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Committee on Foreign Affairs and International  
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**Chair**

**Mr. John Cannis**

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## Subcommittee on International Trade, Trade Disputes and Investment of the Standing Committee on Foreign Affairs and International Trade

Tuesday, December 14, 2004

• (1530)

[English]

**The Chair (Mr. John Cannis (Scarborough Centre, Lib.)):**  
Ladies and gentlemen, I call the meeting to order. We have to be out of here by 5:30 p.m. sharp because there is another committee coming in.

Before I introduce our panel and our witnesses, I would ask if you could summarize as you come forward with your presentations. I just spoke with the dairy farmers, and they have about a five-minute presentation at the very most. So if we can gear them to around five minutes each, that will give the members enough time to pose questions.

Welcome to our committee. From the Dairy Farmers of Canada we have Bruce Saunders, first vice-president; and Yves Leduc, director of international trade. From the Canadian Pork Council we have Edouard Asnong, chair of the trade action reference group; and Martin Rice, executive director. From the Canadian Cattlemen for Fair Trade we have Rick Paskal, chairman; and Jack de Boer, vice-chair. From the Canadian Agri-Food Trade Alliance there's Liam McCreery, president; and Sandra Marsden, member of the board of directors. From the Canadian Wheat Board we have Victor Jarjour, vice-president, strategic planning and corporate policy. From the Canadian Federation of Agriculture we have Bob Friesen, president; and Clinton Monchuk, analyst, trade policy.

Welcome to the committee. We look forward to hearing from you.

We'll begin with the Dairy Farmers of Canada. The floor is yours.

**Mr. Bruce Saunders (First Vice-President, Dairy Farmers of Canada):** Thank you, Mr. Chairman.

The Dairy Farmers of Canada is a non-profit, producer-run organization whose purpose is to promote and defend the interests of dairy producers from over 17,000 dairy farms.

We would like to thank the subcommittee for inviting us to present our views on how to improve the dispute settlement mechanisms and avoid trade disputes in the future. Just like our colleagues from the Canadian Wheat Board and the Canadian Pork Council, DFC was an active participant in helping the Canadian government defend interests in trade disputes brought forward by the United States at both the NAFTA and the WTO. Some of our recommendations to the subcommittee, therefore, are based on those experiences.

DFC has also encouraged the federal government to take the lead at the international level to clarify rules and correct WTO inconsistencies by bringing forward several turnkey cases.

DFC was an active participant in two trade disputes brought forward by the United States. There was the NAFTA panel on dairy, poultry, and eggs, and the WTO panel on Canadian dairy exports. DFC's experience brought to light problems with the dispute settlement process. Three specific changes are necessary to the dispute settlement process to ensure that the process is more transparent and to allow industry to feel more included in the panel's decisions.

First, producer organizations and commodity and trade associations affected by a panel ruling must be allowed to observe the proceedings of the dispute settlement body in a way that does not affect the proceedings themselves.

Second, adequate proceedings must be made available to the public, while respecting any confidential information.

Third, the WTO panel and appellate body submissions must be made publicly available on a timely basis, taking into consideration any confidential material.

These three changes would help industry better understand how to anticipate the manner in which other countries might interpret the WTO-negotiated rules and allow industry to make better choices about how to organize themselves and avoid being taken to a dispute settlement body.

We have seen a proliferation of trade disputes over the past few years. A number of them have involved Canada and were brought forward by the United States. Others involved third parties, such as the U.S. cotton panel and the EU sugar panel, which were brought before the WTO by Brazil. These cases are being brought forward in part because the rules contained in trade agreements are too vague and open to various interpretations. Unfortunately, the panels have gone far beyond what was negotiated in their actual decisions.

The Canadian dairy export panel is a good example of the dangers inherent in rules being too vague. Back in 1995, Canada implemented the special class system based on the recommendations of the Canadian negotiators, who had assured Canada's milk producers that it was WTO consistent. The WTO rulings, however, interpreted the WTO agreement in ways that created new obligations and in some cases modified what was otherwise negotiated.

In the case for dairy, the WTO found Canada guilty of subsidizing their dairy exports, and it justified its decision on the basis of cross-subsidization. The Canadian case created a precedent that was used in the U.S. cotton and the EU sugar cases.

Ensuring the rules are clarified is essential in order to avoid future trade disputes. In the meantime, it must be determined whether or not it would be in Canada's best interest to request dispute settlement for policies in other countries that are inconsistent with WTO rules. If the goal is to facilitate trade by limiting trade disputes in the future, then a clarification of the trade rules must begin today. Trade disputes, if conducted efficiently and with greater transparency, would help to clarify trade rules in future trade agreements.

DFC has approached the Canadian government with several turnkey cases. DFC commissioned a study by Grey, Clark, Shih and Associates in 2003 to investigate the WTO consistency of New Zealand and the U.S. agricultural practices. The study found that the U.S. remains in serious breach of its WTO obligations to reduce domestic and export subsidies. As well, the report shows that New Zealand is also providing WTO-inconsistent export subsidies through its cooperative monopoly, Fonterra Co-operative Group Ltd.

• (1535)

The study commissioned by DFC represents an enormous amount of time, work, and financial resources, and was conducted by Grey, Clark, and Shih, who have a strong international reputation. Despite the mountain of proof, the federal government chose not to pursue any of the well-documented cases of WTO inconsistencies. The reason stated by the government at that time was that they did not want to compromise any of the other Canadian commodities, such as the Canadian Wheat Board, that might come under attack if Canada chose to bring forward trade disputes with the United States or New Zealand.

Canada has lost much by choosing this avenue. The case of subsidies on upland cotton requested by Brazil in 2003 against the United States was one of the cases identified by Grey, Clark, and Shih in their study. The dispute settlement body panel made an interim ruling in late April and a final ruling in June 2004. The United States was found guilty of providing domestic support that was inconsistent with the WTO rules. The case is being appealed, but it's fairly certain that the ruling will be upheld. As a result of the ruling, Brazil has gained greater weight around the WTO negotiating table.

Canada also did not gain by choosing not to pursue greater clarification of the WTO rules. Canadian wheat did not escape attack, nor did softwood lumber. The BSE-related border closing has not been resolved either.

It is the opinion of Dairy Farmers of Canada that Canada must make a stronger stand in seeking greater clarification of the trade

disputes on the international scene. Canada must not remain on the fence, hoping for the best. It is simply costing Canadian industries too much. If practices are WTO-inconsistent, it is best to find out now rather than later, while negotiations are still ongoing, so better negotiating positions can be established.

In closing, we would like to table for the subcommittee the case that was prepared by Grey, Clark, and Shih. The legal case and the appended document unfortunately have not been translated into French, and we didn't think we would copy them for everyone here, so we'll just table one copy with the clerk. That is the case we prepared. The clerk can make them available at anyone's request.

Thank you.

• (1540)

**The Chair:** We'll have it on file at the clerk's office, to make it available to anybody in time.

**Mr. Lynn Myers (Kitchener—Wilmot—Wellesley—Woolwich, Lib.):** Mr. Chair, we can get it translated by reading it into the record. Perhaps you could begin now.

**Voices:** Oh, oh!

**The Chair:** We'll have you here for Christmas.

Thank you, Bruce.

On the format, if we all agree, we'll hear from everybody and then go to questions.

From the Canadian Pork Council, who will speak?

Edouard.

[*Translation*]

**Mr. Edouard Asnong (Chair, Trade Actions Reference Group, Canadian Pork Council):** Thank you for inviting us. I think we have a lot to say about the trouble we have with international trade. I will ask our Executive Director Martin Rice to make the presentation.

[*English*]

**Mr. Martin Rice (Executive Director, Canadian Pork Council):** Thank you, and I'll just summarize the presentation we have here.

The pork or hog sector accounts for roughly \$3 billion to \$4 billion of farm cash receipts, and over half of those are derived from export sales. About one quarter of our production is exported as live animals to the United States, and about another quarter, or a bit more, goes into processing and to about 85 different countries in the world—the U.S. being our biggest market, but by no means now our majority market, as it once was.

Over the last 20 years we have been involved in many trade disputes. In trade remedy, or countervail dumping, we had a case about 20 years ago, and then we had a case filed about three days after the Canada-U.S. trade agreement went into effect, and we were then the first to use the dispute settlement provisions of the Canada-U.S. trade agreement, contesting on about three different occasions the results of the case. We've also had experience with trade remedy cases with Australia and New Zealand, plus a number of dealings on technical trade issues, labelling, and animal health product issues, and so on.

We hoped we'd had the last of those trade remedy cases, but earlier this year we had two countervailing and dumping investigations filed against us in the United States. We've had very successful results so far with our countervail case. We've had a zero preliminary result... And we do want to put on the record our compliments to the governments of Canada and the provinces for recognizing and adapting our safety net programs to satisfy the criteria not only of U.S. trade law, but also, in many cases, world trade rules, such that we have been able to get this result of a zero preliminary countervailing rate.

However, on the dumping side, particularly because of the rules of dumping, which have evolved to become very highly skewed to the domestic industry, we have had preliminary dumping margins found of approximately 15%, which is a very punitive duty rate in a commodity business. Fortunately, because of the increased market interdependence between Canada and the U.S., some of that is being shared between the sellers and the buyers; it's not being carried entirely by the sellers. But in March we will get some final results, and although we're confident that we're going to win on the final injury—a final injury has to be established for any permanent duties—we will have gone through eight months of duties and several million dollars of expenses for lawyers and other activities related to this.

So we definitely have a huge interest in finding ways to preclude cases taking place and to limit the opportunities for domestic interests to file trade remedy cases, which are really thinly disguised attempts to restore protection in the absence of tariffs.

We look at ourselves as almost a textbook case of what's supposed to happen after a free trade agreement. Our comparative advantages tend to be in the raising of piglets, because of our animal health advantages and labour costs, and so on, whereas the United States, partly because of the assistance they get in their grain sector for what are probably the most attractive grain prices in North America, have developed a speciality in feeding swine. So we have this situation where we have excelled in what we do. We export more to the United States, where they excel in their area, and their processors also have excelled recently—partly because of their dollar—at exporting more pork around the world and are anxious to access supplies of pigs where they can, both in the United States and Canada.

So those economic factors really led to increased exports from Canada of live swine. But because of their trade remedy laws, I guess, some elements of their industry have been able to launch this case and have succeeded, at least temporarily, in disrupting the trade.

The U.S. by no means is the only practitioner of dumping laws; we know Canada is a practitioner, Europe is, and most developed countries are. But we think the U.S. has really been a bit more creative in terms of legislating and interpreting world codes on dumping and rules in a way that has made it more and more possible for U.S. industry to want to take advantage of these—one notable example being the Byrd Amendment, which itself provides a major incentive to file trade cases.

• (1545)

Governments have had a lot to do with developing these trade rules and, certainly in the area of legislating, how they are made operational, and so we would suggest that governments have a major role to play in finding ways to limit the opportunity to use these.

Our first recommendation would be that Canada pursue within NAFTA what we have with Chile—that is, an exemption within that free trade area of Canada-U.S.-Mexico, an exemption from anti-dumping. We know that was a difficult thing to get anywhere with when the Canada-U.S. trade agreement was starting to be negotiated. Maybe there's a bit more appetite for it in some sectors as we've seen more evidence of U.S. consumer interests and other interests finding that the dumping law really isn't to the total benefit of the U.S. economy and its citizens.

Further to that, we would suggest that, certainly in the agricultural cases, we could exclude cost of production in calculating dumping margins where there is an integrated price market. What we're seeing is dumping cases come up when the prices are low, but the prices aren't low for just us. We're all living with the same market, more or less. What we're suggesting is that where you have a single North American price market, cost of production should be excluded as a reference point, because we all live and die by the same market. We all prosper when it's high, and we all have to bear with it when it's low.

We'd also suggest a longer investigation period. Right now the U.S. looks at just one year. Well, it happens to be that one in every three years is bad in our industry in terms of prices relative to costs, so we would urge that at least something that's more closely related to the production cycle of that industry be used to calculate the cost of production.

As I mentioned before, we were early users of the chapter 19 dispute settlement provisions of NAFTA. We are aware that for lumber and magnesium, and perhaps in other cases, those processes are not operating in as timely a basis as what was intended. They more or less did meet the 10-month objective, which was established in the original trade agreement for our cases, but I know lumber is dragging well beyond perhaps even two years. So we would urge that the government take every opportunity to press the U.S. government to make the chapter 19 dispute process work more like it was intended to, to have a final decision within 10 months.

We are very supportive of the inclusion of live swine on the list of potential retaliation items against the U.S. in connection with the Byrd Amendment.

Our final area would be to suggest that as a result of the closer economic integration in North America as a result of the trade agreements, we're seeing media, public interest groups, and even members of the industries that are involved in these petitions becoming more aware of their being damaged by duties imposed on imports. We have included in our brief some examples of major newspapers that are putting out editorials that reflect sentiments about U.S. trade dumping laws, such as the *Washington Post*, that "The dumping laws are odious at the best of times: They drive prices up for U.S. consumers and destroy jobs in the U.S. industries that are fueled by the imports".

More recently, in connection with our own case, the *Wall Street Journal* did comment on the need to allow farmers to pursue their economic strengths and react to the market as opposed to introducing new taxes. As well, there's a U.S. consumer interest group, Consumers for World Trade, that put out what they call "Blast Fax" to members of Congress, urging that competitively priced imports from Canada are benefiting rather than hurting U.S. consumers.

• (1550)

So we would suggest that members of this committee, governments, and all parties that have an interest in North American trade not wait until there's a trade case launched but take every opportunity to make U.S. users and consumers aware of the importance of imports to their industries. We find that in what we're going through right now there are people who are becoming aware, where they were not aware at all before, of the importance to their being able to operate at full capacity and to meet their export goals of having access to live swine from Canada. So we would look at that as a way that, where Americans feel their interests are damaged, they're much more likely to look kindly at the idea of trying to limit these trade cases happening in the first place.

Thank you.

**The Chair:** Thank you, Mr. Rice.

Now we'll hear from the Canadian Cattlemen for Fair Trade. Mr. Paskal, please.

**Mr. Rick Paskal (Chairman, Canadian Cattlemen for Fair Trade):** Thank you for the opportunity to address this hearing.

My name is Rick Paskal. I'm the chairman of Canadian Cattlemen for Fair Trade. With me today are Jack de Boer, our vice-chair; and Michael Woods, our legal counsel.

The Canadian Cattlemen for Fair Trade has launched a chapter 11 challenge against the United States government and has 122 litigants that are involved in this case: 72 from Alberta, 5 from Saskatchewan, one from Manitoba, 43 from Ontario, and one from Quebec. Jack and I are both feedlot operators in the county of Lethbridge, in an area commonly referred to as "feedlot alley". Mr. de Boers is on the extreme west end, and I'm on the extreme east end.

Feedlot alley is an area 35 miles by 10 miles long. It is home to a 700,000-head feedlot capacity. The investment in this capacity by its operators for feedlot infrastructure alone would be in excess of \$100 million. The investment for land, for the application of manure and growing crops is in excess of \$250 million. The inventory to fill these feedlots would be another investment of approximately \$600

million. This is in one small area of Canada. So we're looking at an investment that is close to \$1 billion.

The cattle industry is Canada's largest single source of farm cash receipts, at approximately \$8 billion a year, and the beef industry contributes \$31 billion a year to the Canadian economy. In Canada, prior to May 20, 2003, we were the third largest exporter of beef in the world.

I'd like to inform this hearing about the significance the export market has on the beef industry. Prior to May 20, 2003, 7 out of every 10 calves born in this country ended up on the plate of an American consumer—6 of them United States consumers, and one of them Mexico—Japan, or Korea. We simply do not have enough population in Canada to consume our production. The availability of the export market is what we've built our business on. The export market is what we've based our land purchases on, our equipment purchases on, our cattle purchases on. The availability of the export market, be it for processed beef in a box or live cattle on the hoof, is paramount to the sustainability or, for that matter, the very survival of the beef industry in Canada.

How can we help ensure that we retain some of our export markets? I have some suggestions for this panel.

We have to have a more flexible trade policy. In the beef industry, government must realize that agencies such as the CFIA must avail themselves of advice from the industry. Re-establishment of the advisory board is a must here. Governments must realize that we have to listen to our consumers, not just Canadian consumers but foreign consumers, in order to service that market. If they require hormone-free beef, BSE-tested-free beef, or certified organic beef, then the industry must be able to provide consumers with that product.

Is there sound science on giving the consumer what he wants? No, but the marketplace operates to a large degree on consumer perception.

Thirdly, we have to recognize the best available science that other countries currently employ and make every attempt to trade with them. A case in point is Japan. They test their cattle for BSE. Their beef is safe to eat. We should be importing beef from Japan.

We have an ongoing deal with our American friends to the south in the Dakotas and Montana in regard to anaplasmosis, their prevalence of anaplasmosis compared to Canadian prevalence of anaplasmosis. It will be a factor that will keep this border closed. It is not enough to close the border, but it is enough to keep it closed. So it is something we have to take action on.

These actions have encouraged radical groups such as R-CALF USA to act against Canadian producers. Ambassador Cellucci, Secretary Veneman, and the National Cattlemen's Beef Association have suggested on many occasions that Canada, the United States, and Mexico must have harmonization in animal health standards and harmonization in our trade rules.

We need our government to act on or utilize existing trade rules to protect the investment of Canadian business people. During these past 18 months, governments have witnessed an unbelievable transfer of equity from farmers, cow-calf operators, feedlot producers, and feedlot operators to three or four slaughterhouses in this country. The packers have done nothing wrong. They're doing what governments permit them to do. Our shortfall in income, or a portion of it, was supplemented to the beef industry by the taxpayers of this country. Our industry is extremely grateful to the taxpayers of this country, but what has happened here, and what is continuing to happen, is wrong.

● (1555)

Our industry invested heavily in the strength of the North American Free Trade Agreement. I don't understand why or how government turned their heads on our investment. They could have at least registered a formal complaint with the Americans, with the tools available to them, through the NAFTA or the WTO.

What's going to happen next time? We need to have better relationships, better relations, with our trading partners. I believe our government, you MPs sitting here today, must do a better job advocating Canadian interests with our biggest trading partner.

I would like to see this committee travel to Washington, D.C., or host a similar committee in Ottawa of United States congressmen or senators, and sit down, on a semi-annual basis, and discuss issues of the day. Urban MPs must recognize the importance of trade to rural communities across Canada. Some MPs' grandstanding and comments about my American friends, who are my business partners, have cost my industry dearly. I suggest to you that must stop.

This committee must initiate a review of the dispute settling mechanisms of NAFTA, or even WTO. The financial encumbrances placed upon investors who choose to go that route means that any challenge must be well financed, and the investors extremely convinced to see these challenges through. In layman terms, these challenges require a team of high-priced lawyers who in many cases—and not our case—have no regard for time, because the dispute settling mechanism has no regard for time. Meanwhile, Rome burns. These challenges must take no longer than six months, or industries and governments will continue to hide behind what is fast becoming an artificial trade barrier.

Next, we have to limit offshore imports to Canada's WTO commitment. This has nothing to do with trade, but we need more slaughter capacity in Canada, financed by governments.

Finally, just for a point of interest, American investors are looking to buy our industry in western Canada. They're not worried about BSE as being a food safety issue. It's not a food safety issue. What they're concerned about right now is that if they invest in here, the Government of Canada is going to treat them, as investors, as the current investors got treated. When that bridge gets crossed, so they know where they stand in regard to especially this BSE situation, then we'll see comfort in investments in this country again.

Thank you.

● (1600)

**The Chair:** Thank you, Mr. Paskal.

Next, we'll hear from the Canadian Agri-Food Trade Alliance. Who will speak?

**Mr. Liam McCreery (President, Canadian Agri-Food Trade Alliance):** Thank you, Mr. Chair.

Thank you, honourable members, for allowing CAFTA to present today. My name is Liam McCreery. I'm a grain and oilseed producer in southern Ontario and I'm president of the Canadian Agri-Food Trade Alliance.

We do have a presentation. We will submit it to the clerk. We will make sure every member here and everyone on the committee has this. It's smaller than yours, Barry. We will make sure everyone has it, and in the essence of time, we will just give a quick synopsis.

Our submission today will be in three parts: first, a brief overview of CAFTA and its members, goals, and objectives. We will do a quick review of the trade issues that affect CAFTA's members with the U.S. Sandra Marsden, who is here on behalf of the Canadian Sugar Institute, will talk about the Canadian Sugar Institute's experiences with actual dispute settlement mechanisms.

What is CAFTA? The Canadian Agri-Food Trade Alliance was formed in 2001 to support and promote trade liberalization for its members. We represent the two largest primary production sectors in Canada, the grain and oilseed sector through the Grain Growers of Canada, and the beef sector with the membership of the Canadian Cattlemen's Association. With these two groups we represent over 180,000 farm families. To put it in perspective, there are about 250,000 farm families in Canada. Obviously we are the majority.

We always have to remember when it comes to agriculture that over 50% of our production does cross our great borders and 90% of our producers in Canada have the prices they receive for the product determined in international markets.

Our membership also includes a large cross-section of the primary processing industry, including oilseed processing, maltsters, meat processors, sugar processors, and the consumer product sector as well. At the other end of the supply chain, we have representation from the feed, seed, and crop protection sectors. CAFTA is the only trade policy advocacy group in Canada that represents the entire food chain—or supply chain. Food chain I suppose works too.

When we talk about trading with the United States, let's remember a couple of highlights. Since the implementation of the Canada-U.S. trade agreement, agricultural trade between our two great countries has grown by over 82%, reaching a two-way trade of \$25 billion. Canadian exports have almost doubled to over \$14 billion. Right now we do enjoy a \$3 billion trade surplus with the United States of America.

Let's also point out that right now the United States is our largest market and we are the United States' largest market. Obviously trade in agriculture and agrifood is vital to both countries.

For the most part, trade between Canada and the U.S. has been harmonious. However, there are some very notable exceptions. In the cattle and beef industry trade between our two countries has never been easy. Even before the single case of BSE back in May 2003—and we emphasize “single case”—there have been issues that we have had to deal with with the United States.

The Canadian Cattlemen's Association feels that this could be improved by harmonization of standards to help facilitate an integrated market and amendments to anti-dumping and the definition of anti-dump, to narrow the definition specifically to address predatory price discrimination. Of course, the CCA is also after a successful resolution to the BSE crisis and the border opening up.

In the grain and oilseed sector, we need to look at the anti-dumping. As was mentioned earlier in reference to the cost of production, there are natural cycles of supply and demand where prices will drop, lowering the cost of production. That's no reason to impose anti-dumping. That has to do with market forces.

We also must continue to go after the huge trade-distorting support that the U.S. gives its producers. In 2001 the U.S. notified the World Trade Organization it provided over \$14 billion U.S. in trade-distorting support to its producers, with \$5.5 billion going to the grain and oilseed sector. Those are pretty amazing numbers. That's half the size of our entire industry, and that's just in trade-distorting subsidies.

For the value-added sector, we must continue to strive to obtain mutual recognition of regulatory systems to meet the overall goal of free and open trade.

Many of our goals and objectives in trade with the U.S. can be met through the World Trade Organization negotiations. CAFTA urges this committee to devote substantial time and resources in efforts to achieve an ambitious trade liberalization agreement at the WTO. Canada is a trading nation. Some 43% of our gross domestic product comes from the trade in the international markets, and it's over 50% for the agriculture and agri-food sector.

• (1605)

With that, Mr. Chair, I'm going to turn it over to Sandra Marsden of the Canadian Sugar Institute.

**Ms. Sandra Marsden (Member, Board of Directors, Canadian Agri-Food Trade Alliance):** Thank you, Liam.

I'm here as a member of the Canadian Agri-Food Trade Alliance as well as representing the Canadian Sugar Institute. We are processors of Canadian-produced sugar beets and importers of raw cane sugar, largely imported from developing countries.

We're highly dependent on international trade from both an import and export perspective. Most of the refined sugar in Canada is produced from raw cane sugar, which is an import, and we have very limited exports of refined sugar given restrictive trade rules in the United States, in particular, and other countries. We depend on exports of value-added products, sugar-containing food products, those products at least that are not captured by quotas.

We support clear rules and the accompanying dispute settlement mechanisms that are necessary to defend Canada's rights under regional and global trade agreements.

Unfortunately, sugar is one of those products, commodities, that has largely escaped trade liberalization, so we face a very complex set of rules when we look to the United States. With respect to the NAFTA, we have been involved in a number of trade disputes, both from the export perspective and the import perspective.

Because the U.S. has successively restricted our exports of both refined sugar and sugar-containing food products, we have had to request that the Government of Canada invoke the dispute settlement process. While those cases have not proceeded to a panel, they have been absolutely essential to reaching a negotiated solution, at least in the interim until we see more liberalized trade.

Today we have a bilateral understanding with the United States that governs some of our trade in refined sugar and sugar-containing food products. Essentially, trade is open to Canada and managed with respect to the United States.

On the import side we've invoked the chapter 19 dispute settlement process and we've had to seek anti-dumping protection with respect to refined sugar imports. That's because we operate under world market conditions, at a world market price, whereas our U.S. neighbours have a high domestic price, which of course supports surplus production and its disposal of that surplus in our market.

Those exports are further distorted by their re-export programs for both refined sugar and sugar-containing food products. We have to monitor this and request that our government look to those mechanisms to respond to those problems.

Our view is that the best way to resolve these trade issues is through trade liberalization so that the rules become less complex and that trade is more manageable. We are very different from, say, the cattle industry, where trade is very open. We essentially face a one-way market in the direction of Canada. So as long as those rules are in place to support this managed-trade environment, then effective dispute settlement is fundamental.

With respect to chapter 19, which applies to anti-dumping and countervailing disputes, of course we would support that as a mechanism for appeal of national decisions, and we believe that Canada must do everything in its power to maintain the integrity of that system.

As far as chapter 20 dispute settlement is concerned, which has to do with the general rules of trade agreements such as the NAFTA, again we believe Canada should support that, which Canada does. A current example would be that right now the NAFTA parties have been unable to agree to a roster of panellists, and this can slow the process and can actually prevent a country such as Canada from having a panel established. So certainly that must be expedited to protect Canada's interests.



Finally, in the context of the WTO, Canada must continue its efforts, which are underway, to fine-tune the dispute settlement mechanism. Clearly there are problems with efficiency and timing, initiation, and Canada must also be willing to exert its rights, such as in the Byrd Amendment, when other parties failed to abide by WTO or NAFTA panel decisions.

Thank you.

• (1610)

**The Chair:** Thank you, Ms. Marsden.

We'll go to the Canadian Wheat Board. Who will speak?

Mr. Jarjour.

**Mr. Victor Jarjour (Vice-President, Strategic Planning and Corporate Policy, Canadian Wheat Board):** Thank you, Mr. Chairman.

We also have a presentation that we will leave with the clerk.

[*Translation*]

Unfortunately, the appendix was not translated. We will send it to you as soon as possible.

[*English*]

I'll limit our comments primarily to NAFTA trade disputes and the avoidance of future trade disputes, particularly with the United States.

The United States has been a very stable market for the Canadian Wheat Board. It buys about 1.5 million tonnes of wheat and durum annually, or at least had purchased about that much wheat and durum. It's a premium market for western Canadian wheat producers. The American millers have shown a considerable interest in top quality grain that's normally produced in western Canada.

We have, and should have, unfettered access to the American market. That right was negotiated under the Canada-U.S. trade agreement, but instead we've been forced to fight for access to that market almost every year. At the moment we are shut out of the hard red spring wheat market because of countervail duty and anti-dumping tariffs.

The Canadian Wheat Board has been investigated about 13 times in the past 10 or 12 years. That is harassment, Mr. Chairman, and it has but one purpose, and that is to impede the flow of western Canadian wheat and durum into the United States. In other words, it's designed to appease U.S. protectionist interests.

Our key point today, and one that was made also by the Canadian Pork Council, focuses on anti-dumping rules and, in particular, the use of cost of production in determining dumping margins. We believe that's a significant barrier to dispute settlement. We have first-hand experience. In 2002 a group in the north interior United States, led primarily by the North Dakota Wheat Commission, launched anti-dumping and countervail duty cases against imports of hard red spring wheat and durum. At the conclusion of the case in the fall of 2003, the U.S. Department of Commerce determined that dumping of Canadian spring wheat and durum into the U.S. had occurred, and with spring wheat a cost of production approach was used. They examined the detailed cost of 25 prairie wheat farmers

and averaged those costs over 55,000 farmers. In the final analysis, no tariff was imposed on durum, but a tariff of over 14% is being maintained on hard red spring wheat.

As I mentioned, that outcome was largely determined by the methodology in terms of cost of production. Cost of production simply does not make sense in the agriculture sector, particularly in grain production. Costs are often known well before prices are determined. Grades are dependent on weather. Grades determine the value of a crop. Ultimately, input costs do not vary by grade. Global grain prices—grain prices are determined by markets—may mean that sales are unavoidably made at below cost because the farmer is compelled to sell in order to make a living. This should not translate into dumping.

Over and above all this, Canadian wheat and durum almost always sell to the U.S. at prices that are higher than the equivalent American wheat and durum. Independent studies by U.S. government agencies themselves have confirmed that to be the case.

We are currently appealing the spring wheat case to a NAFTA panel and we are confident of having the tariff on spring wheat removed. However, in the interim, Canadian farmers have lost access to the U.S. market for more than two years. They've also been forced to spend millions of dollars defending these challenges. Canada must pursue improved anti-dumping rules in the WTO negotiations, rules that make sense for agriculture and that do not unfairly penalize farmers.

With respect to avoiding trade disputes with the United States, clearly, as I mentioned earlier, these are rooted in protectionist sentiment and motivated by political agendas. They reflect the lack of spirit of free trade, and in particular, a certain American constituency, which seems to be based primarily in North Dakota, has ensured that its politicians make careers on protectionist sentiment. Fundamentally, that protectionism is aimed at a commodity and not at a marketing system, but this is the climate that we've been facing in the United States. I should add that U.S. millers have been very supportive of access to Canadian wheat and durum, and have worked very closely with the Canadian Wheat Board in fighting these investigations.

• (1615)

But how do we avoid these challenges in the future? It's a tough question for us because we don't start these fights. We're at the receiving end. But what we have found is the importance of ensuring that these decisions ought to be based on facts rather than myths and that we have to address the political motivations that underlie these efforts.

We have been spending a fair bit of time meeting with U.S. farm groups in the wheat producing regions. We feel that by establishing a better understanding of the Canadian system, in many cases using information that's been gathered by the trade investigations of U.S. institutions themselves, demonstrating that we are a fair trader, that our interest is not in undercutting the market but in extracting premiums from the market, and in focusing on the common issues that face farmers in both Canada and the U.S., we can hope to build relationships with U.S. farm groups and minimize further trade disputes.

On a final point, and this focuses more in terms of the World Trade Organization and echoes a point that the Dairy Farmers of Canada have also made, the U.S. launched a WTO case against Canada that focused almost exclusively on the Canadian Wheat Board. Those U.S. allegations were unequivocally dismissed by both the WTO panel and the subsequent appellate body. The CWB worked very closely with government officials and we were very pleased with the cooperation. However there are some process concerns, and I think this is the point the Dairy Farmers of Canada made.

This was a case that posed a very serious threat to the Canadian Wheat Board, yet our representatives were not allowed into the hearing room at WTO headquarters. Instead we waited outside the room, available to be consulted by our Canadian officials. Our understanding is that government policy dictates that only government officials should be present. We believe this policy should be changed.

To conclude, the CWB's experience with ongoing U.S. trade harassment has raised serious concerns about the fairness of trade rules, and in particular the inappropriateness of anti-dumping rules. Vested American interests cannot be allowed to succeed in their political and commercial agendas to dictate the way Canadian commodities are marketed. The best hope for the future lies in building workable relationships with American farmers and farm groups who represent the source of the political pressure on Canadian wheat and durum imports into the U.S.

Thank you, Mr. Chair.

• (1620)

**The Chair:** Thank you very much, Mr. Jarjour.

We'll go to the Canadian Federation of Agriculture.

**Mr. Bob Friesen (President, Canadian Federation of Agriculture):** Thank you very much, Mr. Chair.

I'm here representing the farm gate industry from across Canada. We're a federation of organizations. We have as members general provincial farm organizations out of every province as well as numerous national commodity organizations. I'm pleased to have two of our members here: the Dairy Farmers of Canada and the Canadian Pork Council.

We represent a farm gate industry that really starts the process in generating \$130 billion of revenue to the Canadian economy every year. Of course, we ultimately initiate an industry that exports around \$24 billion worth of agrifood products. So the importance of exports and the development of our export market is undisputed.

Unfortunately, that has also brought us under a lot of attack. It has resulted in other countries, especially the U.S., attacking not only our domestic policies in our country, but also our export interests for no other reason, in many cases, than the fact that we out-compete them. That really, of course, undermines our ability to have a profitable and effective export industry at certain times and in certain circumstances.

Farmers have enough with an environment where they have to live with distorted markets, devalued prices, etc., without having to work within trade rules that include a flawed dispute settlement

mechanism and/or misuse of trade remedy measures. In fact, as a matter of interest, in regard to the trade dispute mechanism at the WTO, it is inappropriate for a dispute mechanism to actually set the rules or interpret rules for an agreement that has been negotiated through consensus. We need much clearer rules, and of course we need more equitable rules.

But certainly, the misuse of trade remedies is the question of the day here in this committee, as well as how we can improve the NAFTA trade dispute settlement.

Of course, when we talk about countervail, anti-dumping, and safeguard measures, it is a somewhat double-edged sword, because some of our Canadian sectors use it. At the same time, we experience an awful lot of misuse that is directed against our industries. It's interesting that the more certain countries are willing to talk about trade liberalization, the more they seem to be looking at ways to impede market access, not only through SPS issues, but also through the misuse of trade remedy measures.

To keep my comments brief, we have a suggestion that we think might help to curb some of the abuse or misuse of trade remedy measures. Just to be clear how this works, in the U.S., for example, when an organization decides to initiate trade action, they simply bring it in front of their Department of Commerce and the International Trade Commission. After the specific departments have decided that in fact they are going to go ahead with trade action, no further costs are incurred by the original organization. From then on, the costs are covered by the state.

So it's very easy for an organization of standing to initiate a trade action. Of course, this is obvious, and Victor already mentioned the numerous challenges against the Canadian Wheat Board.

With some of the other challenges we have, whether it's a tariff on wheat or anti-dumping on hogs, etc., it's very simple for them to initiate trade action. The action against the Canadian Wheat Board is a discussion for another day, but what disturbs us about how simple it is already is the Byrd Amendment, which could actually create an incentive for an organization to push for trade action, because now the benefits of whatever tariff was imposed would accrue to the organization of standing. Of course, we need to absolutely retaliate against the Byrd Amendment and use whatever tools we have within the decisions that have been made at the WTO.

As I mentioned, it's very simple for an organization to initiate trade action after the initial process is done, and the state covers the cost. At the same time, our defence has to be covered either by our government or by industry. In the case of countervail, of course, because that's a challenge against government programs, our government at least pays for part of the defence, although the industry always gets involved as well and incurs a lot of costs on its own.

•(1625)

But in the case of an anti-dump, because it's a result of decisions that the industry has made, the costs are borne solely by the industry. Not only are they borne by the industry, they are borne by the industry even when we win the case. And that is the disturbing part of this. Not only do we incur the cost as we go through the process and the tariff is imposed, but we also incur a lot of costs when we defend our case. And as I said earlier, even if we win, we still have to pay for those costs.

As Victor already said, when it comes to anti-dumping and the calculation of cost of production, we may be guilty of nothing more than selling our products for exactly the same price as the American farmer received, yet we see that they initiate action against us.

Our very simple suggestion to try to curb the misuse of these trade actions is that if the country or the organization that initiates the action, say for example the U.S., actually ends up losing the case, they should be responsible for paying for the costs of defending. So for example, in the countervail and anti-dumping in the cattle industry a few years ago and in the current case on anti-dumping in exporting live hogs, if for example we spend \$5 million defending the case and we win, then either the organization or the country that initiated the trade action should be responsible for covering those costs. That would take away the incentive of an organization to just frivolously initiate a trade action.

A few years ago I was at a NAFTA farm leaders' meeting and I talked to a gentleman from NPPC. He informed me that they were planning to do some sort of action against Canadian hogs. They hadn't quite figured out yet what their justification would be. I asked him why he would even want to initiate trade action, and he said for no other reason than that the Canadian industry had expanded and theirs had remained static.

That's inexcusable. If it's that easy for them to initiate a trade action and then have their state or government pay for the rest of the cost, only to have us spend millions of dollars in defence, they should be accountable. We would suggest that written into the rules should be that if the country that initiates the action ends up losing, they should be responsible to pay for the cost of defence.

Thank you very much, Mr. Chairman.

**The Chair:** Thank you, Mr. Friesen.

He who loses should pay. It only makes sense.

We'll go to questioning, and I would ask that we be aware that it is 10 minutes for questions and answers in total.

•(1630)

**Mr. Rick Casson (Lethbridge, CPC):** Thank you all very much for your presentations. I think you brought forward some pretty good ideas, certainly the one where cost of production has to be addressed. I point out the fact that some of the figures we've seen for last year's agricultural production in Canada show that the entire industry lost money. The cost of production is more than what you get back in revenue, and that's a fact. That is something that I think really needs to be highlighted.

I have a couple of specific things.

Mr. Paskal, your industry faced a challenge by the U.S. similar to what's happened to others. I would like you to comment on what you were put through at that time, how it progressed, and how it ended up.

**Mr. Rick Paskal:** Yes, we were subject to the same anti-dumping and countervail actions by the American R-CALF group. We didn't have quite a zero rating on our countervail, but it was below the threshold, so to speak, and for the anti-dumping things we had a claim against us of, I think, approximately 5%. But it didn't do any harm to their industry, so we won our case.

These gentlemen's comments today are very credible. The tactics these people employ are just tactics to impede commerce. I really like the suggestion of Mr. Friesen on letting these guys put a little bit of money where their mouths are now. Let them incur a little bit of liability. I think some of these challenges just wouldn't happen.

**Mr. Rick Casson:** No. I understand that for the challenge your organization, the Canadian Cattlemen for Fair Trade, has brought forward, there's no government involvement. This is on your hook.

**Mr. Rick Paskal:** That's right, yes. We have a budget for the 122 litigants. We're bankrolling this on our own right now. If we lose, we have to pay our costs, or our share of the cost, I believe. There are some precedents set there.

Michael, is that right?

If we win, we don't bear costs. I think that's indicative of law. For most civil cases and stuff, the loser pays.

**Mr. Rick Casson:** I'd like to address my next question to the Dairy Farmers. In your brief, you have a statement saying that you'd like to see the Canadian government get off the fence. Was it you who said that Canada must not remain on the fence, hoping for the best? What kind of message are you trying to send to the government? Do you want them to stiffen it a little and become tougher at what they're doing under the rules that presently exist, or do we have to be more aggressive in creating fairer rules?

Could you comment on that?

**Mr. Bruce Saunders:** There are two or three answers.

First, in regard to stiffening it, if you will, there's a case on irrigation in the United States right now. If the United States was challenged on irrigation, even though it may be a green program, the Canadian position at our trade negotiations, as I understand it, is that there should be a cap on the green box as well as all the other boxes.

If you were to put into dollars the subsidies involved that actually accrue to farmers through irrigation, even though they may be green, the number would be astronomical. It would draw everyone's focus to how many dollars are actually in this green box. It would lend credence to the fact that we're saying you should cap it somehow.

We're saying that in order to set yourself up and put yourself in a position of power in this next round and have some credibility, there are opportunities to actually do it. As far as losing goodwill with the United States goes, I dare say that I don't know whether there's too much left to lose. Let's see what's there to make a case for Canada that we're stronger on.

**Mr. Rick Casson:** Mr. Paskal, you also mentioned that there are Americans presently circling like vultures at the feedlot alley in southern Alberta. The industry has been driven to its knees. They have lots of money because they've had good times in the last year and a half. Our producers are facing an astounding loss of equity. There's no leverage left.

I'm asking for your opinion. Is it part of the tactic in your mind that they create a challenge, drive the industry to its knees, and then come here to buy it? Does this look like the scenario that we're following here?

• (1635)

**Mr. Rick Paskal:** Well, first and foremost, this is not a food safety issue. This is all politics. Americans have been in our country buying feeder cattle, sometimes at half the price based on their market, which is the market that we've always enjoyed relative to a basis. A basis is less freight. This has been a very good hedge for them to come to this country and participate in the feeder cattle thing, thinking that the border is going to open at some point in time.

They've enjoyed tremendous profit in their country, due in large part to the herd being current, but also due in large part to no imports from Canada. They are coming to this country. There's one operation that is subject to cabinet approval in Alberta, and they will be investing heavily in this country.

Is that bad? It's going to put a floor on calf prices. For the producers selling calves, it's great, but we're the ones who initially invested in this industry. I have a problem with that.

**Mr. Rick Casson:** On the point that you made, I think it might apply to many around this table. I don't know who would like to comment on it.

Industries were built under the rules that existed with the confidence that the NAFTA agreements would protect the investment that all of you have made in agriculture in this country. When that protection doesn't seem to be there, and we don't have strong rules-based trade, then our entire industry is susceptible, not only cattle.

It seems to me that our government is not doing the right thing and is not standing up strongly enough to protect the investment that has occurred under the assumption made by people who did the investing that they were protected by the rules that existed.

I don't know, Mr. Chairman, that may be more of a statement than a question.

**Mr. Rick Paskal:** Mr. Casson, if I could, I'll just reply to that.

We have rules; there are rules out there. The most prestigious educational institution in the world, probably, Harvard University, has suggested that Canadian beef is safe. Under their WTO commitment the U.S. had to do a risk assessment and they did the risk assessment. Those people told Secretary Veneman back in August 2003 that Canadian beef is safe, so they're in clear violation of the WTO agreement.

The problem with this country is that we don't want to act on the trade rules we have when we're in a position to act on them. We must take a more aggressive stance for our trade rights in this country.

**The Chair:** Mr. Rice.

**Mr. Martin Rice:** I think the crucial point here is that the trade agreement was to create a sense of confidence through having a much larger market to work with than just our domestic market. We were looking at a market of 280 million or 300 million rather than just 30 million, and businesses could make investment decisions based on expectations of having access to those markets and just competing on the basis of economic competitiveness. The dumping cases are essentially a safeguard provision such that when members of this trading relationship don't like it any more, they can resort to those dumping laws and find a base on which to create an impediment to those exports.

**The Chair:** Thank you.

We'll go to Monsieur Paquette.

[Translation]

**Mr. Pierre Paquette (Joliette, BQ):** First, I want to ask the witnesses to excuse me for going in and out of the subcommittee room. The government has just announced its "help package" to the textile and apparel industry. I had to react very quickly.

The issues mentioned in the briefs are well-known to me. Yesterday I was attending a meeting of the Union des Producteurs Agricoles on the whole range of problems of international trade. It was very instructive.

I do not know the Canadian Wheat Board as well, so I will read their brief very carefully.

For some time now, there has been a lot of criticism, as witnessed by the reports from the dairy and pork producers, of the Canadian low profile strategy of the last few years. We did not wish to displease our neighbours to the South although ultimately—and this is your own conclusion—this strategy did not help us win on the dispute settlement front.

The daily producers' report mentions the fact that Brazil challenged some US practices regarding cotton at the WTO. This helped Brazilians to better position themselves for negotiating at the WTO.

The Canadian government—and this is more obvious in the dairy field, as you mentioned in the cases you have reviewed—does not challenge US, Australia and New Zealand's practices, even if these countries are always criticizing Canada's export subsidies for milk. Doesn't this situation make Canada look like the bad guy on the international scene?

Our export subsidies for milk have been denounced, so we decided to stop exporting milk or to put an end to the methods we were using. Australia, New Zealand and the US say they have nothing to be ashamed of and that their practices are perfectly proper since they haven't been challenged. Won't this humble attitude which Canada is taking to avoid irritating our neighbours to the South be ultimately harmful? We have no arguments to advance internationally when negotiations at the WTO become difficult. We have no evidence to submit about US and New Zealand's trade practices, particularly in the agricultural field.

Wouldn't it be in our interest to prepare our case before negotiating at the WTO and to submit more challenges? I don't think we should practice the kind of trade harassment that's being imposed on us in the case of softwood lumber and other areas, but the Canadian government should complain when it has good reason to do so and let the WTO panels decide. We should prepare our case. It's the same thing for negotiations at the WTO and NAFTA. We should be able to say that there are practices to be changed. For the time being, Canadians are the only bad guys.

I would like all groups to comment on these views which I feel many are starting to share.

I will have another question if there's enough time left.

●(1640)

[English]

**Mr. Bruce Saunders:** Thank you.

I'd just like to reiterate that we do think Canada should be more active in the trade challenge arena. Look at Brazil, which challenged the United States on cotton and the EU on sugar. It did not seem to destroy their image with either of those. When WTO talks were going on last July and they had their P5 or whatever, Brazil was one of the countries that was asked to be part of it by America and the European Union. It didn't get them ostracized; it put them front and centre. So I don't think we should be afraid of being the bad guys by making challenges. Every other country seems to like to do it.

One of the problems I have with this whole process is that once you have been found guilty for your practice in front of a panel, the only country that actually has to address the guilt is the guilty country. Any other country in the world that's doing exactly the same practice can continue to do it until somebody else challenges them. Brazil used our precedent to go forward on cotton and sugar, but if there was a sister to Canada someplace that had exactly the same program, they would not have to change anything until somebody challenged them. There seems to be some inequity in that whole process as well.

**The Chair:** You have about four minutes. Perhaps we can start summarizing quickly.

**Mr. Victor Jarjour:** I'll be fairly quick.

I think one of the differences we've noticed with respect to the Canadian government's approach relative to the U.S. approach is that the Canadian government wants a slam dunk win. It wants to be assured that it's going to win if it launches a case. I don't think the U.S. really cares whether they win or not. The intent is to create uncertainty in the marketplace and to impede trade. If they win it's just a bonus. We knew when the Americans launched the WTO case against the Canadian Wheat Board that it was a weak case, but that didn't prevent them.

The other point, though, is that they not only rely on the formal dispute resolution mechanisms for cases in NAFTA or the WTO, they will also resort to launching all sorts of other investigations by a host of other government agencies. Again, all of that is intended to create uncertainty about your continued access to the market and to change the attitude of buyers in the United States, to perhaps make them look elsewhere. It's very much harassment.

●(1645)

**The Chair:** Mr. McCreery.

**Mr. Liam McCreery:** Thank you, Mr. Chair.

I agree, Canada should take a strong leadership role at the WTO. Trade is so incredibly important to Canada and Canadian agriculture that Canada has to be at the leading edge, not only in going after a better dispute settlement mechanism but in going after other impediments to trade. If we're trying to export to Norway and the tariffs are 700%, it doesn't matter if there's the best dispute mechanism in the world to deal with how you handle that tariff. The issue is the tariff.

We're here, Mr. Chair, to talk about the DSM, but there are other issues as well and we have to always keep that in mind. We're not going to Geneva to discuss how we implement the current rules in order to make sure their people are adhering to where we are today. The rules for tomorrow have to be stricter in constraining governments' ability to distort markets with subsidies and tariffs.

**Mr. Bob Friesen:** I certainly agree. One of the things we keep telling our government is that they have to make sure they have allocated enough human resources as well as monetary resources not only in order to defend us against trade action and to prepare us to take our own trade action but also to do a lot of international work in building alliances and to negotiate very vigorously at the WTO.

Canada is in an excellent position at the WTO, an aggressive position, one that could secure much better market access for exporters while at the same time maintaining our import-sensitive industries. We have to negotiate vigorously and make sure, where we have shown constraint and where we have in fact led by example, that Canada is recognized for it—other countries that have done the same thing are recognized for it—and that any agreement results in an equitable application of fair trade rules.

[Translation]

**Mr. Yves Leduc (Director, International Trade, Dairy Farmers of Canada):** I would simply like to add a comment in response to Mr. Paquette's question. You were asking if Canada looks like the bad guy on the international scene. I would ask the question differently. Isn't Canada projecting internationally the image of a much too nice guy?

Canada has rights that are recognized in international agreements. We are not claiming these rights either by challenging some countries' trade practices before dispute settlement tribunals at the WTO or NAFTA—we left some documents on this with the clerk of the committee—or by strengthening border measures that Canada is entitled to put in place under international agreements like those of the WTO. We have repeatedly asked the government to strengthen border measures in order to protect our dairy supply management system under section 28. Section 28 allows Canada to do so.

[English]

**The Chair:** Thank you, Mr. Leduc.

Monsieur Paquette.

[Translation]

**Mr. Pierre Paquette:** The WTO negotiator mandate will expire soon, probably in February or March. Shouldn't the subcommittee invite the minister and the officials working on this mandate so we can have an idea of the guidelines provided to the WTO negotiator?

Some time ago, we saw a document which was supposed to be the supply management mandate. It said that supply management could be dropped in exchange for a reduction in subsidies. Mr. Pettigrew told us it was only a draft mandate among others, but we still don't know what exactly is the WTO negotiator mandate. Shouldn't we have a more transparent approach with regard to the negotiator mandate? We certainly know it's not possible to go into details that would reveal our strategy to our trade partners. But we can surely talk about a number of guidelines and principles that the negotiator uses as a guide. This is an idea I want to talk to you about before submitting it to the committee.

• (1650)

[English]

**The Chair:** We'll get one quick response and then go to Madam Jennings, because we're running short of time.

[Translation]

**Mr. Pierre Paquette:** Marlene will no doubt ask the same question.

[English]

**The Chair:** Is there a quick response? Monsieur Paquette, I think that was mostly a comment. Do you want a response from somebody specifically?

[Translation]

**Hon. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.):** This is the non-answer.

**Mr. Pierre Paquette:** This was so obvious that they all nodded in agreement.

[English]

**The Chair:** Bob.

**Mr. Bob Friesen:** If the suggestion was for this committee to hold hearings on the WTO negotiations and Canada's position, we would absolutely welcome outlining our position in support of the government negotiations, and where we believe we have a very strong position.

**The Chair:** Liam.

**Mr. Liam McCreery:** Canada does have an initial negotiating position. We've heard no indication they've moved off that. Where they're going to move to in the future we don't know, but there's no indication they've moved off their initial negotiating position yet.

**The Chair:** All right. Thank you.

We'll go to Madam Jennings.

[Translation]

**Hon. Marlene Jennings:** Thank you, Mr. Chair. Thank you all for your presentations which were quite interesting.

Mr. Friesen, you have raised a point I want to turn back to.

[English]

Believe me, when you said the losing party should have to pay the legal cost of the winning party... I'm a lawyer, and that's music to my ears.

We had a hearing with the Minister of International Trade on Tuesday, December 7, and really interesting questions were asked of the minister by each of the members of this committee. You might want to look at that, because there was a series of proposals made to the minister as to the kinds of lessons we should take as being learned from chapter 11—just on that piece—on our relationship with the United States, and how there's harassment, abuse of procedure, and protectionism. They're using it as unfair competitive advantage against our industry, whether it's the pork industry, the milk industry, the softwood lumber industry, the live cattle industry, the sugar industry—you name it. We're better than they are and we're doing a better job than they are, therefore they're using the weaknesses in the NAFTA and chapter 19.

I have a couple of suggestions. You don't have to respond now; you can always send it in writing.

First, the decisions of the panels under chapter 19 should actually be binding and create precedence.

Second, any party who wished to bring a complaint would have to table... If a United States department decided to proceed, they would take over all of the legal costs. They would have to make a significant deposit, not with their government, but with the panel, if it went forward. A preliminary decision by their department would not trigger any kind of duties; it would take a final decision to trigger duties. Not only would legal costs—if they lost—be adjudicated to the winning party, but you could have interest and penalties on top of that. As well, if there were evidence of harassment or abuse—what I would call frivolous and vexatious complaints being brought forward—on the face of it, the panel could say it was a frivolous and vexatious complaint, and actually fine the offending party.

These are principles that one finds in administrative law, and whether you're talking about labour law, or whatever, you find them constantly. You can also see them in civil law in Quebec. Pierre would testify that's also the case. I do not see why we Canadians do not bring these principles to any negotiation amending NAFTA, and bring them to the world scene—to the World Trade Organization. I don't see why we aren't bringing these kinds of notions.

They're tried and true. They act as brakes. It means that if somebody wants to bring a complaint, they'd better be damn sure they have solid evidence there. I think the sugar industry wouldn't have a problem with that, because you wouldn't bring a complaint against the Americans unless you were sure there were illegal practices, unfair practices, going on with your competitors in the States. From what you've said you've won your cases, so it wouldn't be a brake on you.

I'd like to hear what you have to say about this, because it was really interesting to hear what the Minister of International Trade thought. He seemed to think they were excellent suggestions. So let's go.

•(1655)

**Ms. Sandra Marsden:** I agree with most of what you've said, because we do—

**Hon. Marlene Jennings:** Let me just interrupt on one thing: the panel remanding back to the country, and if they don't follow the instructions it can be remanded back two and three times. I say the panel should remand once, and if the country doesn't follow the instructions in terms of the calculations, the panel should do the calculations, and it would become binding.

Sorry.

**Ms. Sandra Marsden:** I won't comment on the specifics from a legal point of view, but here are just a couple of points.

Concerning the legal costs going to the winning party, if we were the winning party, that would be great. I'm not sure whether that could be negotiated with the Americans.

The other problem is that often complaints are brought against multiple countries, multiple points of origin, so it could be very complex. I don't oppose that suggestion from a domestic point of view.

I absolutely agree concerning the notion of frivolous complaints. Our suggestion—and I think Canada has pursued this to some degree—is looking at firming up those initiation standards, making the threshold higher so that the industries don't face this harassment. This would not hurt us, because our cases have been very solid. We face a very different situation, where we have highly distorted prices from a very protected market.

On the suggestion of a preliminary decision not tripping duties, that would be one thing we wouldn't agree with, because if that didn't happen, what you would see would be huge impacts over a six-month period that could be absolutely devastating to a domestic industry. Both the exporters and the importers would be aware that duties would be coming into place in six months' time, which would give them this huge window to bring great harm to the industry.

Our view would be that the focus should be on the initiation standards, making them more like the injury standards, which are much higher than the straight initiation of dumping duties.

Those are my comments.

**Mr. Victor Jarjour:** I think generally we would be very supportive of raising the bar concerning how these trade remedy mechanisms can be triggered—but not just trade remedies. I made the point earlier that if you go back to 1990 there are various investigations with respect to Canadian wheat exports into the United States. We have that long history. Anything that raised the bar on initiating those kinds of activities would be helpful. We shouldn't forget, though, that there are negotiations. The WTO negotiations on agriculture receive a lot of press. It's out there.

If you are going to invite the Minister of International Trade to this committee, then perhaps you should also ask what's happening with negotiations with respect to trade remedy rules, because they are on the table, but we hear very little about what the Canadian position is. We hear very little about the state of that negotiation. I think if there's going to be progress in wrestling these things, that's where your suggestions and those positions should be made known.

**Mr. Liam McCreery:** Let me add, when you talk to the Minister of International Trade, please add putting in COP ideas that I think everyone's talked about today, because clearly in our industry it's such an arbitrary thing. My COP might be different from that of fellow farmers around this table, and how you define that COP is a nebulous thing. I don't think it's a fair mechanism to attack me.

Say I'm exporting soybeans to the United States. The price I receive is defined on the international markets. If the international markets turn around and say “You're breaking trade laws”, I say, “No, I'm participating in the markets”.

•(1700)

**The Chair:** We have about three minutes and a bit to go, so if there's another response, let's hear it, because I think you have something to follow up with.

**Mr. Martin Rice:** There have to be some disincentives created to launching these cases, because the first stage, which is the preliminary determination of injury—I'm looking at the U.S. example here—is so easy for the domestic industry to win. Their costs, when you look at what they have to invest relative to the importer, are so small it's amazing there aren't more of these cases. You find that once an industry has a taste of it, they tend to come back, because there's very little downside to it. I think what you're suggesting is introducing some downsides for them.

**Hon. Marlene Jennings:** Thank you. I'm going to try to be very brief. It's difficult for me, as you've witnessed.

One of the points you made, Mr. Paskal—I believe it was you—was about the need to better educate your American counterparts so that they understand there isn't unfair competition going on, and for the government to do better lobbying.

You may not be aware that up until just last week, members of Parliament who have what we call 64 travel points—one point was equivalent to return fare anywhere in Canada—were not permitted by the Board of Internal Economy to use any of those travel points to travel outside of Canada. The only way parliamentarians could actually go down to the States, whether it was to Washington or to go to lobby a governor or a company or an industry, was if an official standing committee was authorized to travel, or an official parliamentary association.

I have been advocating for almost eight years now that a certain percentage of those travel points should be used in North America, precisely to allow for that kind of lobbying. The Board of Internal Economy just approved four travel points—that's four return fares—to guess where. It's to Washington, D.C. That means we would now be able to lobby our counterparts in Washington, but we still won't be able to go elsewhere in the States.

[Translation]

I'm asking you to put pressure on all parties,

[English]

— on all of the House leaders, Bloc, Conservative, NDP, and Liberal —and say bravo for the four travel points, but why don't you increase the number of points, or allow those four points to be used anywhere in the United States? That would allow us to then do some of the lobbying with our state counterparts, our city counterparts, that we cannot do at this point in time except in very limited circumstances.

I'm asking you to do that, to help us out—not just the Liberals, but the Bloc, the Conservatives, the NDP—because every one of those parties has your interests in mind, has the industry in some of its members' ridings, and they're knowledgeable parliamentarians who can be your best friends in taking the message to the states, taking it down to the local level.

Thank you.

**The Chair:** That was her recommendation. I'll just add to that, if I may, because the second part of the initiative here also, ladies and gentlemen, was that we've realized now for quite some time we don't just want to go to the senator and the congressman; we have to get down to the grassroots—that's why she referred to states—to talk to the local business, the local state representative, the government, the governor, etc., which I think will get them to lobby on behalf of all of us.

Thank you, Madam Jennings. We'll go to Mr. Julian.

[Translation]

**Mr. Peter Julian (Burnaby—New Westminster, NDP):** Thank you, Mr. Chair.

Thank you for your presentations which were very detailed and fascinating regarding the impact of agricultural disputes and the failure to settle them.

My first question relates to legal fees each one of your sectors must pay. Last week, we had witnesses from the softwood lumber industry. They told us they expected this crisis to be resolved in 2007. The crisis has a great impact on an industry of my province of British Columbia. They talked about \$300 million in legal fees for this industry.

I would like each one of you to give me an estimate of the legal fees of his or her industry. Can your industry afford these fees or do you need government help? In cases where disputes were settled in the past, what were the costs?

• (1705)

[English]

**Mr. Victor Jarjour:** Thank you, Mr. Chairman.

The cost to the Canadian Wheat Board of these various investigations has amounted to over \$15 million Canadian, to give the rough order of magnitude, over the course of the past number of years. Most of that has been used in the anti-dumping investigation, countervailing duty investigation, the WTO inquiry, but the whole slew amounts to about \$15 million.

Would we like to recover that? Absolutely. Those funds are paid for by western Canadian farmers. On behalf of western Canadian farmers, I think we'd more than welcome a cheque for that amount. It

is extremely expensive. It's virtually become a function of the cost of doing business in the United States.

When we didn't face the duty... We sincerely think the NAFTA panel will rule that the ITC, the International Trade Commission, should be heard in its ruling of injury on red spring wheat, and ultimately the duty would be removed, but with the duty in place we are virtually not selling hard red spring wheat to the United States, and that makes for another loss to western Canadian farmers. Fortunately we are still selling durum. Yes, western Canadian farmers would certainly welcome being compensated for those legal fees.

**Mr. Liam McCreery:** Thank you, Mr. Julian, for the question.

Specifically, if we go back to 1998 when the Americans imposed anti-dump on the Canadian cattle industry, the legal costs were \$5.5 million. The costs to the industry are estimated to be \$90 million; that's \$5 million a week. Mr. Chair, you'll see a consistent message here. Looking at the bigger picture, the grain and oilseed sector faces competition from the EU and the U.S. with product that's subsidized. Agriculture and Agri-Food Canada estimates this costs Canadian grain and oilseed producers \$1.3 billion a year—because of the EU and U.S. subsidies. It's always more than just dispute settlement. That's incredibly important, but there's always a bigger picture.

**The Chair:** Thank you.

Mr. Asnong.

[Translation]

**Mr. Edouard Asnong:** I have to say it's costly. Up to the final determination of injury, our legal fees will reach \$12 million. If the determination is against us, we will have to start all over again.

Presently, anti-dumping investigations are based on a reference period. At that time, we'll have to start challenging the duties imposed. If we lose the final injury determination, we should again challenge the required duties since they are based on a reference year and a completely different model should be built based on another reference period. Costs are almost the same, and we have the same thing from one year to the next. So we must win the final injury determination. We believe our chances of success are excellent because we export as much this year as we did last year and because the US presently have record prices. We are definitely not injuring them.

However, since October, we have to make deposits equivalent to 14.06% of the value of exported animals, which is causing a climate of uncertainty. On the domestic market, some might say that the alternative solution with the US deposits is to lower prices in Canada and so on.

Then there are producers or producer organizations who want to make a common deposit so that the 10 or 20% of hogs that are exported do not negatively impact the whole situation. They want to pool the cost of the deposit for all exported hogs to avoid a negative impact on the whole. This is not permitted. If it's done, we could get struck with a 20% deposit.

There is a saying to describe this situation. It starts with: "They're holding us by the..." I'm sure you know how it ends.



•(1710)

[English]

**Mr. Rick Paskal:** Our challenge is borne by our 122 litigants. Our initial budget is \$1.5 million. It'll probably be significantly over that. The thing we have a hard time grasping is we feel this is something the government should be participating in.

**The Chair:** Mr. Julian.

**Mr. Peter Julian:** The second question stems from that. Thank you for the details, because it's important for us to understand the size and scope of this crisis and what each of your sectors is going through.

On the other element that the softwood lumber industry brought to the table last week, they said what the American industry is practising is a scorched earth policy, and their intention is to break the industry. It's purely political and has nothing to do with trade differences. It's very much an intent to break our industry.

We know from this week, with the Byrd Amendment, that the first \$5 million that basically came from lumber producers is now being distributed to American firms. American competitors are now—as you mentioned, Mr. Friesen—benefiting from the fact that these funds have been taken.

We've been forced to realize that the dispute settlement mechanism we negotiated is basically irrelevant now. Certainly the legal opinions we received last week indicated that we're no better off now than we were prior to putting in place the dispute settlement, than we were with the U.S. courts.

You've offered a number of very important suggestions as to how to improve NAFTA, how to improve the free trade agreements. The issue really is, how do we get the Americans back to the table to negotiate something substantive, from A to Z, to try to improve certain parts of NAFTA so our industries aren't facing this? We tried to get dispute settlement. The Americans were looking at our energy resources, and they managed to achieve proportionality.

So the question I would submit to you for comment is this. Isn't it time we show some backbone and, in order to encourage our American friends to get back to the table to negotiate substantive changes so our industries aren't suffering, start playing our trump card, which really is proportionality in energy?

**Mr. Rick Paskal:** Absolutely. You've got to get them. You've just got to go there. We need to take a significantly more aggressive stance on this for the betterment of our industry.

**The Chair:** We'll start with Mr. Friesen.

**Mr. Bob Friesen:** We certainly have to work on the dispute settlement mechanism part of it. We would be hesitant to reopen NAFTA, because with ongoing protectionist attitude in the U.S., we got a pretty good deal last time. I don't know if we would come away looking as good as we did last time. So if the dispute settlement could be done on its own, that would be good. But I think reopening NAFTA would be dangerous for Canadian agriculture as a whole.

**Mr. Victor Jarjour:** I was going to make exactly the same point. I would echo that.

**Mr. Liam McCreery:** We have the WTO route as well. We really have to remember that the United States is so incredibly important,

but there are things we do with the United States—trade with the United States—where the WTO rules start kicking in and hurting us. So Canada has to be a leading-edge negotiator at the WTO.

I'll make another plug. Remember, Canada is the third largest agriculture and agrifood exporter in the world, according to the WTO. It's incredibly important that we be there. We can constrain the Americans through the WTO.

•(1715)

**The Chair:** Mr. Julian.

**Mr. Peter Julian:** Time is up.

**The Chair:** I guess time is up, but we do have a couple of minutes. We've had such a great conversation, so why don't we just go around the table once, for one minute each and a quick response?

**Mr. Rick Casson:** Thank you. It's Christmas. This is probably one of the last official functions of this House for 2004.

**The Chair:** After this regulator thing, we'll be going home tonight.

**Mr. Rick Casson:** I have to give a speech at 5:30.

To each organization, what is the first thing on your wish list you'd ask your government to do for your organization—not the only thing, just one thing. Does anybody have a response?

**Mr. Bruce Saunders:** I guess we'd have to say that the Canadian government should exercise its rights at every level of trade, including the WTO.

**Mr. Rick Casson:** Anybody else around the table?

**Mr. Liam McCreery:** A successful 2005 negotiation at the WTO. We hope to have a ministerial meeting in Hong Kong in December 2005, and if we can move toward what we've agreed at the July framework and in Doha back in 2001, that would be fantastic—progressive trade liberalization.

**Mr. Rick Casson:** Sandra, haven't you something to say about the sugar beet growers?

**Ms. Sandra Marsden:** Absolutely. In our case, sugar was excluded in the NAFTA, so the WTO is the only avenue we have to force the Americans to make changes to that program, which is absolutely essential for sugar beet producers and the processing side.

**Mr. Victor Jarjour:** I would just say, from a CWB perspective, a successful conclusion of the WTO negotiations that results in real benefits for farmers and includes and preserves the right of Canadian farmers to choose their own marketing systems.

**Mr. Rick Casson:** I might agree with you on that.

**Mr. Victor Jarjour:** I'll quote you on that.

**Mr. Bob Friesen:** On trade, I would have very much the same thing to say: Canada's continued ability to negotiate the Canadian position within the framework text by building enough alliances so that we are successful in negotiating our position—because we believe it works as well in other countries as it works in Canada—and not allow a negotiation of domestic policy there, but rather a facilitation of trade, so it results in real market access and our ability to maintain our domestic policy, including marketing structures.

**The Chair:** Mr. Asnong.

**Mr. Edouard Asnong:** I would like the Government of Canada to take care, and also to put the resources where they are needed. Today we are not just talking about trade remedies; they are hurting us a lot, but at the same time, there are other countries negotiating bilateral agreements, and they are hurting us as much as what we are discussing today. The U.S. is able to discuss bilateral agreements with 20 or 30 countries individually at the same time, and my feeling is that we have problems negotiating with only one foreign country. That's my feeling, so put the resources where they are needed.

**The Chair:** Thank you.

**Mr. Rick Paskal:** We are 18 and a half months into this BSE deal, but I would like to see the government utilize the WTO or the NAFTA agreements. They're there—let's utilize them.

**Mr. Yves Leduc:** I would like to echo some of the comments just made with respect to what a successful outcome implies. In reference to ensuring the right of farmers to choose the type of marketing system they wish to operate under, I would like to go beyond that and say that to be able to make that choice, we need to have the tools at the WTO that allow us to maintain these marketing systems in place.

**The Chair:** I have to be fair and go around at least three more members, but could we just ask one representative from each group to make a comment, as opposed to two, just to save some time?

*Monsieur Paquette.*

[Translation]

**Mr. Pierre Paquette:** Rick had a somewhat positive note as we're getting close to the end of this meeting. I have a simple question to ask. I heard a rumour and I wanted to know if some of you have also heard it. It is said that, particularly in the case of calf, American producers are preparing to challenge even the Canadian Income Stabilization Plan. I don't know if you've heard of this rumour relating to calf.

• (1720)

[English]

**The Chair:** Quickly.

[Translation]

**Mr. Edouard Asnong:** I haven't heard of this rumour. Was the Income Stabilization Plan involved?

**Mr. Pierre Paquette:** Yes, exactly.

**Mr. Edouard Asnong:** We have just reviewed and assessed this program for pork. It seems to be a generally accessible program. I can't see why it would be re-evaluated. If the ITC allows this to happen, we would have some questions to ask. This would indeed be frivolous.

[English]

**The Chair:** Is there anything in addition to that? I have one question at the end I'd like to ask.

**Mr. Jack de Boer (Vice-Chair, Canadian Cattlemen for Fair Trade):** We've heard the same rumour. At this point it is a rumour, but we don't put it past them at all that they definitely will challenge parts of it, for sure.

**Mr. Bruce Saunders:** It's the same thing as we've heard.

**The Chair:** Bruce.

**Mr. Bruce Saunders:** I understood there was one organization that asked to go to the United States and make a presentation on that issue. That's all I've heard.

**The Chair:** So nothing concrete.

Mr. Julian.

[Translation]

**Mr. Pierre Paquette:** With your permission, I want to wish everyone a happy new year so we can end this meeting on a positive note.

[English]

**Mr. Peter Julian:** My colleague asked about your Christmas wish list. What happens if there's no Christmas this year—there aren't any changes and the federal government does not try to intervene with a stiffer backbone or stronger negotiating? Is the kind of situation that each of your sectors is living under sustainable for the long term?

**Mr. Liam McCreery:** From a CAFTA perspective, if we look at our two producer organizations that belong to CAFTA and if we look at the beef industry, clearly the beef industry is in very deep trouble. It's been a hell of an 18 months, and if the status quo for the next 12 months... I don't know how they'll survive. I have friends who farm in the beef industry, and it's just been devastating. On the grain and oil seed sector, the U.S. Farm Bill has kicked in and is artificially driving down the prices—not news the Government of Canada wants to hear—but there will be very tough issues for the grain and oil seed sector across Canada. It's not sustainable the way it's going right now for our members.

It's very tough out there at the production level, and if we're not successful in negotiating at WTO and better trade rules around agriculture with our trading friends in the United States... May I be so bold as to suggest if you're looking to invest in new plant and equipment in North America, where would you put your plant and equipment? This is not a sustainable place to be, and Canada has to take a leadership role in making it better for us.

Thank you.

**The Chair:** Mr. Asnong.

[Translation]

**Mr. Edouard Asnong:** It's almost the same in the case of pork. Pork production is very competitive internationally. Producers are presently managing to make the deposits because prices are very high, they are at a record high in the US. Prices are not as high in Canada for reasons such as the exchange rate. This is also an export market that is difficult for us. The combination of all these factors is such that we are getting to the bottom of the cycle. It's going to be very difficult and we will be losing many producers.

[English]

**The Chair:** Mr. Saunders.

**Mr. Bruce Saunders:** Thank you.

With regard to dairy, we are also impacted by the BSE, but it is something that most of our commercial operations are going to be able to survive. We're hurt by it, and the net income is down. Any of our farms that were in breeding stock are suffering severely, and there's really no compensation programs of any magnitude for them. Our supply-managed commodities—milk, poultry, whatever—are able to sustain themselves as we get our returns out of the marketplace. The big fear we have is what is going to be the impact when ultimately there is a trade round signed, and what's the pain we will face.

• (1725)

**The Chair:** Mr. Friesen.

**Mr. Bob Friesen:** That's an interesting question: what if Christmas doesn't come this year?

I spoke at an OECD trade symposium a while ago. After I talked about making sure farmers have the tools they need to be able to make a profit, someone came up to me after the meeting and said the reason that message doesn't resonate among many government leaders around the world is that they've begun to think of agriculture as a social program.

If Canadian agriculture is not to become a social program—we refuse to accept that it is just merely a social program—we will have to be able to achieve more profitable and bigger market access. We will have to be able to maintain the Canadian Wheat Board. We will have to be able to maintain supply management. We will have to ensure that our export commodities do not have to compete against government treasuries in other countries. This all has to do with a very vigorous and rigorous strategy, I believe, on our government's part and our industry's part to make sure we can maintain the tools we have, but also to make sure our exporters have power in the marketplace without having to compete against government treasuries.

**Hon. Marlene Jennings:** I don't have any question to ask you. I simply want to thank you for your presentation. I think everyone around this table has heard loud and clear your messages, and rest assured that we will, as a committee, be bringing those messages to the government, and as individual parliamentarians.

**The Chair:** Victor, I'm going to let you finish, but I want a minute afterwards so I can add my two cents' worth as well.

**Mr. Victor Jarjour:** I will be quick.

I always believe there is a Christmas, and part of it is really up to industry to ensure that the government is defending our interests. One thing that is quite sensitive in agriculture is that there is a certain element of divisiveness within industry, and I don't think that serves our negotiators very well, particularly when we're all trekking to Geneva or other capitals spreading somewhat different messages. I think if there's Christmas wish, it would be that we can unite as an industry.

I do want to make a quick point. Edouard raised a very important issue with productive bilateral trade agreements

**The Chair:** Now you'll get a debate going. Quickly.

**Mr. Victor Jarjour:** We cannot lose sight of the U.S. aggressiveness in that area and I would encourage this committee to focus on that.

**The Chair:** I thank you all for being here and sharing so much information and for briefing us.

I want to make a comment, because it was made by generally all of you when you talked about, specifically, using existing trade rules. You talked about using WTO and NAFTA just near the end. What people have been saying to me when we're having a coffee on a Sunday afternoon at a doughnut shop is that the WTO has ruled, and we heard comments from the WTO not too long ago when they said, well, maybe you guys should start imposing like the European Community. The word "leakage" was not used earlier today, but I know, Mr. Paskal, you talked about our using our muscle in terms of our energy.

My view is personally, and I've heard from people, that if we start imposing, we're just beating our heads against the wall. Surely if we apply the rules, how then can we ask for enforcement of those rules, or compliance? Isn't that the key? Do you think? If we have a body, and if that body is going to have credence and credibility, how do we give it the muscle to enforce its rulings, even after the appeal? If anybody has any suggestions there...

I can tell you also, on the bilateral side, that we thank you for bringing it to this committee, because it's something that's also been discussed continuously—that we must be more aggressive on that side.

Please, Bruce.

**Mr. Bruce Saunders:** In the trade negotiations, with 147 countries now, Canada's position is that it should be rules based so that everyone is playing by the same rules. We were told by the negotiators that likely in order to get a deal, it will even have to be fuzzier than the last round. In other words, there will have to be ambiguity. You can go back to your home country and say, read it this way and it's good for us, and somebody else will go back and say, read it this way and it's good for us. Then you end up in front of a panel and they ultimately decide which the right way is. And I don't think that's right.

I use the term "cross-subsidization". We were found guilty because of cross-subsidization. Find any place in the last round of trade talks the term "cross-subsidization".

•(1730)

**The Chair:** Well, they just look at the rule and they say you're guilty, and the one party just doesn't adhere to the verdict. How do we enforce the verdict, right or wrong? How do we ask for compliance? Really, that's where we're at right now to some degree with some of the issues that we're facing with the U.S. today. Softwood lumber is an example. I know the organizations that came before this committee last week were very supportive and very pleased with how this government or this country has responded to the call and been there for them.

We can be standing beside you continuously, and unless they adhere to the rulings, we can be banging our heads against the wall. That's why maybe the bilateral agreement as a suggestion might be another venue through which we can strengthen our relationships with other countries.

Bob.

**Mr. Bob Friesen:** I certainly agree with what Bruce said.

In many cases the rules aren't working very effectively. Some of the rules are working; some of them aren't working. In some cases a lot of inequity was created coming out of the Uruguay Round because of an inconsistent application of modalities. In some cases there were only suggestions, such as minimum market access.

I believe we have to make sure the old rules work before we negotiate new rules. Let's make sure the old rules work, but then let's continue negotiating new rules. But they have to be clear and they have to be equitable. As Mr. Saunders says, the dispute mechanism should not be the body that decides what the rules are. It should only be an enforcement mechanism. The policeman who stops you on the road doesn't decide what the speed limit is. He knows what the speed limit is and he enforces the speed limit. The dispute process should be only that. It should not result in their actually creating the rules or having to interpret the rules.

**The Chair:** Thank you.

Very quickly, please.

**Mr. Liam McCreery:** You make an excellent analogy. The policeman can stop you on the side of the road, but if he can't issue a ticket, that's bad. If it's a very light ticket, that's bad as well.

At the WTO right now, over \$300 billion is spent on a trade-distorting subsidy. We have to go after that. When we pull the guy over and he says that he's spending \$300 billion, they can't say that it's okay and they're allowed to.

**The Chair:** We have to go into a meeting, but I want to thank you very much. I wish you all the best for the holiday season. You've been a tremendous help.

Thank you.

•(1732)

(Pause)

•(1735)

**The Chair:** Colleagues, as we discussed in previous meetings, you have a copy before you of draft terms of reference on what we wanted to do in the new year. I think we've tried to incorporate most—I would say 95%—of what we had discussed in the past.

I'll open the floor so that we can spend a few moments before the next committee comes in.

Mr. Lunn.

**Mr. Gary Lunn (Saanich—Gulf Islands, CPC):** Very quickly, I've been asked to come down; I'm actually not a regular on this committee. None of the regulars on our committee have had an opportunity to see this. That's the only slight hesitation, although I appreciate that the clerks and the staff need to start working on this to put together whatever they need to do.

As long as we emphasize the word “draft”, I'm sure that if they were part of the discussions, it should be.... They may want to have an opportunity to respond, to add or delete. They can do that in consultation with the clerk's office. It would be somewhat qualified, but would still leave it open for revisions.

**The Chair:** Are we in agreement that we allow the clerks and the researchers to move forward, pending—

**Mr. Gary Lunn:** After they've had some discussion with Ms. Stronach's office tomorrow, only the one office. They should give her an opportunity to respond before they move forward.

**The Chair:** Okay.

**The Clerk of the Committee (Mr. Eugene Morawski):** Mr. Menzies' office too.

**The Chair:** Mr. Menzies' office as well, or is Ms. Stronach's office okay?

**Mr. Gary Lunn:** Sure. They'll have an opportunity to give you their feedback, and if there is any, I'm sure they can work it out. There won't be a problem.

**The Chair:** Okay.

**Mr. Peter Julian:** I've had a chance to take a look at this, and Pierre Paquette indicated to the clerk that he'd be seconding this.

I would like to move that given the importance of the agricultural sector, which we just heard from, we would be adding under the first paragraph, after business associations, “agricultural, labour, environmental and community organizations, as well as other interested organizations”, making it clear that the mandate includes agriculture, labour, environmental and community organizations.

**The Chair:** Are there any comments on that?

Marlene.

**Hon. Marlene Jennings:** I only heard the last piece, which is about labour environment. Would you also include environmental environment?

**Mr. Peter Julian:** Yes, actually environmental organizations.

**Hon. Marlene Jennings:** Okay, but I would also like to see the issue of the labour environment as well. Was it covered?

**The Chair:** I believe he covered that, and he also covered agriculture, which you didn't.

**Hon. Marlene Jennings:** Okay, then that's fine. I'm actually fine with this as long as there is that section that when Canada is looking at emerging markets as a potential for Canadian industry, we look at some of the issues that Mr. Julian raised and that they be an integral part of this.

**The Clerk:** We'll integrate that in, and we'll send a new reference around.

**The Chair:** We'll incorporate that in, as there seems to be agreement on that, and send a new draft around.

**The Clerk:** Send a new draft.

**The Chair:** If they need more clarification on the wording, they'll touch base with you in the next 24 hours.

**Hon. Marlene Jennings:** And you'll make sure I'm okay with it?

**Mr. Gary Lunn:** Mr. Menzies and Ms. Stronach will get back to you. The clerk has been told that, and we'll just see if they have any issues about that.

**The Chair:** Okay, so it's now just a matter of rewording the proposal and expanding it, and communicating with Mr. Menzies' and Ms. Stronach's offices.

**Mr. Gary Lunn:** If they have any issues, they can take it up with the clerks to try to find something that's acceptable. I'm sure they can do it that way.

**The Chair:** Marlene, you're okay with this overall?

**Hon. Marlene Jennings:** I'm fine.

**The Chair:** Great, okay.

I thank you.

Now we can adjourn.

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