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Mr. John Cannis

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● (1830)

[*English*]

The Chair (Mr. John Cannis (Scarborough Centre, Lib.)): I'd like to call this meeting to order, and in doing so I'd like to begin by welcoming our guests, who I'll introduce in a moment.

Ladies and gentlemen, welcome to the Subcommittee on InternationalTrade, Trade Disputes, and Investment of the Standing Committee on Foreign Affairs and International Trade. It is very nice to have you from Vancouver.

With that, I'll go down the list to introduce each and every one of you to our members. We have, from West Fraser Timber Co. Ltd., Mr. Bill LeGrow, vice-president for transportation and energy; from Canfor Corporation, Ken Higginbotham, vice-president,environment and external relations; from the Independent Lumber Remanufacturers' Association, Mr. Russ Cameron, representative; from Weyerhaeuser Company, Mr. Paul Perkins, vice-president,policy and planning; and from the B.C. Lumber Trade Council we have Mr. Keith Mitchell, legal counsel.

Gentlemen, welcome to our committee. I assume that everybody will be speaking.

Mr. Ken Higginbotham (Vice-President, Environment & External Relations, Canfor Corporation): I'm going to do most of the initial speaking and then during questions and the round table everyone will participate.

The Chair: We'll open with a ten-minute presentation. Are you okay with that?

Mr. Ken Higginbotham: You bet.

I should perhaps mention that Russ Cameron has not joined the group here yet. He's not part of the B.C. Lumber Trade Council group, but we expect he'll be along at some point.

We would also like to take the opportunity to express appreciation for your willingness to meet with us. We know that it is substantially later there than it is here, and we are grateful that it is not later here than it is there for the purposes of this meeting.

I would like to take just a moment to provide an opportunity for Bill LeGrow and Paul Perkins to give very brief introductions about their companies, and then I'll go into the presentation.

The Chair: Mr. LeGrow, we'll start with you. The floor is yours.

Mr. Bill LeGrow (Vice-President, Transportation & Energy, West Fraser Timber Co. Ltd.): Thank you.

I'm Bill LeGrow, with West Fraser. I'll just give you a little history, a little picture of where we are as a company.

We operate 20 sawmills, with a capacity of about 4.3 billion board feet of lumber, which makes us the second-largest lumber producer in Canada, and I believe the third-largest in North America. We operate six pulp and paper mills, three in B.C. and three in Alberta, with a total combined capacity of about 1.7 million metric tonnes. We operate five plywood, veneer, and LVL plants in B.C. and Alberta. I think we're the largest plywood producer in the country. We are also the only MDF producer in western Canada; we operate a plant in B.C. and Alberta. We employ directly about 7,300 people. That puts West Fraser in perspective for you.

Paul.

Mr. Paul Perkins (Vice-President, Policy & Planning, Weyerhaeuser Company): I'm Paul Perkins, with Weyerhaeuser Company Limited, which is our Canadian operation. We are a wholly owned subsidiary of Weyerhaeuser Company, which is the largest lumber producer in the world.

This is our 40th anniversary in Canada. We originally came to Canada in 1965. We have 9,400 employees across the country. We operate in nine provinces, five in which we manufacture and the balance in which we operate wholesale distribution. In Canada we have 18 sawmills, four pulp mills, two paper mills, five OSB mills, three engineered wood products mills, and 18 distribution centres. That's Weyerhaeuser in a nutshell in Canada.

● (1835)

The Chair: Thank you very much.

Mr. Ken Higginbotham: Let me just say a few words about Canfor. Canfor is a public company that was established in 1939 and has grown to the point where we now have approximately 10,000 employees, with about 8,000 employed directly and the others through affiliated companies and contractors. We have 33 mills producing various products, including dimension lumber, oriented strand board, plywood, NBSK pulp, and specialty paper and baled fibre. We operate in British Columbia, in Alberta, in Quebec, and we have a small operation in the state of Washington, along with a number of distribution centres in the U.S., largely associated with our lumber operations.

Canfor has approximately 14 million cubic metres of allowable annual cut in its forest tenures. One of the things we wanted to point out was that as far as the trade issue goes, the impact on us in terms of the amount of deposits that are in the U.S. is great. Canfor has approximately $700 million on deposit with the U.S. Treasury. I think that West Fraser is around $350 million, and Weyerhaeuser is somewhere in the same ballpark. So relative to the total of about $4 billion on deposit across Canada, we comprise a significant amount.

We are here as representatives of our companies, but also as members of the B.C. Lumber Trade Council. You introduced Keith Mitchell as our legal counsel. The membership of the B.C. Lumber Trade Council is responsible for the majority of the production of softwood lumber in B.C. and the majority of Canadian exports to the United States that are produced in B.C. The role of the B.C. Lumber Trade Council is to seek long-term, fair, and free trade in softwood lumber, without tariffs, without duties, and without litigation.

The softwood lumber industry in B.C., to broaden the introductions of our three companies, accounts for about 270,000 direct and indirect jobs in over 270 communities. In 2003, B.C. produced 15.3 billion board feet of lumber and exported 10.3 billion board feet of that lumber to the U.S. The forest sector in B.C. supports more B.C. communities outside the greater Vancouver area than all other B.C. business sectors combined.

The softwood lumber dispute that you've invited us to talk to you about ranks as the most litigated and the largest trade dispute in U.S.-Canadian trade history. As a result of complaints by a portion of the U.S. sawmilling industry, we are now in the midst of the fourth round of litigation since 1982. Since the introduction of CVDs and anti-dumping orders in 2002, we've been involved in a myriad of litigation before NAFTA dispute resolution panels, the WTO, and more recently before the U.S. Court of International Trade.

I mentioned earlier that Canadian companies to date have paid somewhat over $4 billion Canadian in duty deposits, approximately $2 billion of that from B.C. We're aware that Elaine Feldman, Carl Grenier, and Marc Boutin, appeared before your committee in late February, and that Ms. Feldman provided the committee with a summary of the litigation under way. As such, we'll not provide a repeat of those details, probably mercilessly inflicted upon you. We feel they are never-ending.

What we would like to do, though, is speak more to the questions you have asked us. Chapter 19 of NAFTA was originally the product of the free trade agreement agreed to by Canada and the U.S. in the fall of 1987 and signed into law in 1988. Based upon the European Union and its predecessors, our members agreed not to take dumping and subsidy remedies against each other. The Mulroney government of the day originally attempted to negotiate an exemption from U.S. countervailing duty and anti-dumping laws, or at least a common subsidies and anti-dumping regime code.

● (1840)

Neither of these goals were achieved. Instead, as a compromise, Canada achieved agreement with the U.S. on the equivalent of NAFTA chapter 19, which was intended to provide a level playing field in the adjudication of U.S.-Canada trade disputes. It is questionable whether Canada would have entered into the FTA without U.S. agreement to a binding binational dispute resolution process.

We are confident that as an industry, we have collectively tested the mechanisms of NAFTA more thoroughly than any other industry in Canada. Chapter 19 has proven to be invaluable to the Canadian lumber industry in defending against American trade attacks on our industry. In our litigation before NAFTA panels, we were completely successful in Lumber 3, as we refer to it, and are confident that we will be wholly successful in Lumber 4.

Given the central importance of chapter 19 to the successful completion of the free trade agreement of 1987 and to the lumber industry in Lumber 3 and 4, we are increasingly concerned by the policy decisions of the U.S. administration that cut to the very heart of the dispute resolution process in NAFTA chapter 19 and that have the effect of undermining the purpose and utility of chapter 19. The centrality of chapter 19 to NAFTA means that an attack on chapter 19 is, in turn, a collateral attack on NAFTA itself.

The first part of our evidence will outline two attacks on the chapter 19 process by the U.S. administration: first, the administration's position that duty deposits will not be returned, even if Canada wins before the extraordinary challenge committee before us; and secondly, the U.S. position that even if Canada wins the extraordinary challenge committee on the basis of a technical interpretation of U.S. law, the decision will be moot. These attacks, if successful, rob chapter 19 of its force.

It is important to note that both of these positions have been taken by the Bush administration. The U.S. Congress, U.S. courts, and NAFTA panels have not put forward, or adopted, either of these positions. As such, it is fully within the power of the Bush administration to reverse the positions, in the interests of the preservation of NAFTA.

The second part of our presentation will focus on the avoidance of trade disputes. In this part, we will focus on the effect that the illegal U.S. Byrd amendment has in creating an incentive for U.S. industry to bring trade actions. We will then outline the political nature of the lumber dispute and in turn the need for a political response to avoid disputes in the future.

On that note, we want to mention that our concerns are driven by the size of this particular dispute, and we put our remarks in that context. While NAFTA dispute resolution mechanisms may work in the context of smaller disputes, we have experienced considerable difficulty in the case of softwood. The recommendations we make do not call for the reopening of NAFTA; we are not convinced that reopening NAFTA is necessary or that it would be desirable at this time.

First, let me talk about the U.S. position that refunds are prospective only. The U.S. Department of Commerce has taken the absurd position that U.S. law only permits the refund of deposits on a prospective basis, and that NAFTA panels do not have the jurisdiction to order panel decision to be retroactively implemented. This position applies only to Canada and Mexico. Unlike the case with any other of its trading partners, including Iran and North Korea, the U.S. has taken the position that its NAFTA partners, Canada and Mexico, would not be entitled to the refund of illegally collected cash deposits. On its face, the position is absurd; effectively, it means that even where a cash deposit is paid pursuant to an illegal order, the American government will retain the deposit.

● (1845)

Canadian trade minister Jim Peterson has written to former secretary of commerce Don Evans to point out that the DOC's interpretation of U.S. law denies binational panel decisions the legal effect of equivalent U.S. court decisions and therefore undermines chapter 19. He wrote that the U.S. position

> ...strikes a blow to the credibility and legitimacy of NAFTA dispute resolution proceedings. Were Canada and Mexico to be afforded lesser protections than are available through judicial review in U.S. courts, the binding binational panel review that made the free trade agreement and NAFTA possible would be called into question.

Undersecretary Aldonas, in a meeting with numerous U.S. senators, indicated that the U.S. position is that “the department is under no legal obligation to return the duties collected to date”. As such, even if Canada wins the injury case and the subsidy and dumping orders are found to be illegal, the U.S. position is that Canada would not be entitled to the $4 billion deposited currently. The position that even if a party succeeds at a NAFTA panel it will not get its money back denies that NAFTA panels have the equivalent authority of domestic courts, and seriously undercuts the credibility of that panel process.

Therefore we recommend that Canada pressure the U.S. administration to acknowledge and take any action necessary to ensure that any deposits relating to trade orders found to be illegal by a NAFTA panel are returned in full with interest.

Let me talk for a moment about collateral attacks on NAFTA decisions. The U.S. has said that if it is not successful before the extraordinary challenge committee it will discount the outcome of the ECC and declare the result moot on the basis of a technical interpretation of U.S. trade law—that is, section 129 of the Uruguay Round Agreement Act. This position has never been advanced in any other trade case.

NAFTA parties agreed the panel decisions would be binding. The U.S. trade representative action reflects a deliberate and conscious decision to undermine the heart of the NAFTA compact. The USTR callously disregarded that shared understanding, and in the process has put chapter 19 at risk, all for the sake of political expediency.

We recommend that Canada pressure the U.S. administration to acknowledge and ensure that section 129 of the Uruguay Round Agreement Act shall not be used to avoid implementation of NAFTA determinations.

Let me move then to the second item: avoidance of trade disputes in the future. First we'd like to talk about the Byrd amendment.

A new factor that has created an even more tangible commercial motivator in Softwood Lumber 4 is the U.S. Continued Dumping and Subsidy Offset Act of 2000, commonly known as the Byrd amendment. As you know, Byrd creates a vehicle for the legal distribution of duties collected pursuant to U.S. subsidy and dumping orders. Only U.S. companies responsible for bringing the underlying petitions resulting in subsidy and dumping orders are eligible to claim Byrd moneys. As such, the Byrd amendment provides powerful financial motivation and significant inducement to U.S. companies to bring trade remedy petitions against foreign industries.

In the context of Softwood Lumber 4, Byrd potentially provides access to over $4 billion Canadian in deposit moneys to the U.S. companies responsible for bringing petitions against the Canadian softwood industry. As a result of Byrd, the U.S. timber lobby not only sees its competitors punished, but is also rewarded with an enormous cash windfall. As the pool of cash deposits increases by approximately $100 million a month, the coalition's unrealistic expectations for settlement grow with the deposits. A literal jackpot has been created.

● (1850)

As you are aware, the Canadian government has committed to bringing a suit with the industry in the U.S. Court of International Trade to challenge the applicability of the Byrd amendment to NAFTA partners. We are very supportive of this initiative, and ask that the work to coordinate the Government of Canada's and the Canadian Lumber Trade Association's efforts commence as soon as possible.

We further recommend that Canada continue WTO retaliation efforts against the U.S. vis-à-vis the Byrd amendment. Canada should pressure the U.S. to repeal the Byrd amendment. Canada should lobby the U.S. government to discontinue application of the Byrd amendment to Canada and Mexico. Canada should advance its government and Canadian Lumber Trade Alliance U.S. Court of International Trade challenge to the application of the Byrd amendment to Canada and Mexico.

Let me talk briefly about the political nature of the lumber dispute. While the underlying commercial interests provide continued motivation for the lumber dispute, U.S. political operators have proven to be all too willing to participate in assisting the U.S. commercial interests to manifest their goals. The level of political pressure by members of the Senate on the judicial decision process in the lumber dispute and apparent acceptability of that practice is best illustrated by a stream of letters senators have written on behalf of their constituents to the U.S. Department of Commerce and other elements of the Bush administration.

In the period immediately preceding and during Softwood Lumber 4, various senators wrote on a consistent basis to remind the administration and the quasi-judicial Department of Commerce that strong trade action against Canadian softwood lumber must be taken. For example, in March 2001, 51 senators wrote to President Bush to urge him to "act immediately to enforce vigorously and fully U.S. trade laws which safeguard against subsidized and unfairly dumped imports". In a letter of October 1, 2001, signed by 18 senators, they urged the Department of Commerce to "fully and vigorously enforce our trade laws until and unless an agreement is reached to end the unfair practices".

We have lots more that we could quote, but perhaps I could simply end that portion of examples by indicating that on July 7, 2004, seven senators wrote to Donald Evans with recommendations that the Department of Commerce "review its preliminary determination to use internal Canadian Maritimes pricing to determine the subsidy rate".

The senators criticized the department's preliminary determination of a 9% subsidy rate in the administrative review process as unacceptable, and argued that the actual Canadian subsidies are likely 25% to 40%. The final subsidy rate in the first administrative review ended up close to 80% higher than the 9% preliminary determination, to where we are today at over 16%. These political interventions illustrate the highly political nature of the lumber dispute.

We recommend that Canada ensure a high level of communication between Canadian politicians and decision-makers, and U.S. politicians and decision-makers. We encourage Canada to ensure that the U.S. political decision-makers are frequently updated and educated on Canada's views on the dispute. We should coordinate an education program through the Canadian embassy and the Department of International Trade.

Now let me talk about facilitating dialogue between parties before disputes arise, rather than once we are in the middle of them. A lack of dialogue between parties and the resulting lack of understanding is a significant problem. The connections, communications, and education programs I talked about earlier should allow us to have less likelihood of a further dispute, such as Softwood Lumber 4.

So we encourage Canada to create a NAFTA dispute prevention committee of stakeholders to detect potential disputes between the parties and fractures in the agreement, then engage in government facilitation of the stakeholder committee to dissipate disputes and focus on the overarching objective of NAFTA to secure continental free trade.

● (1855)

Left to the legal processes alone, resolution of large trade disputes is very difficult. The economic costs of disputes are significant, and the bad will that is induced in the cut and thrust of hard-fought litigation is counterproductive to the need of continental-interest industries to cooperate to collectively work to avoid permanent damage and to exploit their opportunities in the face of global competition.

We recommend that when large trade disputes arise, monitors representing each of the national governments should immediately be appointed on an ongoing basis. The appointment of monitors will help to ensure that the mechanical aspects of litigation do not eliminate the possibility of settlement and that domestic politics do not stop progress.

The importance of ensuring that the Government of Canada does everything within its powers to reverse the U.S. position on deposits, the section 129 gimmick, and the Byrd amendment is paramount in the context of the highly politicized process of the U.S. trade adjudication process. The situation creates a perfect storm for ongoing trade unrest. Taken together, the incentive for U.S. commercial interests to target Canadian industries on an ongoing basis is massive.

Let me put a scenario before you. First, the Byrd amendment creates an incentive for an American industry to petition against a Canadian industry on the basis of dumping and subsidization. Second, when the petition comes before the International Trade Commission and Department of Commerce, the odds are stacked against Canadian industries due to the highly political nature of the U.S. administrative agency's decision-making. Then AD and CVD orders are put in place. Third, due to the lengthy nature of litigation and utilization of such gimmicks as the section 129 scheme, by the time orders are struck down, deposit moneys are significant. Fourth, the moneys collected to the date of determination of the orders are retained in Byrd amendment accounts and not returned, on the basis of the U.S. position that the orders are terminated on a perspective basis only. Fifth, the illegally collected moneys are distributed to the U.S. commercial petitioners under the Byrd amendment. Sixth, these petitioners then use the money, among other things, to file new trade claims against the Canadian industry, and the cycle has been repeated.

The Canadian softwood lumber industry has spent literally tens of millions of dollars fighting these types of U.S. initiatives. The B.C. Lumber Trade Council's yearly budget for trade is literally two times what Ottawa is spending on the softwood dispute, yet this legal battle concerns the interest of more than just the lumber industry. If the U.S. position prevails, the scenario that I outlined could be enacted against any Canadian exporter. The softwood industry cannot be left carrying the burden of a legal battle that is essentially about the interests of all Canadian exports.

We recommend that Ottawa devote more resources to this matter, and ask that the Government of Canada fulfill its promise to contribute to the funding of the Canadian Lumber Trade Association to continue fighting what amounts to a legal battle on behalf of all Canadians.

That concludes our prepared comments, Mr. Chairman.

The Chair: Thank you very much.

Are there any other comments from your panel, sir, before we go to questions?

Mr. Ken Higginbotham: I don't think so.

The Chair: Okay. We'll go to questions, and we'll start with Mr. Duncan.

Mr. Duncan.

Mr. John Duncan (Vancouver Island North): Thank you very much.

As you were making your presentation, I was making a few notes based on my read of *A Broader View of Canada-U.S. Relations and the Battle over Softwood Lumber*, written by Elliot Feldman and Carl Grenier. I wondered if that document is something that resonates with the people who were making presentations?

● (1900)

Mr. Ken Higginbotham: Paul, do you want to start?

Mr. Paul Perkins: I'm not sure we're familiar, John, with that specific document, although we're very familiar with both Carl Grenier and Elliot Feldman, who are advisers to the CLTA and work directly with the CLTA.

What specifically would you be interested in our response relative to that document?

Mr. John Duncan: It has a broad range. It obviously discusses a lot of the things you talked about, such as the assault on chapter 19, the issue of the Byrd amendment, the issue of a lot of heavy lifting being done by industry in areas that are basically federal responsibility, and it really challenges the two-track system the government has put in place as sending very often the wrong message, maybe not so much by virtue of the fact that it is two track, but by virtue of how the two tracks have been applied. In a current context it would challenge why we are saying we want all our moneys back and on the other hand hold meetings where we're discussing the question about whether or not we get all our moneys back.

For anyone who hasn't read it, I think it is worth taking the time to read, because they do put it into a fairly broad context. It would be unfair to cherry-pick it and ask you a question at this point if you haven't done so.

Mr. Bill LeGrow: I think we're prepared, though, to state that we do support what is now, I guess, a three-track Government of Canada approach—aggressive litigation, keeping the lines of communications with the Americans open in the hope that perhaps we can find a non-litigated solution to this, and the more current retaliation track that the government has taken. We support all three.

We're not willing to accept any deal to get a deal. But to just say that negotiation or discussion of a potential solution shouldn't be part of the plan is not where the B.C. Lumber Trade Council comes from. We support the three tracks the government is on. Certainly in West Fraser we do, and I know BCLTC does as well.

Mr. Paul Perkins: If I think of Elliot's thesis, going back, we're probably very much in support of what he says about the attack on NAFTA and the need for Canada to take that seriously. I think where we do probably differ is in the view of the importance of having and considering a track two as a potential solution to this, looking at it from the point of view that this is our fourth time around on the lumber issue and clearly litigation is not bringing it to a conclusion. That doesn't mean we don't fight it as hard as we can on track one, but in all litigation there are risks, and there are reasons to consider what might be a long-term sustainable solution to this.

We're functioning businessmen who want to find a sustainable way to make decisions over the long haul, and we recognize that we've had, I think, fewer than two years of unfettered border in the last twenty-plus years with the U.S.

So there are potential solutions we need to consider. I don't think it ever sends a signal in litigation if you meet without prejudice to discuss what the options are. We don't think it prejudices our legal case, and we don't think it sends a signal that we're willing to capitulate.

Mr. John Duncan: One of the things that's being said by some observers...and I don't know how close these so-called observers are to the situation, but I have read on occasion that if Canada had no NAFTA obligations and privileges—in other words, if we were outside of NAFTA—any of the current trade disputes that we are in could go directly to U.S. domestic courts. Therefore, NAFTA, the way they're currently applying it on the U.S. side, is only an impediment to getting into the U.S. court system.

Do you place any credence on that observation?

● (1905)

Mr. Ken Higginbotham: Maybe we should ask Keith to comment.

Mr. Keith Mitchell (Legal Counsel, B.C. Lumber Trade Council): Canada has a good track record in lumber since NAFTA and since the free trade agreement. Canada scored total victory in Lumber 3 through those NAFTA panels that some criticize. Generally speaking, Prime Minister Mulroney's achievement of binational panels has provided a basis whereby we can get impartial decision-making and be outside the U.S. court system. Many Canadian litigants will tell you their experiences in the U.S. court systems have not been friendly to foreign exporters, so we are supportive of chapter 19 and supportive of the free trade agreement and its successors. We believe it lays the groundwork for continental market development, which both countries thought was the positive outcome of NAFTA, and which we support.

Mr. John Duncan: If one were to offer comment on the U.S. court system, the suggestion you're making is the U.S. court system can actually be quite politicized in terms of partisanship—so that's not really a solution, either?

I understood the rest of your argument; I think it's appropriate, and it was important to get that on the record, because we are getting that kind of feedback from constituents and others. To get to the bottom of it, it's demonstrable that the U.S. court system can be, and often is, politicized as much as, or maybe more than, the NAFTA process. Would that be a...?

Mr. Keith Mitchell: Canada has not engaged in a critique of the U.S. court systems. In our negotiations for the creation of the World Trade Organization and its mechanisms, for the FTA, and for NAFTA, Canada has supported internationally adjudicated rules-based trade. That means it is outside Canada's domestic court system and outside the domestic court systems of the U.S.A. We believe that provides a higher degree of confidence in the outcomes.

As I say, we have by way of example Lumber 3, where Canada scored a home run under the NAFTA panels and won 100% victory. We're not here to comment on the U.S. court system; we're just here to restate Canada's long-time commitment to internationally adjudicated rules-based trade.

Mr. John Duncan: On the question of the heavy lifting by industry and the disappointment so far on not getting any resolution or any commitment from the government on legal costs—which my party is very sympathetic to—the impression one gets right now from the negotiations that have gone on in Chicago and Toronto is that Canadian industry probably is closer to a consensus than they have been at any previous time, and that industry is really the one managing or leading those talks. Is this potentially a better model than the one we've been operating on up until now, in terms of the Canadian side?

Mr. Bill LeGrow: There's an issue—I guess any talks between Canadian and U.S. industry representatives need to be framed in the way of achieving some kind of consultative role to advise government. These are government issues; when we meet face to face with our American counterparts, it is pretty critical to have government involvement and our trade lawyers and antitrust lawyers in place. I don't think it's appropriate for the U.S. industry and the Canadian industry to negotiate a settlement and present it to government; it has to happen the other way around. We can advise and contribute in that way, but not lead.

● (1910)

Mr. Ken Higginbotham: I can add to what Bill said. Having been at the Chicago meeting as an observer, I felt there was great value for the CEOs from the U.S. and Canada in looking at each other across the table, or sitting next to each other and exchanging views, rather than hearing about each other's views through some other mechanism. It was very valuable having Elaine Feldman and Paul Tellier there, for example, from the Government of Canada, being informed by what was being said. I think that model has real value, but ultimately I agree with Bill—if there is a resolution on track two, it's going to be done through the Government of Canada and the Government of the United States.

Mr. Paul Perkins: I think I'd add, John, that there's one very important point you just made. Canada is probably more united than we have been at any time in the past, at least in this lumber iteration. I think it's important that Canada maintains a pan-Canadian approach to this issue.

While the provinces were not in the Chicago meeting, they were not far behind it. And certainly there has been an ongoing effort by the federal government to keep the heads of delegations working, keep all the provinces involved, because this is a forest policy decision. While the industry can, within the bounds of antitrust, contribute, at the end of the day it has to be a pan-Canadian approach going forward.

Mr. John Duncan: Okay. Thank you very much.

The Chair: Thank you, Mr. Duncan.

Monsieur Crête.

[*Translation*]

Mr. Paul Crête (Montmagny—L'Islet—Kamouraska—Rivière-du-Loup): I particularly want to welcome Mr. Higginbotham from the Canfor Corporation. I believe you acquired a company in my riding in Saint-Just-de-Bretenières, which is located to the south of Montmagny. I believe you bought a large sawmill in that community a year or two ago.

I travelled to Washington as part of a trade mission several months go. Each senator or representative was given a fairly comprehensive fact sheet detailing the importance of trade with Canada. People were often quite impressed by what they read in this fact sheet because they basically had no idea of the extent of our trade relations. I found it to be a very interesting tool. I simply wanted to give you that example.

However, the feeling I have today is that much like the situation during World War II, people are hunkered down in their respective trenches, no measures have been taken to resolve the situation and everyone is in a kind of state of anticipation. I'm not implying that the Canadian government is doing nothing, but that's how I see the situation.

Would it be a good idea for the two governments to hold a conference to bring together experts on both sides? Could we have some assurances that they would continue to meet until they have found a solution, somewhat like the papal election? I'm joking a little, but only a little.

Tell me more about what the next steps should be to bring about a resolution of the problem. For instance, should we withhold payments and hold them in trust, rather than turn the money over directly to the Americans? There are various options to consider. Should we ramp up our efforts a notch in terms of aggressiveness, or should we simply continue to allow time to be on our side?

● (1915)

[*English*]

Mr. Ken Higginbotham: First of all, let me begin by indicating that we're very happy to be a company that now has both timber harvesting and sawmilling operations in La Belle Province. We are very happy to be associated with that. Of course, this brings a very different view of the trade dispute. That mill is one where about 60% of the logs come from the U.S. into Canada to be manufactured, so it gives us a special set of considerations to think about in a resolution.

In Chicago last Monday, John Dillon, the former CEO of International Paper, suggested that maybe what we should do is bring the appropriate people into a room and keep them there until there's a deal. He suggested it could be done in a weekend. I'm not sure about that. It would depend on whether we fed them or not, I guess, during that weekend.

But I do think there is some truth to the fact that when we meet, if there is a basis for significant negotiation as opposed to just an exchange of information, then I think there is value in having a long enough time to really be able to talk through the issues, perhaps take positions that could be changed as those discussions go along and so forth in the way that a real negotiation would occur.

I would indicate that I don't think we are in a wait-and-see position. I think there are 16 active cases in litigation that are being pressed. As we talked about earlier, we are hoping for a Byrd amendment case before the Court of International Trade to be filed soon, so we are continuing that process.

One of the most important things that's happening is, as Bill LeGrow said, the Canadian industry across the country is probably more united in its views than we have been at any time previous during Lumber 4, and those efforts are continuing to be more and more united, to find consensus, to find agreement between eastern Canada and western Canada and so forth. I think there's great value in that occurring.

Canfor believes very strongly that we should follow up the Chicago meeting with another one. We are in the process of developing papers to inform that meeting when it occurs. Our understanding is that the U.S industry is doing the same.

We support that, and we support very much the kind of initiative that you took in going down there and providing opportunities to speak directly to members of the U.S. Congress. I think this is something that hasn't been done as effectively as it could be. We are encouraged by the general sense we have now of Mr. McKenna's plans to engage frequently on Capitol Hill in Washington. We hope this will happen, along with continuing missions such as the one that you undertook.

I think, in the case of the money, that I would much rather see it on this side of the border than in the U.S. treasury. But my understanding is that under U.S. trade law, where they have put in place the CVD and dumping orders, that we don't really have an alternative there unless we negotiate something different, which I hope we can do. That's the basis of talking about an interim border tax or some such measure.

Mr. Bill LeGrow: In terms of locking people in a room until there's a determination, Canada put a framework document on the table a month or so ago. I think at this stage the appropriate thing for us to do on the Canadian side is to get a formal response from the U. S. In order to force a resolution in a short timeframe, I think both sides have to be somewhat on the same page and equally motivated.

I think we won't find out where the U.S. is and how close we are until we get that response. In the meantime, I think throwing us into a room and having us fight it out wouldn't be very productive.

● (1920)

[*Translation*]

Mr. Paul Crête: Indeed, when negotiations are conducted to determine how far apart both sides are, this is one good way of bringing parties closer together. There's also another bit of information that I would like to share with you.

Each Member of Parliament is now entitled to four round trips between his or her riding and Washington for the purposes of making representations. If each of your members was to write to his MP to ask him to travel to Washington, there could theoretically be 1,200 Washington visits by MPs each year. If there were from 150 to 200 separate visits by MPs over the course of two or three months, maybe Canada's profile would be raised across the United States.

Americans are concerned about softwood lumber, just as we all are, but it's only one of many items on their list. They might spend half a day discussing this matter and then move on to other concerns. I would like us to go on the offensive where softwood lumber is concerned.

[*English*]

Mr. Paul Perkins: That would very much tie in with our presentation, which talks about the political influence in the U.S. and the desire to have more politician-to-politician dialogue between Canada and the U.S. Congress. I think it's valuable to do that.

Mr. Ken Higginbotham: I agree. We'll raise it with the rest of the B.C. Lumber Trade Council and with the Canadian lumber trade group. We're meeting with them on Wednesday of this week.

The Chair: Merci, Monsieur Crête.

We have the Parliamentary Secretary to the Prime Minister on Canada-U.S. Relations next, but she has been kind enough to give her spot to Monsieur Julian.

We'll go to Mr. Julian.

Mr. Peter Julian (Burnaby—New Westminster, NDP): That's very kind. I thank Ms. Jennings for switching with me. I appreciate that.

Thank you very much for being available this evening. I appreciate your presentation.

I'd like to start by asking you this. Could you go through what the cost has been for members of the B.C. Lumber Trade Council, both in terms of litigation expenses and lost jobs through the course of Softwood Lumber 4?

Mr. Ken Higginbotham: Keith may know the numbers for all of the B.C. Lumber Trade Council. I can tell you that Canfor's contribution, if you will, or our dues to the B.C. Lumber Trade Council were in excess of $4 million in the year 2003. That was just our company. We are the largest member, but that's a very large number. In addition to that, I would say we probably added at least another half a million dollars to that with our own trade lawyers in Washington.

In our company's case, in terms of jobs, we have had some job adjustments since Lumber 4 began, but they have been more associated with the rationalization of mills and the coming together of Canfor and Slocan, for example, in the past year. Currently, of course, we're experiencing a good market for lumber and panel products. The immediate impact on jobs has not been as great as it would no doubt be if we were to go into a down part of the business cycle.

Mr. Bill LeGrow: There has been another issue here in B.C., of course, that has affected how companies have managed their operations over the past several years, and that's the pine beetle infestation. It 's about eight million metres of additional cut.

Is that right, Ken?

Mr. Ken Higginbotham: It's close to 13 million now.

● (1925)

Mr. Bill LeGrow: About 13 million metres of additional cut have been put on the market here. The response of many of the interior companies to try to deal with that problem has been to actually add shifts and increase production. In fact, that has had an impact on the interior of B.C., where most of West Fraser's and I believe most of Canfor's operations are located. We've actually seen employment increase. That's the situation, but it isn't long term.

I'm not sure what the life of that extra cut is. Ken, you probably know better than I.

Mr. Ken Higginbotham: It's as many as ten years, but the time depends on whether we can cut it efficiently and economically at a different part of the business cycle.

Mr. Bill LeGrow: In the short term, it has increased employment. But it's more related to the beetle than to trade.

Mr. Keith Mitchell: The total cost to the B.C. industry since the lead-up and expiry of the softwood lumber agreement in 2001 and the immediate commencement of litigation has been in excess of $100 million. These are corporate funds spent to resist U.S. trade actions.

We have benefited from $14 million from the Government of Canada to assist the Canadian industry. We have a submission before the government now, which the minister has stated he supports, for further assistance to demonstrate that the Government of Canada stands shoulder to shoulder with the Canadian industry as we go through this difficult time.

Mr. Bill LeGrow: That's direct external costs. That doesn't count what the four or five companies in B.C. that are subject to the ADD mandatory respondents have paid out on their own, nor does it count the huge investment in management time.

Mr. Paul Perkins: We're in the same boat as everybody else relative to the hard costs. But some people forget about the soft costs involved in this investigation. In the first year of this, we spent some 10,000 man-hours developing facts and information for this investigation. This is hugely invasive, damaging to operations. That's not to say we don't have to do it, but it is a cost that doesn't easily get tallied up.

Mr. Peter Julian: If we move to what we all fear, which is an American constitutional challenge coming out of the extraordinary challenge provisions this spring, and we end up going through the American court system, what do you think the total litigation costs will come to by 2007 or 2008?

Mr. Keith Mitchell: It is a very good question because it points out something that the U.S. industry has to face. If they move to challenge the constitutionality of NAFTA, the dynamic of this dispute changes. All of a sudden they are suing the United States government. Canada would be aligned with the United States government, who would take the lead under their system as they did in Lumber 3, to resist such a lawsuit.

It would probably cost all the governments and industries involved millions of dollars, but the dynamic changes. The U.S. industry, or that small part of it that is prosecuting these petitions, becomes even more of an outrider at a time when President Bush is trying to put further trade agreements through the Congress. They would be suing their own government. That's how desperate they would have to get, if, as we believe, Canada's successful in the homerun case before the extraordinary challenge committee under NAFTA.

Mr. Peter Julian: We were down in Washington lobbying on behalf of the softwood industry a few week ago. I was surprised to see that the members of Congress that I met with felt that the United States had won at the various levels. They weren't familiar with the fact that Canada has won through each of the various levels of the process.

This is something that we have to take into consideration as we look at what could happen. My fear, coming out of that splash of cold water in Washington, was that the industry would be moving ahead to a constitutional challenge if they lose the extraordinary challenge, which we all assume they will this spring.

I want to come back to Lumber 3. It was resolved in a different way. Do you think the playing field is the same with Lumber 4 as it was with Lumber 3, or do you think that the Americans have changed the rules?

● (1930)

Mr. Keith Mitchell: The primary difference between Lumber 3 and Lumber 4 is in Lumber 3 the United States did not sue Canada on anti-dumping. It was only a subsidy case alleging that Canadian provinces, through their forest policies, subsidized the manufacture of Canadian lumber.

In the dumping case in Lumber 4, they have also alleged we're selling lumber in the United States below our cost of production. So the case is of a bigger magnitude and therefore the rates have been higher of duties that have been imposed.

After Lumber 3, when NAFTA was being approved, the United States made certain specific amendments to their Tariff Act under the Uruguay Round Agreements Act that saw Canada's basis for success in Lumber 3 removed by legislation—contrary, I might add, to specific provisions of NAFTA and the WTO that say if a country loses in an adjudication and rules-based trade, they ought not to do a legislative end-run. Well, the Americans did that, and were very pointed in their legislation that they were doing it to remove the basis of Canada's success.

So yes, it's gotten tougher, but we've still had a string of wins whereby the rates have been pushed down and many of the significant legal platforms the U.S. has alleged have not been upheld, either at the WTO or by binational panels under NAFTA.

Mr. Peter Julian: Do I have time for a final brief question, Mr. Chair?

The Chair: Yes, Mr. Julian.

Mr. Peter Julian: With respect to the framework document you mentioned that came out about a month ago, were you consulted on that document before it went forward?

Mr. Keith Mitchell: The issues that were in that document were widely consulted with us over a long period of time. The Department of International Trade has worked closely with the Government of British Columbia. We consult very closely with the Government of British Columbia, and the Government of British Columbia had canvassed with us all the major issues, so it wasn't a surprise to us.

Mr. Peter Julian: But were you consulted on the actual content of what went forward?

Mr. Keith Mitchell: Yes, we were, through our government, through the provincial government, which was our main interlocutor with the Government of Canada.

Mr. Peter Julian: Thank you.

The Chair: Madam Jennings.

Hon. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.): Thank you very much for being here with us. I appreciate the presentations that you've given. I do have a couple of questions.

You've mentioned several times the name of Mr. Feldman and his expertise on the issue of softwood lumber, and you've endorsed a number of statements or recommendations that Mr. Feldman has made publicly, I assume, to your group, your institute most likely, and to this committee.

One of the recommendations that Mr. Feldman made when he came before this committee was to suggest that one of the problems is obviously the enforcement of panel decisions, because there's a lack of authority or precedents. He basically said that in some way Canada needs to have the United States recognize in the NAFTA agreement, chapter 19, collateral estoppel and *res judicata*.

I would like to know this. Do you agree with him, and if you do, do you believe in fact that Canada has the force to get the United States to do that? That's my first question.

● (1935)

Mr. Keith Mitchell: As you are probably aware, Prime Minister Martin and President Bush recently agreed to a high-level task force to review problems of dispute resolution under NAFTA. We are extremely supportive of that initiative and we have identified again to the B.C. government a number of areas where there should be focus in those discussions. NAFTA is a living document, and for us to be able to exploit to the continent's optimum the trade opportunities, it requires constant revision in terms of looking at the rules.

We do not support the reopening of NAFTA at this time. We don't think that's desirable. We think what President Bush and Prime Minister Martin committed to should be followed through by Canada vigorously, quickly, and, to use your word, powerfully.

Mr. Ken Higginbotham: Not being a lawyer, I just look at it from the point of view of somebody working for one of the companies. I think the procedures, the panel methodologies and so forth, that are there are right, and that the panels come up with the right decisions; it's more the political situation and lack of implementation of those decisions we have great concerns with. I hope this will be part of the review that the Prime Minister and President Bush have agreed to.

Hon. Marlene Jennings: Thank you.

You talked about how you made a number of recommendations, one of which my colleagues have dealt with, the point about a high level of intervention between Canadian politicians and American politicians in a policy campaign to educate U.S. politicians. My colleague Mr. Crête mentioned some of the changes in the rules regarding parliamentarians' travel, which now allow a certain amount of flexibility for Canadian parliamentarians to go down to Washington, D.C. Unfortunately, the change in the rules does not allow parliamentarians to use any of their travel points anywhere in the United States, except in Washington, D.C.

When we do go down to Washington, we're being told that in fact sometimes the best place to get the ear of the U.S. senator or congressman or congresswoman is actually in their district, not in Washington, where there's so much competition for their limited time. So you might want to lobby your individual parliamentarians to get them to push the Board of Internal Economy to open up that little rule.

The point I wanted to make was that you suggested that Canada create a NAFTA dispute prevention committee. Do I have the name of it right?

Mr. Ken Higginbotham: Yes.

Hon. Marlene Jennings: I'd like you to talk a little bit about what you think such a dispute prevention committee could do. Given that you say you don't want to see NAFTA or chapter 19 opened up, but to see some mechanisms within the umbrella of that agreement as it now stands, how would such a committee in fact operate?

Mr. Keith Mitchell: Such a committee would operate by agreement of the two governments, which would not require the reopening of NAFTA.

We believe, first of all, that there are many, many businesses in Canada that are successful and have exploited NAFTA to the benefit of the continental economy. For every successful Canadian business person involved in a transaction with the Americans, there is an American who you'd assume is equally happy with that transaction. We've got to motivate and bring together those people, both in their districts across the United States and in Canada.

Secondly, when Canada begins to get a very significant market share in any commodity, we can assume that some people on the other side of the border will start to go to their trade lawyers and look at legal remedies. We should monitor these increases in Canadian positions, be sensitive to them, and be able to respond, so that litigation is not the only recourse. It doesn't require the opening of NAFTA to sit down and say to the United States government, “Let's take preventative steps”, and then when a major dispute starts, “Let's also appoint a monitor”, so it isn't just the trade lawyers running through various actions, like the 16 actions we reported to you today as ongoing, but some people who have the economic and commercial interests of industries on both sides of the border at heart. The workers and investors in those operations would also be in play. We don't feel that's happening now.

● (1940)

Mr. Paul Perkins: I would just add that for those of us who have been around this issue for as long as we have, we think there has to be a better way to approach dispute avoidance. We're faced with a very determined, powerful, well-connected lobby in the U.S. that's been very successful at what it's doing. So anything we can set up that would take away from their position—recognizing that they don't represent 100% of the U.S. industry, but something between 50% and 60%—would be useful going forward to avoid another round of this.

Hon. Marlene Jennings: My last question has to do with productivity. Given that your industry has paid all of these duties to the United States, over $4 billion now in Canadian money, and given the costs your industry has had to pay in terms of legal fees—and one of you mentioned the soft costs, which are not even being accounted for in this—have you done any kind of study as to what that represents in terms of productivity?

You mentioned that because of the pine beetle, there has actually been an increase in the number of jobs. However, are you able to do the kind of research and development and possible innovation you normally would have been doing if that $4 billion—over $2 billion from the B.C. industry—had not gone into the coffers of the United States Department of Commerce? Would part of that money have been invested in research and development, for instance, and possibly increase the productivity?

Mr. Ken Higginbotham: I don't think there's any question that in the case of our company, if we had those dollars, technology improvements in our mills and the potential expansion of the company through merger or acquisition could be facilitated. Certainly as we look into the future, one of the ways we think the company could become more profitable as well as less of a target for these kinds of actions is by moving into different kinds of products and so forth. That kind of activity, of course, would include research and development of a variety of types.

We think that more economic analysis and more analysis of policy changes that could be encouraged in the provinces and so forth all take money and probably aren't available to us given the heavy load of the deposits.

As I mentioned earlier, we've been really blessed over the past year and a half or so with a very buoyant market, which has allowed us to continue to do some of those kinds of things. Nonetheless, there are still lots of activities that are forgone as a result of not having that money in our pockets.

Mr. Paul Perkins: Just because the deposit structure went away, it wouldn't mean that would return to a company's bottom line or be available to invest in other elements. We've been blessed with a very strong market in terms of U.S. and Canadian housing starts in the last two years, which has really allowed a significant portion of that money to actually be passed on to the consumer. I'm not saying that's a good thing or a bad thing, but it's a reality that it's a cost that has been passed on to some degree.

● (1945)

Hon. Marlene Jennings: So what you're saying is that you're not really out of pocket.

Mr. Paul Perkins: There's $4 billion sitting in the U.S. that belongs—

Hon. Marlene Jennings: Yes, but you just said it has been passed on to the consumer.

Mr. Bill LeGrow: The marketplace does that. I don't think that has anything to do with the trade dispute. If we were operating—

Hon. Marlene Jennings: It doesn't really help your cause. The average consumer might be bleeding about the whole thing, and then you say, “Well, we've actually passed it on to the consumer”.

Mr. Paul Perkins: But the consumer is, unfortunately, in the U.S. system—

Hon. Marlene Jennings: I'm very sympathetic to you, believe me. I'm very sympathetic to the forestry industry. It's just that sounded a little off.

Mr. Paul Perkins: It may sound off, but it is in fact the reality. In fact, the consumers to some degree should be our best friends because we're dealing in a commodity the life cycle of which should be lower costs over time, to your point with regard to efficiencies. This sort of trade action is very distorting to the creation of a North American market.

We were asked earlier why we are prepared when we're winning the litigation to take a look at what might be alternatives. We have to get out of this cycle of issues that are at the border and are creating unintended consequences between ourselves and our customers.

Mr. Keith Mitchell: On that score, officials of the Government of Canada, the minister and others, have repeatedly made the same point, that American consumers are paying the price for American protectionism. That's the market responding and penalizing them.

These companies are out, in Canada, $4 billion. The prices are being driven up by the U.S. protectionists. And U.S. consumers, when they pay their mortgages and buy houses, are paying the penalty.

It does sound off. It's a message that when you go to—

Hon. Marlene Jennings: We misunderstood each other. I understood the gentleman—I don't remember your name—to be talking about Canadian consumers. I understand full well that American consumers are paying a higher price because of the protectionism of their own industry.

I'm not going to comment on that. It's up to the American consumers to fight against the protectionism that is costing them.

I had understood that it was Canadian consumers who were paying the cost. That's why I said it sounds a little bit off, that you're not helping your cause. So that was a misunderstanding, and I'm glad it's been sorted out.

Thank you.

The Chair: We're going to go to a second round, with Mr. Duncan.

Mr. John Duncan: Thank you.

I'm going to weigh in on the consumers too, because what I heard you say collectively is that under normal circumstances U.S. customers would pay the freight here. But what happened is that because of the marketplace and the fact that it was a very strong demand, the prices were good; therefore, there was room to give some relief to the U.S. consumer. In other words, they weren't paying a penalty based on the artificiality of these tariffs as much as they would in a poor market, because the prices were already high and there was a margin there for the producers anyway.

That's what I thought I heard being said.

Mr. Bill LeGrow: I think that's correct. When you impose an artificial cost of this nature, it really impacts the producer when the market is weak. But if the market takes the price beyond your cost plus the duty, then the market is setting the price, not the tax.

I think that's been the case here for the past 18 months. It wasn't the case for most of 2003, basically from the beginning of the duty in May 2002 to perhaps the end of 2003.

Is my recollection okay?

Mr. John Duncan: That's good. I think we've clarified that one to death here.

I'd like to go back to Byrd. I think everyone who's involved in the softwood to any extent at all soon comes to the realization that you have clearly talked about, which is the fact that the Byrd amendment is sort of the root of all evil in terms of generating these kinds of disputes.

I was wondering if there's any indication that the retaliation that Canada and the EU have entered into is having any impact at all. I know it's not a softwood-specific retaliation, but there could be some spinoff. I wonder if there's any way to gauge that at all.

● (1950)

Mr. Paul Perkins: I can comment. We have a Washington office that spends a fair amount of time tracking this issue, obviously.

I think the retaliation in a numerical sense is not great, but it is important that the action be taken because the U.S. responds only to action, not talk. So the retaliation was important.

On the other hand, it's also given impetus to groups within the U. S. that are opposed to the Byrd amendment, the exporting groups. There's one particular lobbying group that has taken that on as their main challenge at this time. The fact that we're doing it adds support to them. They're able to make a better case, and it gathers momentum.

To some degree it supports the U.S. administration, which has said it wants to get rid of the Byrd amendment; it wants to either repeal it or amend it. But they don't have the support within Congress. So it lends support to that activity.

Mr. John Duncan: My final question relates to the longer term. We have structural changes that are going on in the industry. We have structural changes that are going on in the labour market too, most recently the steel workers' merger with the woodworkers in Canada—well, I guess it was already an international union, but predominantly a Canadian union. All of these things tend to support less dispute, rather than more, in terms of integrating the two countries into one producer market or consumer.

I was wondering if that leads to considerable optimism, within your group, that we can maybe look at not another twenty years of this kind of warfare?

Mr. Ken Higginbotham: It depends on the day, I think, how optimistic you feel. But I can say, along with what you were suggesting, that the first message that the Canadian CEO group tried to get across to the coalition group in Chicago last Monday was the strong desire on the part of Canadian companies to develop a continental marketplace, and from there to potentially increase the consumption of wood products within Canada and the United States and then offshore. The vision of what could happen is really pretty marvellous. Our hope is to be able to have some of that vision transfer to these companies that are part of the U.S. coalition.

They tend to be mostly companies that are fairly small, with the great exception, of course, of International Paper and Plum Creek Timber Company. They tend to be fairly small companies, and I think they sometimes find it difficult to look past the day-to-day to the larger opportunity that's out there. That's discouraging, but I don't think it keeps us from continuing to put forward the broader picture that there is continental opportunity here, as opposed to a little trade dispute that has grown into a big trade dispute.

● (1955)

Mr. Paul Perkins: I think one of the points that we continue to make—and when we talk about a North American market, one of the reasons we look at the NAFTA as being something that should be worked at to preserve—is the worry about third-country imports and the fact that if you have these kinds of border disputes that are artificially adding costs, we are opening the market for European production, Chilean production.... You can't view lumber any differently than you view other world commodities. That's constantly in our minds.

Mr. John Duncan: Thank you very much.

Paul, in your summary you're talking about another area that Elliot Feldman talked about with Carl Grenier in their paper. So certainly there's a lot of continuity in the dialogue, both from this evening and from that paper.

I think we've probably reached the end of the questions. Thank you very much for appearing.

The Chair: Thank you, Mr. Duncan.

We have a short question from Mr. Crête.

[*Translation*]

Mr. Paul Crête: I'd like you to give us an overview of the situation. Have any major changes occurred in terms of assets ownership since the crisis first erupted? Have more Americans purchased companies here in this country? Have Americans taken steps to make their industries more competitive today than they were four years ago?

Could you give us an overview of the situation, talk to us about changes that may have taken place and others that you may be planning to make over the next three years.

[*English*]

Mr. Bill LeGrow: Have Americans been active in buying Canadian assets? Is that the question?

[*Translation*]

Mr. Paul Crête: I'm asking you if the Americans have bought up more companies or whether there has been any concentration in Canada. What principal changes have you observed in the market since the crisis erupted and do you anticipate other changes taking place over the next few years?

[*English*]

Mr. Paul Perkins: I think that we've seen a continuation of the consolidation within Canada. We've certainly seen a number of companies acquiring other companies and consolidating. You've seen some significant sales of U.S. assets within Canada. There's the IP sale to West Fraser. You've also seen Canadian acquisitions of some U.S. assets, such as Interfor's acquisitions of some west coast companies.

I don't know if there's any particular trend that you could talk to. I think that we all believe consolidation is going to continue on both sides of the border. In fact, one of the issues is that consolidation, particularly in the southern U.S., has not moved at the same pace that it has in other geographical locations. Both Canada and the western U.S. are becoming more efficient and more competitive to some degree at the expense of the southern U.S., which is not consolidating as quickly. I can't really give you the reasons for that, but it is a factor.

[*Translation*]

Mr. Paul Crête: Possibly that means that in terms of the congressmen and senators, representatives from the South will be more opposed or resistant to changes because these will have a greater adverse effect on their companies. That means that a Louisiana resident is likely to be less receptive to our message than a Northern or Western resident.

[*English*]

Mr. Paul Perkins: Certainly you have the phenomenon of both smaller sawmills and smaller private landowners in the southern U.S. In the U.S. this issue is not necessarily about producing lumber; it's all about growing trees on private land. The lobby from the south is very active in that context and very strong within the U.S. Congress.

Mr. Ken Higginbotham: One of the things that's very perverse about this trade action, and the ones before it, is that having duties put in place has caused us to have to dig pretty deeply and invest in our mills. In B.C. at least, and in many other places in Canada, we have quite a highly capitalized industry, whereas the impact of duties in trying to keep prices high seems to have actually in some way stopped those companies in the southern U.S. especially from similar investment.

● (2000)

[*Translation*]

Mr. Paul Crête: Thank you.

[*English*]

The Chair: Thank you, Mr. Crête,

Gentlemen, thank you very much for your presentations.

I would only add a comment. First of all, thank you. We all appreciate some of the constructive comments that you made specifically when you referred to Canada as being more united in this effort. I think the pan-Canadian approach has really helped us, but you also made a comment in terms of taking a tough approach.

I'm sure that you're well aware of when the minister most recently announced some form of retaliation in terms of a 15% surtax on various U.S. products. As much as we've heard from other witnesses who say that we should take a tough approach, we've also heard from you that we should take that kind of an approach in some ways, but that it's not really the answer. At the end of the day, from what we've heard from people, it would seem that it really doesn't bring us to where we want to be. I think that more lobbying, more awareness of each other, and more understanding will get us the result we're looking for.

I want to thank you for your time and your constructive comments. We'll adjourn, unless there is something you wish to add in closing.

Mr. Ken Higginbotham: Perhaps I could just thank you. The opportunity to appear before a committee such as yours that represents the various parties found in Parliament and to find that all of you are so supportive of the Canadian softwood lumber industry is very encouraging and very heartening. We appreciate your hard work on our behalf.

The Chair: Let me assure you of that, because you've triggered this response. I don't think there's a member in this House who isn't 100% behind trying to bring a successful resolution to this. You can count on that support.

Thank you very, very much.

We'll adjourn.

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