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Chair: Mr. Lee Richardson





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• (1535)

[*English*]

**The Chair (Mr. Lee Richardson (Calgary Centre, CPC)):** Welcome to this, the sixth meeting of the Standing Committee on International Trade.

Today we have the great pleasure of having the minister appear before us. As per our normal practice, we're going to ask the minister to perhaps read an opening statement, if he would like, and to keep it under 10 minutes if he can. Then I think we'll proceed to questions immediately thereafter, beginning with the party on my left. We'll do seven-minute rounds in the first round. If there's time for a second round of questioning, we'll go to five-minute questions.

I notice the minister is accompanied today by the assistant deputy minister of trade policy and negotiations, Don Stephenson. Mr. Stephenson, welcome back to the committee.

I take it that there will be one statement from the department read by the minister.

Mr. Minister, the Honourable Peter Van Loan.

[*Translation*]

**Hon. Peter Van Loan (Minister of International Trade):** Thank you, Mr. Chair.

[*English*]

Thank you, Mr. Chair.

[*Translation*]

This is my first appearance at this committee as minister, and I appreciate this opportunity.

I would also like to acknowledge the committee members here today, those from all parties, for their important work on trade issues.

[*English*]

Our government believes that free trade is the lifeblood of our economy. It of course represents fully two-thirds of our gross domestic product, so you really can't talk about the Canadian economy or economic recovery without talking about trade. That's why our government is putting such a strong emphasis on freer trade, an aggressive free trade agenda that will create jobs and foster economic growth.

Our government will continue to promote competition and provide more choice for Canadians during this time of fragile econom-

ic recovery. As the global economy continues to recover, one thing is clear: free trade and not protectionism is the key to long-term prosperity for Canadian workers.

Our government is eliminating tariffs for our manufacturers to get the machinery, equipment, and inputs they need to stay competitive. It includes a number of important free trade negotiations as well, including with the European Union, the most significant free trade initiative since the North American Free Trade Agreement.

[*Translation*]

But you cannot talk about trade in Canada without also talking about trade with the United States, our number one trading partner anywhere, by far, and a partner in supply chains for a number of key industries.

[*English*]

As this committee knows, our two economies are deeply interconnected. We are both stronger and more prosperous because of these strong links. Hundreds of thousands of jobs on both sides of the border depend on the free flow of goods, products, and services across our border every day.

Before the United States' recovery act took effect, our two nations enjoyed a relatively open trade in government procurement at the sub-federal level. Canadian suppliers have always been top notch competitors in the United States, going head to head with the competition in a number of sectors and winning. The result was a strong and unbroken continental supply chain. The Buy American provisions of the recovery act changed that. Those chains faced strains and breaks.

[*Translation*]

In our view, it made no sense for the United States to close its doors to Canadian suppliers for its government-procurement needs—especially at a time when our economies were struggling to recover. After all, in a time of recovery, it is essential to sharpen your competitive advantages. For Canada and for the United States, our bilateral commercial relationship—the largest of its kind in the world—is perhaps the biggest competitive advantage we have.

[*English*]

It came as no surprise that businesses on both sides of the border, as well as the provinces and territories and a number of state governments, called for an exemption for Canada from the Buy American rules in the act. The deal we negotiated is a big victory for Canadian companies and workers who rely on access to the American market today and in the future.

There are three parts to the deal. The first part of the agreement exempts Canadian firms and Canadian goods from the Buy American provisions applied to infrastructure projects funded by the recovery act. The waiver that Canada obtained is applicable in all 50 states, and we're confident it will mean jobs for Canadians in the months ahead. With stimulus funds under the recovery act available until the end of next September, significant opportunities remain for Canadian firms to participate in infrastructure projects being funded under the act in major American states.

The second element of the agreement is via the World Trade Organization's Agreement on Government Procurement. It provides permanent reciprocal access to sub-federal procurement for both countries. This will allow Canadian companies to compete in the U.S. market and will create jobs and prosperity for Canadians for years to come. This access means more wins for Canadian companies and more opportunities for Canadian workers.

The third element of the agreement is what I call future considerations, and there are two aspects to that. The first is a provision that should we face similar Buy American provisions in subsequent legislation, there is a commitment to have fast-tracked consultations within 10 days of a request whereby we could explore solutions similar to those in the existing Buy American agreement. The second element is a commitment between Canada and the United States to enter into negotiations this calendar year for a deeper and more profound long-term agreement on government procurement.

[*Translation*]

We think that Canadian workers and businesses can compete with the best in the world, whether on projects here at home, or in global markets like the US. They can win against the toughest competition. This agreement will help them.

[*English*]

Our embassy in Washington, D.C., and our consulates throughout the United States are now actively informing local governments and American contracting and distribution firms that Canadian companies can bid on contracts covered by this agreement. Our officials posted throughout the United States are constantly working to help Canadian companies tap into these opportunities. Thus, over both the short and the long terms, this is an important win for Canada.

In return, Canada is offering American firms temporary access to procurement contracts valued above \$8.5 million of Canadian municipalities, some provincial crown corporations, and provincial agencies.

There are no negative measures here. The alternative was a protracted trade war of escalating protectionist measures. A war like that would end up costing jobs and hurting both economies, and I'm

sure you would agree today that is the last thing Canada would need at a time like this.

• (1540)

[*Translation*]

I am happy to say that the provinces and territories feel the same way: they support the agreement. Major Canadian industry groups representing millions of Canadian workers support it, too. They understand that protracted trade wars do not create jobs and prosperity.

[*English*]

Canada's history, and certainly our experience with the United States, has been that jobs and prosperity are created by freer trade, not protectionism. That's why our government stood up for Canadian businesses and workers and negotiated this agreement. We are thinking about Canada's long-term game. We are thinking beyond emotional and shortsighted policies and the potential for retaliation. We are thinking about the potential for growth, and that is why we're moving forward on an ambitious trade agenda that will open more doors for our businesses, workers, and investors in the years to come.

I look forward to working with the members of this committee to do that and help create a more prosperous and competitive Canada for the future.

Thank you, and I look forward to any questions you might have.

**The Chair:** Thank you, Mr. Minister. That was very helpful.

May I take this opportunity, through you, to thank your department for the excellent briefings we receive at this committee. The department has been very good about coming forward as we begin new topics. On these trade agreements in particular, it has been very helpful to us. On behalf of the committee, I thank you for that.

We're going to start the first round of questioning. This will be a seven-minute round for questions and answers.

Mr. Brison.

**Hon. Scott Brison (Kings—Hants, Lib.):** Thank you, Minister.

In the Speech from the Throne the government described the Buy American deal as “the recent agreement that gives Canadian companies permanent access to state and local government procurement in the United States”. Again, it said there would be “permanent access to state and local government procurement in the United States”.

Do you agree with that statement in the throne speech?

**Hon. Peter Van Loan:** As I laid out, there are a number of elements to our agreement. One is the government procurement agreement of the WTO, and that is one element of what the throne speech was speaking about. The other is the future considerations, and these represent the balance of what we're talking about in the throne speech, and the hope of course that we can, through negotiating a deeper—

**Hon. Scott Brison:** Minister.

**Hon. Peter Van Loan:** —long-term permanent agreement, extend that to include municipalities—

**Hon. Scott Brison:** We're short of time today, Minister.

**Hon. Peter Van Loan:** You asked for an explanation.

**Hon. Scott Brison:** Could you give a yes or no answer? Do you agree with the throne speech when it describes the agreement as one that “gives Canadian companies permanent access to state and local government procurement in the United States”?

**Hon. Peter Van Loan:** We have a measure of permanent protection. Obviously, the WTO GPA protection is not comprehensive, just as what we have offered on the GPA side is not comprehensive.

**Hon. Scott Brison:** Okay.

**Hon. Peter Van Loan:** Of course, in order to have full access of the type we would like, including to local governments, we're going to have to succeed in those future negotiations, which this agreement covers and creates a path for.

**Hon. Scott Brison:** Minister, respectfully, it's a yes or no answer.

**Hon. Peter Van Loan:** It's a complicated answer.

**Hon. Scott Brison:** No, no.

Well, okay, but the throne speech says specifically that the recent agreement gives Canadian companies permanent access to state and local government procurement in the U.S.

Does it?

**Hon. Peter Van Loan:** We have permanent access, under the government procurement agreement, to 37 states, subject to certain caveats and carve-outs.

**Hon. Scott Brison:** What about local procurement?

**Hon. Peter Van Loan:** Well, local procurement and broader procurement through the states, hopefully with fewer carve-outs, is covered by the future considerations aspect of the agreement, that is, the commitment to enter into negotiations this year for a deeper permanent agreement on government procurement. I think the agreement does have to be seen in its entirety.

**Hon. Scott Brison:** So you don't have permanent access to local procurement.

**Hon. Peter Van Loan:** Well, we have permanent access to sub-federal procurement in the sense of the states, subject to the fact that it's for 37 states—

**Hon. Scott Brison:** Minister, I'm asking if the government's agreement has secured permanent access to local government procurement, yes or no.

**Hon. Peter Van Loan:** Not yet. We have to do that in the future.

**Hon. Scott Brison:** So you're saying that the throne speech, which states specifically that the agreement “gives Canadian companies permanent access to state and local government procurement”, is wrong.

**Hon. Peter Van Loan:** No, I say that it has to be read in the entirety of what this agreement represents, including the commitment to negotiate and enter into negotiations for a deeper agreement on procurement for the future.

**Hon. Scott Brison:** Your throne speech says it provides permanent access. You've just said that it doesn't provide permanent access to local government procurement. In fact, on March 11, your director of multilateral market access at DFAIT agreed with the following statement, that there's no permanent access to local U.S. government contracts under this agreement.

Minister, to have in your throne speech something that you have confirmed today is not correct, I find unacceptable. It indicates that either your government does not understand the trade agreement it recently negotiated or it's intentionally misleading Canadians about it.

• (1545)

**Hon. Peter Van Loan:** No. I view the statement as much broader than that, as covering all aspects of the agreement we've entered into, including the waiver, which applies to all 50 states and which all municipalities in the United States enjoy, and allows them to bypass the Buy American provisions that every other country would be captured by.

**Hon. Scott Brison:** You've read the agreement.

**Hon. Peter Van Loan:** Yes, I have.

It also includes the permanent provisions of the WTO, which apply to the 37 states, and the future considerations, including the commitment to enter into negotiations, which we hope will lead to a deeper agreement.

**Hon. Scott Brison:** Minister, in the agreement there is a section called “Temporary Agreement on Enhanced Coverage”. That seems pretty clear. Temporary typically means less than permanent. For the record, I just want to have you confirm, and in fact you have confirmed to this committee, that there is no permanent access to local government procurement under this agreement, and that your throne speech in fact misleads Canadians.

My second question concerns the area of local contracts and the value of these local contracts. Did the negotiating team have an estimate of the aggregate value of these local U.S. contracts covered under the temporary agreement?

**Hon. Peter Van Loan:** I think it's impossible at any point in time for one to have accurate numbers, whether you are looking at the Canadian infrastructure processes or the American infrastructure processes. At the point at which the agreement came into place, all of a sudden those numbers would change in any event. Anybody who has been involved in the real world, as I have been, knows there is a contract that you let, but when you let a contract for a project, that's just a top-line number. Most subcontractors have not been engaged, so even though it may appear that the contract has gone out the door, it hasn't; the bulk of the contract is still available through subcontracts.

If anybody could ever pretend to be able to give you an accurate estimate of what would be available, they would just be making it up.

**Hon. Scott Brison:** So you didn't have those numbers?

**Hon. Peter Van Loan:** All the provinces that were participating in the negotiations had access to the same information we had from the Americans on their infrastructure programs, which were publicly available, and how far they were in the process. Everybody was taking their best guesses about what that would mean in terms of what was available. What we do know is that based on that, industry, and industries involved in infrastructure and contracting traditionally, felt there was significant value for them to capture, and wanted to see that captured through this agreement.

**Hon. Scott Brison:** Minister, witnesses before this committee have estimated that only \$4 billion to \$6 billion worth of U.S. contracts remain to be tendered under the U.S. recovery act. The rest has been spent.

Would you agree that's a realistic figure?

**Hon. Peter Van Loan:** No, I wouldn't agree that's a realistic figure. I wouldn't commit to any figure because my experience tells me that I can look at infrastructure projects that were approved and let, and for which contracts were settled, as much as a year ago in Canada, and there is still considerable value in those contracts that are being decided today through subcontracting decisions.

**Hon. Scott Brison:** Minister, you are saying you negotiated without knowing what we were giving up and what we were getting access to.

**Hon. Peter Van Loan:** We knew exactly what we were getting access to and what we were giving up.

**Hon. Scott Brison:** Finally, Minister, Canadian access to U.S. local projects under this agreement ends with their 2009 stimulus package, but U.S. companies have guaranteed access to Canadian local stimulus until 2011, and this includes any new projects that have yet to be announced. Essentially U.S. companies were given a two-year advantage under this agreement. The U.S. can access Canadian local projects long after the U.S. local projects have dried up in terms of Canadian access to them.

Why would you have signed such a one-sided deal?

**Hon. Peter Van Loan:** The agreements provide that both countries have reciprocal access to their stimulus programs for the duration that their stimulus programs are running.

That is the structure of the agreement. Any subsequent stimulus programs that come through obviously cannot be covered in an agreement like this because you can only speculate on what those might be down the road, and you can't fetter your discretion, obviously, in either country on that basis through—

• (1550)

**Hon. Scott Brison:** In fact, this agreement does open up for a new Canadian stimulus package—

**Hon. Peter Van Loan:** If I could finish...I tried to give you an opportunity. So from that perspective, we think it's pretty much a reciprocal agreement.

You have to remember that the real test here is that all the provinces were at the table, and industry was deeply involved. The terms that were established were done very much by the provinces and industry, in their interest, based on what they thought was a good deal and the best deal for their workers and businesses. The role of the federal government was very much a leadership role in carrying out those negotiations. If you will, if you were to do it as a lawyer-client relationship, our negotiators in the Government of Canada were the lawyers on behalf of our clients, industry, workers, and the provinces and territories in Canada.

**The Chair:** Thank you, Mr. Minister and Mr. Brison.

We now move to Mr. Laforest.

[*Translation*]

**Mr. Jean-Yves Laforest (Saint-Maurice—Champlain, BQ):** Thank you, Mr. Chair.

Good afternoon, Mr. Minister.

Concerning the Buy American Act, we met several witnesses in recent weeks who expressed their concerns, based on their knowledge of the American market, regarding the possibility that American companies will take advantage of the fact that municipal and state governments in the US are not very familiar with global trade rules, and will try to influence them to favour American companies. Those witnesses believe that when Canadian and Quebec companies submit bids, American companies will try to thwart their efforts, despite the international trade agreement and the rules in effect.

Does the department plan to introduce measures to avoid such situations?

[*English*]

**Hon. Peter Van Loan:** As I already indicated, we have encouraged our representatives in consulates throughout the United States, our trade commissioners, to inform not just the contracting companies but also municipal contracting authorities of the fact that a waiver is in place and they are not restricted in their procurement opportunities. They can seek the best value in their procurement processes, including not being restricted by any kind of Buy American provision. So we have made efforts to do that.

[*Translation*]

**Mr. Jean-Yves Laforest:** Mr. Minister, does the Department of International Trade plan to introduce a process to confirm whether Canadian and Quebec companies are within their rights and to ensure that they are not being seriously cheated?

[*English*]

**Hon. Peter Van Loan:** Well, that's exactly what I was saying. We have gone out there to promote that.

One has to look at the structure of the agreement. There are, again, three elements of it. The first element, the temporary element with regard to the Buy American provisions, is, if you will, permissive. It allows municipalities and states without restriction to entertain tenders from Canadian companies. It does not require them to. The requirement comes from the second element, the permanent obligation through the World Trade Organization government procurement agreement provisions, and, as has been noted, that applies to 37 states, subject to certain carve-outs. It doesn't have a municipal application.

So those that are in that situation are bound, and in the other cases, it's a permissive one, where we can encourage it. As I say, that same kind of structure is actually mirrored in the other direction by the commitments that Canadian provinces and territories have given, including the Province of Quebec, which of course was one of the most vigorous supporters of this agreement.

[*Translation*]

**Mr. Jean-Yves Laforest:** I have a question on another matter. It has to do with the free trade agreement with Colombia. Last week, you accepted a proposal made by the Liberal Party critic. You indicated that your party would agree to an amendment to the bill on the free trade agreement with Colombia. The amendment would require Colombia to provide an annual report on the state of the human rights situation there.

By agreeing to such an amendment, Mr. Minister, does this mean you acknowledge that there are serious human rights problems in Colombia?

• (1555)

[*English*]

**The Chair:** Excuse me, Monsieur Laforest. This meeting is with regard to the procurement agreement in the United States. The minister was asked here to speak on it. It is out of order. The minister may wish to respond or not, but you only have three minutes left. I wondered if you wanted to stay with the topic or go out of order in terms of changing the subject here.

[*Translation*]

**Mr. Jean-Yves Laforest:** I always thought that ministers had full control over their files, especially when they agree to such a request. This is further to his speech. I assume he is able to respond.

[*English*]

**The Chair:** You are out of order, Monsieur Laforest. We invited the minister to speak on one specific topic. I'm sure the minister is quite adept at answering any question, and we could have a meeting to discuss that topic if you'd like. The minister has said he'd be pleased to appear before the committee on that topic before you were a member of the committee. Maybe that's why you misunderstood.

Mr. Minister, I'll leave it to you.

**Hon. Peter Van Loan:** Obviously I came here to speak about the Buy American provisions, but I'm happy to raise that. Obviously the Canadian government does take human rights seriously. We have made it a cornerstone of our foreign policy that we have a principled approach that puts human rights, democracy, freedom,

and the rule of law at the cornerstone. That includes in our decisions about who to negotiate free trade agreements with and how we go about doing that.

The Canada-Colombia free trade agreement had with it parallel provisions dealing with labour rights and environment, both of which ensured that rights of Colombian citizens were secured and protected. That is an illustration of that principle at work. There was a suggestion from others, including from the Liberal Party, that there was a need for some additional protection in this case. The Colombian government has indicated that they are comfortable with that requirement from them. We, as a result, had no difficulty agreeing to that provision in this case.

[*Translation*]

**Mr. Jean-Yves Laforest:** If you acknowledge that there are human rights problems in Colombia, since you agreed to such an amendment, how can you give any credibility to a report that will be produced by a country that does not have this situation under control? That is the big question. Colombia does not have its human rights problems under control and you agreed to—

[*English*]

**The Chair:** Excuse me, Monsieur Laforest. The question is out of order.

It is my job as the chair to keep order. We are on the topic of procurement. I asked you once to refrain from deviating from the topic of the day, and the minister was kind enough to respond to your question anyway. You're burning up your clock on questions that aren't relevant to this meeting. I'm sorry, but it's my job to remind you that you are out of order.

If you have a question on the subject of the day, please continue.

[*Translation*]

**Mr. Jean-Yves Laforest:** That is my question, if the minister wants to answer it.

That is all for me.

[*English*]

**Hon. Peter Van Loan:** I'll simply restate what I said before. Obviously we do take human rights seriously. We were satisfied with the human rights situation in Colombia, where we believe the government has made tremendous progress in challenging circumstances, facing an insurgency, and improving the human rights conditions.

We also believe that free trade agreements, such as the Canada-Colombia free trade agreement, are important to improve the living conditions and the human rights conditions of the citizens in the countries with which we make such agreements. That is again a lesson of history. The free trade agreement in this case will have that kind of salutary effect and benefit for the people of Colombia.

As I understand the proposed Liberal amendment—of course, it has not yet made it to committee to be tabled—you would have Canadian officials assessing the Colombian human rights situation, as well as Colombian officials assessing their own human rights situation, so it's not merely a question of self-assessment. But we've already had the benefit of that kind of assessment from our officials. That is why we were satisfied with the human rights conditions there and why it is beneficial to enter into the agreement at this time.

**The Chair:** Thank you, Mr. Minister, and thank you, Monsieur Laforest.

We'll now move to Mr. Julian for seven minutes.

• (1600)

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

The study is actually on Canada-U.S. trade relations, so I'll have a couple of questions on Buy American and a couple of other questions related to Canada-U.S. trade relations, just to flag that in advance.

Thank you, Mr. Minister, for coming forward.

We've heard from witnesses. One of the witnesses, Carl Grenier, who is a trade expert, as you well know, stated that the Buy American agreement is only the second-worst agreement that Canada has ever signed; the first one was softwood lumber.

I think we were all surprised around the table, Mr. Minister, when members of your department came forward and we asked them the question Mr. Brison referenced earlier about evaluations, estimates, and impact analysis. Apparently nothing had been done to actually show the impacts of this agreement, as far as where we would gain and where we would lose. It all seemed to have been done on the back of a napkin.

So my question to you today—a few weeks later—is have you done your due diligence? Can you provide any impact analysis reports or estimates to the committee? Is there anything that shows what the government, in a leadership role—and you're absolutely right that the federal government has a leadership role in this regard—has done to show what the impacts are of this agreement?

**Hon. Peter Van Loan:** The impact of the agreement is to open up markets or keep markets open in the United States that would otherwise have been closed under the legislation.

As far as what was on the other side of the equation—and that's what you're driving at when you talk about an analysis and what Canada gave up—the reality is, nothing. The municipalities participating through the Federation of Canadian Municipalities and the provinces all indicated that their procurement processes were unrestricted, by and large. Any restrictions they had were reflected in this agreement in the carve-outs under the WTO procurement agreement provisions. As such, to the extent that they had sensitive sectors they wished to protect within procurement, that was done. As a result, every single dollar benefit, every single gain made through contracting with the United States subsequent to this agreement, represents a net benefit to Canada, Canadian workers, and—

**Mr. Peter Julian:** My question was very specific: do you have any figures to share with us? Are you saying no?

**Hon. Peter Van Loan:** I'm giving you a figure, which is that every dollar that will come through contracts in the future will represent a net benefit. It's not a complicated analysis that needs to be made. That's why the agreement was so strongly supported by the provinces, the Federation of Canadian Municipalities, the industries affected, the Canadian Chamber of Commerce, and the Canadian manufacturers. They all stood to gain.

**Mr. Peter Julian:** Mr. Minister, thank you for that. I beg to differ. I think the more the information comes out about this agreement, the more people seem to be concerned.

Now, a senior official with the Quebec Ministry of Economic Development estimated the value of unallocated funds of these seven U.S. programs that we supposedly had access to at \$1.3 billion, and the value of the contracts that we're giving up, opening up to American businesses, are estimated at more than \$25 billion, and some estimates range even higher.

So my question to you is very specific. If you don't have the figures to share with us, do you have any idea about how many jobs will be lost in Canada as a result of this? If we are having access to \$1 billion and giving up \$25 billion, there are very clearly concerns about what the government is giving up.

My related question is this. How many programs of the seven actually had full commitments already made—in other words, all the contracts were signed and no money was available except for re-tendering? How many of the seven were in that position?

**Hon. Peter Van Loan:** With respect, Mr. Julian, your question presupposes a world that does not exist, a world where Canadian provinces and municipalities had imposed across-the-board prohibitions on contracting with American companies. That was simply not the case. In fact, they almost all ran broad, wide open procurement with a few very small exceptions, which are reflected—

**Mr. Peter Julian:** No, many of them have local preferential—

**Hon. Peter Van Loan:** —in the exceptions they put on the table in what we offered on the World Trade Organization government procurement agreement provisions. So to say we're suddenly opening up \$25 million of access—

**Mr. Peter Julian:** It was \$25 billion.

**Hon. Peter Van Loan:** —or \$25 billion of access that was not there already is simply wrong.

**Mr. Peter Julian:** Well, I beg to differ, and most of the witnesses begged to differ as well. But I'll go on, Mr. Minister. I do have two more questions, so if you don't mind...



**Hon. Peter Van Loan:** It is simply wrong, and as a result, anything that flows from that presupposition seriously.... What we gave up was not \$25 billion of access. We gave up the right to close our markets. We gave up the right to engage in a ruinous trade war—

• (1605)

**Mr. Peter Julian:** And local procurements and fair wage policies—

**Hon. Peter Van Loan:** —in a country where two-thirds of our economy is trade-based; that means we gave up the right to shut down two-thirds of our economy and—

**Mr. Peter Julian:** Thank you, Mr. Minister. I'd like to move on to my final two questions, if I might.

The first one is regarding the softwood lumber sellout. There is currently, as you know, yet another case before adjudication around Quebec and Ontario forestry practices, and there is the apprehended case around B.C. stumpage. The anti-circumvention clause seems to be tailor-made for the United States. How is your ministry preparing for additional fines in addition to the \$68 million that we're currently paying?

My final question is around the NAFTA secretariat. The government has announced that it's eliminating the Canadian section of the NAFTA secretariat. Does this mean the government is giving up any possibility of a fair dispute settlement mechanism through NAFTA?

**The Chair:** Sorry, Mr. Minister, you have just one minute. You may want to pick one or the other.

**Hon. Peter Van Loan:** Okay, well, I'll start with the NAFTA secretariat. We're talking about one position that was not filled, that will not be filled because the functions are being carried out by other officials—and will continue to be carried out by other officials, quite capably and competently, I might add.

In terms of the softwood lumber agreement, I'll simply say this. The softwood lumber agreement has been strongly supported by the provinces and strongly supported by the softwood lumber industry. The reason for that is it has provided them with security of access that otherwise might be lost, with opportunities that otherwise might be lost.

Of course, we face a very aggressive lobby on the American side. The softwood lumber agreement has provided a significant measure of protection against that. Of course, it requires that we still continue to meet that counter lobby at every opportunity and aggressively advance our industry's interests, which we will continue to do.

**Mr. Peter Julian:** Do you have any plans on how to fund these additional funds?

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

Sorry, Mr. Julian, we've passed seven minutes, but thank you, that was pretty close today.

We're going to move now to this side of the table and the parliamentary secretary, Mr. Keddy.

**Mr. Gerald Keddy (South Shore—St. Margaret's, CPC):** Thank you, Mr. Chair.

Welcome to Minister Van Loan and Mr. Stephenson. Minister, I have one question, and I will be splitting my time.

First of all, congratulations. This agreement was signed and brought to the table in record time. That only happened because the provinces, the municipalities, and industry were on board. To get them to the table was an accomplishment in itself, let alone to get the Americans to the table and sign an agreement in six months.

One other comment in line with trying to prejudge what is actually there for contracts was interesting. The witness we had in committee the other day, Steve Ross from the Cherubini Group in Nova Scotia, said he's not at all worried about the contracts his company will bid on because they are simply not let yet. All the easy contracts, such as the paint and all of those types of contracts, are let. The really serious stuff is yet to come.

Under questioning, he gave that answer three or four different ways. I think it's interesting to note exactly what you're saying. There may be some big contracts let, but the subcontracts haven't gone out, and the real dollars aren't spent yet.

Could you summarize how difficult it was to bring the provinces, the municipalities, and industry on board, and how supportive they were when they saw what they were facing and the opportunity to get around it?

**Hon. Peter Van Loan:** I think what you speak to was something special that happened in the context of this unique situation, and I think it was the threat by America and the precipitous risk of loss of jobs and economic activity that helped bring an impetus to the efforts of my predecessor, Stockwell Day, to get the provinces around the table working together on this in a trade context that's unprecedented. It's a very positive thing, for which I think Minister Day deserves a lot of credit.

I think that was the key to our success here. As I said, this was an agreement largely of provincial and territorial obligations, and the consequences—the obligations they were assuming—were by and large theirs, as well as industry's, obviously. The opportunities were there, and we were very fortunate to have the support of the key industry associations, and their advice and their lobbying, I might add. The efforts of the provinces and the industries in lobbying the Americans on the importance of arriving at an agreement like this and educating the Americans on it was critically important.

By and large, Canada does enjoy a very positive, beneficial relationship with the Americans on trade issues, and I know when I was in the United States before I was trade minister and doing my job as public safety minister—of course, we wouldn't miss an opportunity to advance this agenda—the response you would always get was that this wasn't directed at Canada. Then you would have to say that although it might not be directed at Canada, they were catching Canada.

That attitude is what made it possible for the Obama administration to work its way rather than give Canada an agreement that no other country has, a waiver from Buy American provisions. That speaks to the special relationship we have with the Americans, with the Obama administration, on trade issues.

I think we should pay tribute to the provinces for having come together, across the political spectrum—even a couple of NDP governments were there—putting their oars in the water and pulling together to make sure this agreement came to pass.

• (1610)

**Mr. Ed Holder (London West, CPC):** Thank you.

If I may, through you, Mr. Chair, thank you very much, Minister.

I would like to remind members that our committee went to Washington, and we had four very significant areas we thought were of critical interest to us. One of the very top ones was Buy American, because of the incredibly negative impact that Buy American had on Canadian business.

Does any other country except Canada have a procurement agreement with the United States?

**Hon. Peter Van Loan:** Some countries have reciprocal obligations under the World Trade Organization's government procurement agreement similar to the permanent element of the agreement we got, though only one small piece of it. As I said, no other country has an across-the-board waiver to the Buy American provisions we obtained.

**Mr. Ed Holder:** Were the provinces and territories in agreement with our government with regard to implementation of the Canada-U.S. agreement?

**Hon. Peter Van Loan:** As I indicated, a very common front was critically important. In fact, in order for the agreement to come into place, we had to wait for the assent of all the provinces and territories as parties to the agreement, if you will.

**Mr. Ed Holder:** We had a witness, Michael Buda, who was the director of policy and research for the Canadian Federation of Municipalities, who said:

...this agreement helps to roll back the clock. It helps to stop the precedent that Buy American was going to set to encourage similar sorts of procurement practices to spread amongst United States municipalities, just like it could actually spread to Canadian municipalities.

Minister, a quick question. I'm looking at the NAFTA agreement signed 16 years, 2 months, and 29 days ago. At that time there was a provision in there in paragraph 1024(4)(a) "Further Negotiations" to:

...immediately begin consultations with their state and provincial governments with a view to obtaining commitments, on a voluntary and reciprocal basis, to include within this chapter a procurement by state and provincial government entities and enterprises; and...

It goes on a little bit longer.

Minister, 16 years and 3 months ago it didn't get done. You got it done.

I'm trying to get a sense of how hard it was to put in a deal that for 16 years no one could do.

**Hon. Peter Van Loan:** It's interesting. It shows you the progress and the broad acceptance of free trade with the United States, and the benefits that have occurred since the free trade agreement was originally entered into. You will note that there are some who were not fans of it at the time who have since become converts. I think that's a pretty broad perspective. Obviously, that now includes the provinces and territories in Canada.

How hard was it to arrive at? I have to give the credit here to Prime Minister Harper and President Obama. I was actually in the room with the two of them when the subject was discussed in the Oval Office, again, wearing my public safety hat at the time. That's essentially when that issue was put on the table and hammered out, and it wasn't too long afterwards that we were able to formalize our commitment to include the World Trade Organization government procurement agreement piece. I think that was the critical linchpin to make this deal happen.

**Mr. Ed Holder:** Well, thanks for getting the job done.

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

The timing has gone very well today.

We're going to have the opportunity now to get into a second round. We may complete a second round if we keep it tight. We'll go to five-minute questions and answers.

We're going to begin with the vice-chair of the committee, Mr. Cannis.

• (1615)

**Mr. John Cannis (Scarborough Centre, Lib.):** Thank you, Mr. Chairman.

Minister, welcome to the committee. We appreciate your time here.

Minister, this deal is described by trade negotiators as a deal where—and these are their comments—they were sent in to just go in there and do a deal at any cost.

Earlier, you said something that was very important. We have to talk to our local companies in our ridings about the jobs that are affected—to grow or not to grow, or to lay off. You said how the Federation of Canadian Municipalities supported the agreement. I'm not here to doubt what you said or what you might have heard they said, but they also did say, sir, and I want to quote what they said—that they were not consulted in the negotiations. They also pointed out to us here in committee, and I'll quote them: "...you can't very well do a deal that includes municipal procurement without including the experts in municipal procurement.

I'll leave that to your discretion and how you want to respond, sir.

You also said you included the provinces. I too am very pleased that all the provinces, NDP or not, have come together and put water in their wine to move forward for Canadian jobs.

What you're telling me, then, sir, is that I should respond to my constituents within the greater city of Toronto in this way: if they are losing jobs, if the companies are expanding, the provinces should be blamed. Is that what you're telling me, sir?

**Hon. Peter Van Loan:** I'm not sure I followed the last part of your question. I'll deal with the first part, which was the role of the municipalities in the Federation of Canadian Municipalities.

Individual municipalities did play important roles both in advising and being consulted in the negotiations, but it should be said again that they also played a critically important role in lobbying their suppliers in the United States and others who had an interest across the border. They do deserve credit for having shaped the agreement that took place. Of course, many municipalities put their names down to these provisions as part of the negotiation process.

Those commitments, obviously, were not made by the municipalities without their consultation. They obviously made that commitment quite willingly, in an effort to see a broader and open procurement free trade between the two countries.

I didn't follow the second question you asked.

**Mr. John Cannis:** The second question was that you said in your own words, Minister, how the provinces came together and they agreed on these terms. The municipalities are having problems. For example, in the United States the municipalities really don't understand the policy, as we've been told by expert witnesses. They're being muzzled, and as a result, Canadian companies are having difficulty getting their share of the pie. Similarly, from our side, the provinces spearheaded the effort, so are they to blame for this bad deal?

I'm going to defer to my colleague here, so you don't have to answer, Minister.

**Hon. Peter Van Loan:** I think it's a good deal, and the provinces and municipalities deserve credit for their part in making it a good deal.

**Hon. Judy Sgro (York West, Lib.):** I want to follow up on the issue with our municipalities. When this announcement first came out, the municipalities in the U.S. were free to keep us out as far as buying Canadian; they could stay strictly with Buy American. So I'm pleased to know that we've made real progress, which I think is very significant. But I would very much like to see that we've got a good solid deal on the table that allows municipalities into that whole procurement process.

But I have to ask you another question on the issue of this agreement not being tabled in the House. I find it very surprising that we're discussing it today, and it's gone so far in public that it's got a lot of discussion happening, and yet the trade agreement hasn't been tabled in the House yet. That clearly goes against what all of us have talked about, especially yourself and others, the openness and

accountability. Somehow that seems to be very lacking when we talk about this particular agreement.

When are you planning on tabling it in the House so that it is much more open and accountable?

**Hon. Peter Van Loan:** All honourable members will remember that before we became the government, treaties were not normally tabled in the House of Commons. That's a practice that has been instituted by our government pursuant to a campaign commitment. That of course relates to what are called significant treaties that take on significant federal obligations. The difference in this agreement is it doesn't create significant federal obligations. The obligations that are created are obligations of the provinces and the territories, so sub-federal entities. So in that sense, it's not the type of agreement that was contemplated for tabling in the House. In fact, you could argue that if this policy were applied in the provinces, that's where the tabling would have to take place. The essential ratification we were looking for was the indication and consent of the provinces and the territories to the final text of the agreement.

• (1620)

**Hon. Judy Sgro:** With all due respect, it was your government that clearly said:

As of today, all treaties between Canada and other states or entities, and which are considered to be governed by public international law, will be tabled in the House of Commons," said Minister Bernier. "This reflects our government's commitment to democracy and accountability. By submitting our international treaties to public scrutiny, we are delivering on our promise for a more open and transparent government.

It doesn't seem that this is being carried out in practice. That's my question.

**Hon. Peter Van Loan:** Again I'll explain. The North American Free Trade Agreement was an agreement that created obligations for the federal government and the country of Canada. This agreement doesn't actually create obligations for the Government of Canada. It creates obligations for the provinces, territories, and municipalities for their procurement processes. We cannot pass a law in the federal Parliament decreeing what provincial and territorial procurement practices will be. Only they can do that, and only they can assent to the voluntary provisions of an agreement like this. So that's why it's not the type of treaty that would typically be tabled in the House. It's not a federal obligation; it's a series of provincial and territorial obligations that have been assumed.

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

Thank you, Ms. Sgro. It's nice to have you join us today.

Sorry we didn't have more time. We're going to have to move along.

We have five minutes of questions from Mr. Trost.

**Mr. Brad Trost (Saskatoon—Humboldt, CPC):** Thank you, Mr. Chair.

I have a couple of basic questions in regard to trade with the U.S. My first one, on our agreement on Buy American, is a very simple one: what do we do to build on the agreement? We've had several witnesses who have come before us, and I've stated in my opinion that the long-term permanent deal with the 37 states was more significant than the shorter-term agreement. I'd be curious to know your opinion on that, and also on what we can do as a committee to recommend and what you are doing as the minister to build on this agreement that we now have.

**Hon. Peter Van Loan:** There are a number of things. First is the element of the agreement that provides for negotiations commencing this calendar year on a deeper, more significant, hopefully broader, agreement on government procurement, obviously taking it beyond the 37 states captured under the WTO permanent provisions that are there now.

We are currently in a process of working with the provinces on laying the groundwork for that negotiation. Again, as I said, these are broadly provincial-territorial obligations that we are talking about, so it would be inappropriate for the federal government to act without acting in concert with the provinces and territories on that. We're identifying the game plan and the groundwork issues for that negotiation to take place. Hopefully we will have our negotiating position fairly well set in a number of months so we can start that process.

Second, we are obviously working to ensure that we don't see Buy American provisions like this come along in future legislation that threatens the United States.... We've had some success with that. We are continuing to remain vigilant. We have certainly made ourselves known to the administration and to members of the Senate and Congress about our concerns.

The Waxman-Markey bill is one that passed the House of Representatives. It is now at the Senate, which has implications. There are no Buy American provisions in it. There are a couple of other bills that we thought might see Buy American provisions: Maria Cantwell's bill, the cap and dividend system, doesn't have it; and the Bingham energy bill doesn't have Buy American provisions. We are continuing to watch the items of legislation that come through and to make interventions where necessary to protect Canada's interests.

**Mr. Brad Trost:** I'm aware that in our relationship with the United States a wide range of ministers have issues to deal with, but I'm curious as to what other issues, in particular on the trade agenda, have currently flagged your attention. In my constituency, coming from Saskatchewan, agriculture, the pool issue, in which Minister Ritz has been involved, tend to be fairly important. I'm curious as to what has currently been flagged as a potential problem or concern that you are dealing with in regard to the United States.

**Hon. Peter Van Loan:** Any relationship, even the best relationship, has occasional bilateral irritants. We've heard a little about softwood lumber. We continue to engage in processes on that; I expect we'll be doing that in perpetuity. There is a very constructive development there, which is the Binational Softwood Lumber Council. You actually have the industries on both sides of the border working together to try to build the market for softwood lumber, to look for opportunities, and to have a better understanding of

each other. Economic recovery will of course be the best antidote to those problems.

The country of origin labelling issue is a substantial one. We've sent that to the World Trade Organization for resolution. That doesn't preclude the possibility of a negotiated settlement, of course, though we don't see that on the horizon right now.

In a relationship as important as ours, we have to be vigorous and aggressive at all times. That's what we'll continue to be, both with those irritants and also in the legislative process.

One of the things that Americans often say to me is "You're sitting here talking to us, messing in our legislative process. How would you feel if we were always down there in your country messing around in your legislative process?" I don't know what our views would be, but we're certainly not going to stop, because it is important.

Canada is welcomed as a friend by most. The critical thing is to be present, not just with the administration but throughout the American political process, so that when decisions are made we don't become the collateral damage in anger or upset with another country.

• (1625)

**The Chair:** Thank you.

It is right at 4:58. That's pretty close. We'll call it a day.

We're going to our final questioner and we will finish within the hour.

Monsieur Laforest, I take it you're going to take both sides of—

[*Translation*]

**Mr. Jean-Yves Laforest:** Thank you, Mr. Chair.

Mr. Minister, last week I put this question to a lawyer who appeared before the committee regarding the Buy American Act.

In the context of the softwood lumber dispute, the Americans have often contested certain measures. They have used dispute resolution mechanisms to get their point across, which has slowed procedures considerably in some cases. Trade continued and decisions were eventually handed down by the tribunals. Even if the tribunals decided against the Americans, they still had the dispute process to fall back on. Nevertheless, trade continued, fines were issued and so on.

Let us suppose that a call for tenders is issued for the construction of a bridge, and that American, Quebec and Canadian businesses submit their proposals, and a Canadian company wins the bid. Is it possible that the Americans, true to form, resort to various dispute procedures, invoke defence mechanisms and do everything they can to postpone the bridge's construction, thereby taking the people hostage for months, if not years? Would such a situation be possible under this agreement?

[*English*]

**Hon. Peter Van Loan:** If we were to look at the Buy American agreement that we have in front of us, we have a 12-month period in which the Americans have agreed not to take any actions under the WTO government procurement agreement provisions. That provides some measure of breathing space as people adapt to it. Obviously they will have the same rates as Canadian companies would have to resort to dispute settlement if there were cases where they felt that unfair practices had been engaged. I don't imagine that would, in a circumstance like that, result in the infrastructure project not proceeding. A WTO process, of course—and Don may want to add to this—gives one certain remedies at the end of the day if your case is successful.

I think that some who dwell on these disputes ignore the fact that we have massive amounts of trade, literally millions of transactions that are never contested, that go very well between the countries. That's where our prosperity comes from. Two-thirds of our Canadian economy, as I said, is trade-related. When you weigh that against the number of cases where we have irritants or you have disputes that go to dispute resolution, it really is a very small case.

Did you want to add anything to that?

• (1630)

[*Translation*]

**Mr. Don Stephenson (Assistant Deputy Minister, Trade Policy and Negotiations, Department of Foreign Affairs and International Trade):** If an American company filed a complaint regarding a specific contract, the matter would be resolved by Canadian courts. So it would be much faster than in the case of softwood lumber and the trade measures the Americans took in the context of anti-dumping and countervailing measures.

**Mr. Jean-Yves Laforest:** Mr. Minister, some people have said that a large portion of contracts will be set aside for American SMEs.

Apparently, when the value of the contract does not exceed the maximum amount, SMEs will have free access to these contracts, but Canadian and Quebec markets will not be able to access them.

Do you have any idea of the percentage or the number of contracts that will be reserved for American SMEs?

[*English*]

**Hon. Peter Van Loan:** Again, I think it's impossible for one to speculate on what that number is and how that would operate. I would simply say that the threshold numbers that were selected here were not selected by the federal government. They were in fact threshold numbers selected by the provinces. Again, they're the ones taking on the obligations, and for whatever reasons, those were the thresholds they wanted to apply.

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

That takes us up to well over five minutes, but it also takes us up to the hour that we had asked of your time. We appreciate your coming and answering the questions so well. I'm glad we got through it, too. I think for the most part we satisfied people's number one question on their minds at least. Thank you again for appearing.

Mr. Stephenson, thank you as well for reappearing before the committee.

I'm sure you'll both be back. Thanks again.

We're going to take a moment here to switch to in camera. We can bid our guests adieu, and I'd like to return to the table to have an in camera meeting on future business.

[*Proceedings continue in camera*]

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