn investigation, in the 1980s, the CBSA established that the subsidy was 85¢ U.S. per bushel, which at that time approximated Canadian \$1.10. The tribunal conducted a public interest inquiry and recommended that the imposition of the duty not exceed 30¢ Canadian per bushel. I think because of the passage of time, by the time the Minister of Finance put forward the remission order, market circumstances had changed, and the remission order indicated that the amount of countervailing duty should be 46¢ Canadian per bushel. That is quite a bit below the \$1.10 we had established as the amount of the subsidy.

[*Translation*]

Mr. André Bellavance: Thank you. Again, my comments are for the people at the Department of Agriculture and Agri-Food.

One thing is certain: If the claim is proven and the Americans are found guilty of dumping, Canadian farmers would be encouraged to increase their production since they don't produce corn to satisfy the needs of the domestic market.

In your opinion, is this hypothesis plausible?

[English]

Mr. Howard Migie: If a duty is put on and people think it's going to last for several years, we would expect some increase in Canadian production. It doesn't mean it would replace all the imports. There may well be imports that come in at the higher price as well, because the importer would have to pay the duty. We would expect some of that to occur. I couldn't answer the question as to whether it would be sufficient to cover all of the demand, but if the type of duty that's potentially there is going to last for several years, it would be quite an incentive to produce that commodity, compared to others that don't have that duty put on. There would be a shift to the extent that the land allows; farmers would respond to where they see the profit, so if they saw a much higher price for corn compared to soybeans or other alternatives, you would get some shift, especially in the short term. It would make up part of it, part of the imports.

[Translation]

Mr. André Bellavance: In that case, would the cost of a bushel skyrocket or simply move up some...?

Mr. Howard Migie: It is impossible for me to answer that question. It depends on the [Inaudible-Editor]. I cannot say whether the increase would be large or small, or even if there would be one at all. Everything is possible.

Mr. André Bellavance: Alright, thank you.

[English]

The Chair: Okay.

Next is Mr. Eyking.

Hon. Mark Eyking: Thank you, Mr. Chair.

I have a couple of questions. Maybe they're for Graham.

I was just doing some figuring. There are roughly 12 billion bushels of corn produced by the U.S. When you do our numbers, that works out to about 250 million metric tonnes. Now, between us and Mexico, we go through about 10 million tonnes, so that's only 4% of the total production. It could be 4% or 5%.

How much corn do they use domestically, and where are the other exports going? For instance, is China becoming a big importer? I'll leave it at that.

•(1655)

Mr. Graham Barr: When you say "they", you're referring to the United States?

Hon. Mark Eyking: Yes. We use only 4% or 5% between us and Mexico. How much of their own corn production do they utilize, right in the U.S. market? Would it be half?

Mr. Howard Migie: I don't know.

Mr. Graham Barr: I'm sorry, I don't think we have those figures.

I do know that the United States is the largest exporter of grain corn in the world, but the proportion they use internally, as opposed to exporting, I don't think we have in front of us, unless it's part of the submission.

Hon. Mark Eyking: Who are the other big importers—the Middle East? Where's it all going?

Mr. Howard Migie: We don't know.

Hon. Mark Eyking: Can you find out?

Mr. Graham Barr: Sure.

The Chair: Are you finished, Mr. Eyking?

We have a bit of time left on the Liberal side.

Mr. Easter, do you want to finish off his time there?

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

Mr. Anderson raised a point that concerns me. We have been hearing from users—certainly, I've heard from users of corn—who are concerned about the action, but I would hope nobody suggests we build other industries, whether it's feedlot industries, a cattle industry, or a hog industry, based on cheap grain. If we're going to have those industries, then grain producers deserve to be paid a return on their labour and investment like anybody else.

Howard, on your point, you talked about value-added, and there's certainly been a shift in Canada. I had some meetings with corn and soybean producers in Ontario this summer. Three of them were fairly large corn producers who are not growing corn now, but soybeans. I asked them why; their response was it's because they lose less money. That's the reality out there on the farm. There has been a shift, and corn producers think—and I think I agree with them—that it's really because dumping into this country by the United States has forced prices down, as well as a number of other factors.

Maybe you can answer this question. When the ethanol plant was put up in Chatham, there was certainly the opinion that the production base in this country would feed that plant. Corn producers in the area tell me a lot of the corn coming in there now is American, due to their setting the bottom-line price. Is the ability there to provide Canadian feedstock to that plant?

I was also told—and I don't know if it's correct—that American policy in their ethanol plants is that 90% or thereabouts of the feedstock has to be American. Does anyone know if that is their policy or not? It's a catch-22; if we set that, then we wouldn't have a feedstock, but...

Mr. Howard Migie: On the latter point, a number of people have looked at the U.S. programs; 90% of their commodity programs go to five commodities. Those five commodities get a large payment. They pay a lot less for horticulture and livestock than they do for wheat, corn, soybeans, cotton, and rice.

At the same time, the U.S. has invested heavily on the value-added side, so they have a large domestic market anyway, but an even larger one because of high-fructose corn syrup. Their sugar policy encourages a large high-fructose corn syrup industry, which has a lot of demand, and their ethanol policy encourages a lot of demand, but I don't know if they've put in a law or a regulation that requires a certain amount of U.S. product to be used.

What they have certainly done is they've melded together an agriculture policy that is commodity-specific on those five commodities, tied in with a policy on value-added, so they would use a lot more.

In Canada, where we did have the prospects a few years ago, imports weren't that large; they've more than doubled since the late 1990s. They've increased dramatically. If you have an increase in demand in Canada, you're going to get some increase in production, but it appears you have to compete with the U.S. product, and that U.S. product is still there. A user may decide to import if the price in Canada is high enough to attract producers to produce it. That's the question.

• (1700)

The Chair: Thank you.

Your time has expired. We go to Mr. Miller.

Mr. Larry Miller: Mr. Easter's last question is a good one, but I think that question—of whether there's enough feedstock in here—should have been asked before the ethanol plant was built. I don't know whether he really got that question answered or not, but you don't go deciding after the fact of building something and then find out you do or don't have enough feedstock. So I hope that question was well asked.

Mr. Chairman, when I finished asking questions earlier, I still had a bit of a question. The total support for U.S. corn, including the counter-cyclical payments I was asking about—and this has been mentioned before—has been estimated at between 44¢ and 91¢ per bushel U.S. for 2003-04 and 2004-05.

Once again—I don't think this was answered, unless it was when I was out for a couple of minutes—how does this U.S. support compare with government support here in Canada? Do we have a gauge on that? Does anybody have that figure? Mr. Migie or...?

Mr. Howard Migie: The only information we would have, I suppose, would be from OECD, the PSE number.

Graham?

Mr. Graham Barr: The OECD, as you probably know, produces numbers—producer support estimates. The numbers I'm giving are dollars per tonne. For 2003, the OECD estimates the support in both countries for corn is identical, at \$14 per tonne. For 2004, it is slightly higher in the United States, at \$28 versus \$26.

Mr. Larry Miller: I have a comment and then a question. I'd like your opinion on it. When dumping takes place, obviously someone gets hurt, and of course that's the corn producers here in Canada. At the same time, somebody usually ends up benefiting, and in this case it's basically livestock producers, whether it be in the chicken industry, the beef industry, or the hog industry—that kind of thing.

Has there been any thought given, or will there be any given if we put some kind of duty on, to what effect it's going to have? No one up front is admitting that these people wouldn't have gotten this without dumping by the U.S., but at the same time it turns out there is an adverse effect on them at some point. Is there any consideration of that at any time, or do we have any kind of value for it?

Mr. Wayne Neamtz: It's not a factor that's considered by the CBSA. At this stage, the CBSA has focused only on the question of

whether there is dumping and how much, whether there is subsidization and how much. The effect on users is not really in the domain of the CBSA. It would be a public interest consideration that would be properly addressed by the tribunal and a public interest inquiry.

Mr. Larry Miller: And that's a fair statement. Does anybody know of any place where you could get figures for the effect, though, that this might have? Is there anything...? Mr. Migie, I don't know whether it's in your domain to be able to answer that or not.

Mr. Howard Migie: I'm going to refer to the study that was done for the Canadian Agri-Food Policy Institute, which was looking at the effect on the livestock industry of U.S. programs, but in the two countries: how in the U.S. it affected their livestock industry and what impact it would have in Canada. They have done some studies just to give some more...but they're econometric studies, estimates, and they're trying to determine how or whether the Canadian livestock industry has been affected.

So there is some benefit, but we also have a different case, as a whole farm program. If you looked at the PSE numbers for cattle and hogs, you would see them a lot higher in Canada just because of the types of whole farm programs, whereas the U.S. doesn't have those. You'd have to take a look at all those factors.

In government we haven't done that, but the universities have done studies like that.

• (1705)

Mr. Larry Miller: Have you seen any of the figures out of them, Mr. Migie?

Mr. Howard Migie: They have made estimates of the effect of U.S. programs on livestock. I can pass you the study, if you wish.

Mr. Larry Miller: But offhand, you don't...?

Mr. Howard Migie: No, I don't have....

Mr. Larry Miller: I think I'm going to turn the rest of my time over, if I have any.

The Chair: Yours has almost expired. I'll give Mr. Anderson his full time in another round, the next time around.

Ms. Ur.

Mrs. Rose-Marie Ur: I just have a question to Mr. Neamtz. In your background, right behind your introductory page, if I'm reading it correctly, the second case, in 2000, was a regional industry case defined as "Canada, west of the Ontario-Manitoba border". It says, "A final determination of dumping and subsidizing was made; however, the CITT issued a no injury finding and all proceedings were terminated."

As a layman reading this, I wonder, if CBSA comes up with a finding, can it be overturned by CITT then?

Mr. Wayne Neamtz: The second corn case was a regional industry case. These are exceptions to the general rule, which is that cases should be national. In certain circumstances you can define a region of the country and determine whether or not the dumping or subsidizing is causing injury to a regional industry.

In this particular case, we went through the dumping and subsidizing investigation and found dumping and subsidizing; we made that determination. When the tribunal was looking at it, my recollection is that they had to determine whether there was injury to a regional industry, and in this particular case I think they determined that there was not a regional industry as per the international agreements and the legislation we have.

So I don't think they ever made a conclusion that the dumping and subsidizing were not causing injury to the corn growers in western Canada; what they said was that there was not a regional industry here on which they could make a determination in a legal sense.

Mrs. Rose-Marie Ur: That's because there isn't much corn production west of Manitoba anyway.

Mr. Wayne Neamtz: No, I don't think they made that conclusion. I don't recollect the actual basis for the decision of the tribunal.

Mrs. Rose-Marie Ur: Should I be concerned as to what's happening on this case now?

Mr. Wayne Neamtz: I think that case dealt with a regional industry, and that is not at issue in this national case.

Mrs. Rose-Marie Ur: Okay, because it would be a lot of dollars for nothing in the end, and our producers certainly don't need that—OCPA for one.

Mr. Wayne Neamtz: That may be one of the reasons the producers have joined together in various provinces to launch this investigation. I can't speak on their behalf, but I suspect that they looked at that investigation and saw what happened and the conclusion we came to—we and the tribunal—and determined that a national case was in order.

Mrs. Rose-Marie Ur: Thank you.

The Chair: Mr. Lapierre.

[Translation]

Mr. Réal Lapierre: Suppose we are able to prove dumping by the Americans. Canadian and Quebec producers will necessarily be compensated thanks to revenue stabilization programs.

Do current programs compensate for damages incurred due to American dumping?

[English]

Mr. Wayne Neamtz: I can't say whether or not the payments that might be made by the provincial authorities completely offset the lower prices the Quebec producers are gaining because of the dumping or the subsidizing and the price suppression in Canada, but that would be a factor that can be taken into account to determine the effect of the dumping on subsidies.

In this particular case, the effect may not be felt fully by the Quebec corn growers because they would be compensated by the provincial authorities for the lower prices, but it is the provincial government that is in effect suffering the injury through increased payments because of the low prices.

I don't have any numbers or any sense for whether the amount of compensation that the Quebec government is providing is more or less than the amount of the subsidizing or the dumping.

● (1710)

The Chair: Have you finished, Mr. Lapierre?

Mr. Anderson, for our last questions.

Mr. David Anderson: Thank you, Mr. Chair.

Mr. Neamtz, you said that in the 1980s there was a challenge. There was a \$1.10 subsidy being paid, and after revision, it ended up with a 46¢ duty being applied. Is that what you said?

Mr. Wayne Neamtz: Yes.

Mr. David Anderson: I'm wondering, first of all, how that works. If you have a \$1.10 subsidy, why wasn't or why won't the penalty be the same as what's found to be the subsidization?

I'm also asking what producers can expect. How big a factor is that number of subsidization? How big a factor is, whatever you want to call it, public interest or political influence, on the final determination?

Mr. Wayne Neamtz: I'm sorry, I don't recollect the actual basis for the tribunal's decision in the 1980s, but typically what the tribunal would look at would be the price of substitutes. It would also look at the price that would be necessary for the Canadian corn growers to make a profit, a profit that's reasonable.

Often the amounts of dumping or the amounts of subsidies that we determine provide protection that's in excess of the protection that's really required by an industry to do well, and that's based on different things. For example, there may be reasons the prices in the United States are what they are, and maybe in Canada there's something different. The fact that they're getting that much subsidy may indicate that they're using that subsidy for other purposes. We really don't know that.

To get back to the point, the tribunal would consider what price would be necessary in Canada to allow Canadian corn growers to make a reasonable profit, whatever that might be.

Mr. David Anderson: Would you impose a penalty to allow them to make a reasonable profit?

Mr. Wayne Neamtz: The tribunal could recommend that the duties be reduced, and when they make that recommendation they are required to report what price level would be necessary in Canada to eliminate the injury to the industry.

Mr. David Anderson: That's different from making a reasonable profit these days in agriculture.

The other question is this. You talked about a 4.4% average margin of dumping. If in the end you find that this is what the amount is, how solid is that number, in terms of what has then to be applied? Do you and the CITT have all kinds of leeway to say, we'll only put down 1.2%, or we'll put down 8.3%, or do you have to stick to the number that's been determined?

Mr. Wayne Neamtz: Unless there's a public interest report and a remission order by the governor in council, the CBSA must assess duty in an amount equal to the margin of dumping we determine and equal to the amount of subsidy we determine. We have no leeway.

Mr. David Anderson: When it comes to the CBSA and the CITT, who has the authority to make the final determinations then? You can impose duties; they have the tribunal. Who has the authority to make the final decisions, or are there two separate decisions being made?

Mr. Wayne Neamtz: There are two separate decisions. The CBSA determines the amount of dumping or the amount of the subsidization, and we are the final decision-makers in that respect. The tribunal determines whether or not that dumping or subsidization is causing injury. If they determine that there is injury, then the legislation requires us to collect an amount equal to the margin of dumping and equal to the amount of the subsidy.

Mr. David Anderson: Okay.

Mr. Wayne Neamtz: The only way it can be reduced would be through remission orders. We don't have discretion in terms of the amount of duty we collect, when there is a decision made that there is dumping, subsidy, and injury.

Mr. David Anderson: Okay.

I just want to conclude. I think this is a little off this topic specifically, but it comes back to something Mr. Eyking said. This is to Mr. Barr and Mr. Migie, I think. It's important in these negotiations that we deal somehow with reducing actual amounts of subsidization, not play around with maximums allowed.

I know you understand that, but I think it's important that you hear it from the committee: that when the Americans and others come with these proposals, we need to be dealing with real numbers and real amounts of what's happening, not working off the top of a maximum that they can reduce 65% without making one bit of difference to their programs. I think Mark said this, but I think we'd like to reaffirm it.

•(1715)

The Chair: Thank you very much, members, for appearing.

Yes, Mr. Easter?

Hon. Wayne Easter: In your determination, do you look at such things as a subsidy or program in the United States that would assist them for energy to dry corn in areas where they might have to do that? Do you look at that as well—at external programs in the United States that will have an impact on lowering their costs? We all know the United States Army reserves look after the administration and the upkeep on the Mississippi riverway. It's not considered a subsidy by anyone, but if we did it, they would consider it one. Do you look at those factors as well in getting at their cost of production?

Mr. Wayne Neamtz: We could look at factors such as you just mentioned. Basically, what we look for is any government program that provides a financial contribution and benefits the recipient.

Hon. Wayne Easter: Thanks.

The Chair: I have a question.

We know the period is five years, when a duty is imposed. How would we shorten that period if there were evidence in the marketplace that there was no longer a fiduciary concern? How would we deal with that? Who would make the determination to cut short the five-year period?

Mr. Wayne Neamtz: The Canadian International Trade Tribunal can on its own initiative review a finding of injury, or at the request of any interested person. If the tribunal believes it is warranted, they could conduct a review.

The Chair: And they could terminate the need for a duty to be applied, and that period would then become a shorter period of time? Or does it have to run its course?

Mr. Wayne Neamtz: Typically, it runs its course.

The Chair: Does it?

Mr. Wayne Neamtz: Typically, in the fourth year of a duty enforcement, the tribunal will initiate what's called an expiry review or sunset review. Basically, there are two elements to that review. The CBSA would be required to determine whether or not the dumping or subsidizing is likely to continue, if the tribunal rescinds its order. If the CBSA determined that dumping or subsidizing was likely to continue, then the tribunal would determine whether or not it would be likely to cause injury. That's what we would normally call a sunset review.

The Chair: The reason I asked that question is that if, for instance, the WTO, or for other internal reasons the USDA—the agriculture department of the government of the United States—determined it was going to put an end to these subsidies within that period of time, because a lot of things can happen in five years, and there would no longer be a case of dumping being made against the Americans, it wouldn't be in our interest to continue with the tariff or the duty. Given that, how would it be terminated in such an event?

Mr. Wayne Neamtz: First of all, it's important to note that the CBSA conducts reviews of the amount of subsidization or the amount of dumping, typically on an annual basis, so if the U.S. eliminated subsidy programs, it would be reflected in the amount of duty we collect.

The Chair: That's the answer. Thank you very much. Thank you very much, participants, for coming today and sharing your expertise.

For those at the table, we are meeting on Wednesday with the corn growers and the various participants in that industry to continue our discussions on the corn trade. I should also indicate that on Thursday we are planning another meeting to accommodate some of the concerns and issues we have. We are obligated as a committee to deal with Bill S-38, the spirits bill, and we want to get that one done on Thursday, so there's a special meeting on Thursday from 9 a.m. to 11 a.m.

I think that concludes our meeting today. I thank you very much for your participation. Thank you all.

The meeting stands adjourned.

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