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**EVIDENCE**

**Monday, November 25, 2013**

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**Chair**

**Mr. David Sweet**



## Standing Committee on Industry, Science and Technology

Monday, November 25, 2013

• (1535)

[English]

**The Chair (Mr. David Sweet (Ancaster—Dundas—Flamborough—Westdale, CPC)):** Good afternoon, ladies and gentlemen.

Welcome to the sixth meeting of the Standing Committee on Industry, Science and Technology, where we're hearing evidence with regard to Bill C-8, An Act to amend the Copyright Act and the Trade-marks Act and to make consequential amendments to other Acts.

Before us in person we have Kevin Spreekmeester, vice-president of marketing for Canada Goose, and via teleconference we have Joy Nott, the president and chief executive officer of the Canadian Association of Importers and Exporters.

I will follow the agenda that is before us.

By the way, colleagues, you'll see that we have time set aside between 5 and 5:30 for committee business. I think we have a committee budget that we're going to deal with, along with some other items.

Now we'll go to the witnesses.

Yes, Mr. Bélanger?

**Hon. Mauril Bélanger (Ottawa—Vanier, Lib.):** Mr. Chairman, I will be moving a motion, for which the committee has received notice, about the creation of a subcommittee. I'd like to know if I can do that right now.

**The Chair:** You can do that when you have the floor, when it comes time for you to go ahead, after we introduce the witnesses, Mr. Bélanger.

**Hon. Mauril Bélanger:** After you've introduced them?

**The Chair:** After we've gone through the rounds and it's your time to take the floor, yes, that's correct.

**Hon. Mauril Bélanger:** Well, Mr. Chair, it's just that you've already specified that other matters will be dealt with in camera, and I'd rather this be dealt with in public. That's why I'd like to move it right now.

**The Chair:** You can move it in public, Mr. Bélanger. What I'm saying is that right now we're going to follow the agenda. We'll introduce the witnesses, they'll give their testimony, we'll go to the rotation, and you will be in the first rotation.

**Hon. Mauril Bélanger:** So it's during the rotation?

**The Chair:** You can do what you like during the time when you have the floor.

**Hon. Mauril Bélanger:** Thank you, Mr. Chair.

**The Chair:** We'll now go to the witnesses.

Mr. Spreekmeester, please go ahead and give your opening remarks.

**Mr. Kevin Spreekmeester (Vice-President, Marketing, Canada Goose Inc.):** Thank you very much. Thank you for having me.

As some of you know, Canada Goose has been in favour of greater protection of our intellectual property for a long time now. This bill is a great first step in the direction that we need to go in to protect our brand, our IP, and Canadians.

We've been fighting the counterfeit fight quite aggressively for I'd say about five or six years now. It increases exponentially every year.

We go to such lengths as, in Europe, working with IP crime units, who alert us when there's a counterfeit seizure at borders. They send us e-mails to let us know how much they've seized and what the contents are. Then we make a decision about whether to destroy or not.

We work with MarkMonitor out of the United States, who sweep the Internet twice a day for us. They try to take down counterfeit auctions, counterfeit websites, rogue websites around the world. We're told that Canada Goose is among the most counterfeited brands globally that they've ever come across.

We also work with a litany of legal offices around the world. We work with the Chinese authorities to try to protect our borders there, or at least the import towards our borders there. We've been working with the CIPC and with the Outdoor Industry Association in the United States and their task force on counterfeit.

The problem with counterfeit products for Canadians...and obviously it's not just Canada Goose. It's pharmaceuticals, it's entertainment, it's ball bearings for airplanes, it's whatever. But as it relates to Canada Goose, it's the content of the jacket that comes in that is often quite harmful. We've dissected four different counterfeit jackets that we've purchased online. Inside we found no trace of down fill at all. We have found anything off a factory floor—bacteria, mildew, feces, beaks, dust, it doesn't matter—and that content is coming into Canada through unprotected borders to unsuspecting consumers.

Not only have we invested in building this manufacturing infrastructure in the apparel industry in Canada, and in creating jobs here in Canada, which counterfeit takes away from, but we're also putting the health of Canadians at risk when we allow counterfeit product to cross our borders without any sort of opportunity for Canada Border Services to detect, seize, and destroy.

We've had great success in other parts of the world. We do what we can online. Online is really where the battle has to go. Online is what yesterday's flea market was. Today, if it were just in flea markets, I probably wouldn't be sitting here, but the amount of industry that's done online with counterfeit product is ridiculous. I wish our company were that size.

So I'm here to advocate on behalf of this bill and see if we can't get, as a first step, greater measures in place to help us protect our borders and help protect Canadians from some of the garbage that's coming in.

• (1540)

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

We'll now go to Ms. Nott.

**Ms. Joy Nott (President and Chief Executive Officer, Canadian Association of Importers and Exporters):** Thank you very much for inviting me to speak today.

I'm also here to advocate in favour of this particular piece of legislation, not unlike my counterpart from Canada Goose. I.E. Canada represents a number of different Canadian companies, in fact over 500 companies, and I'm hearing the same sorts of stories. Counterfeit involves everything from Christmas lights to clothing, handbags and apparel, which of course we're all familiar with, and entertainment.

One of the issues, though, that I would have to caution about is not so much some of the things that have been heard in the mainstream media and that sort of thing, about giving customs officers powers to determine and trying to turn them into trademark experts. My members are not concerned about that sort of thing. What we are concerned about, however, is the slowing down of legitimate trade in an attempt to try to capture illegitimate trade.

I think the easiest way to highlight our concerns would be to say that while we are fully in support of this particular piece of legislation, and I think members of I.E. Canada share exactly the same concerns that Canada Goose just expressed so well, the devil's in the details: the issues are with the regulatory infrastructure that's going to be put in place and the boots on the ground, what's actually going to happen at the border.

CBSA, like other agencies right now of the Canadian government, faces financial cutbacks and whatever else. I can tell you that they don't have a lot of infrastructure in place that could easily handle doing this.

That being said, I'm not saying that CBSA would not be willing or capable of handling it. I'm just a little bit concerned, because they're dealing with very antiquated tools when it comes to software and that sort of thing. I'm a little bit worried about how they would handle this on a shipment-by-shipment basis so that a legitimate Canada Goose shipment, for example, coming into the country

would not be held up and would not incur any supply chain delays where illegitimate trade would be captured.

That is probably the crux of my comments.

I now welcome any questions.

• (1545)

**The Chair:** Thank you very much, Ms. Nott. We'll go on to our regular rotation of questions now. The first round is seven minutes, and it's over to Mr. Lake.

**Hon. Mike Lake (Edmonton—Mill Woods—Beaumont, CPC):** Thank you, Mr. Chair.

Thank you to both witnesses.

Kevin, we had you before the committee not a whole long time ago, talking about some of the challenges. I know you passed a coat around; we all had a chance to take a look at it. The challenge you face is clearly very significant. I think most Canadians, if they had a chance to hear your story, would understand what the issue is a lot more than they currently do.

I don't know if this was just the way you worded it at the beginning, but you said this was a great first step. What would other steps would you like to see at some point?

**Mr. Kevin Spreekmeester:** I think I started to talk a little bit about it, but we really have to find a way to deal with the online trade of counterfeit product and with protecting our intellectual property. I can only speak for Canada Goose, but we've built a brand that is globally known to represent a premium product, and consumers believe that's what they're buying, for the most part. Most of the counterfeit struggles that we have occur online, and yet there's very little legislation to help us deal with the online trade of counterfeit product. That to me would be the most significant next step.

First we have to protect our borders, but next it would be to try to find a way to deal with the online counterfeit trade.

**Hon. Mike Lake:** Of course, online trade happens across the borders as well. The law that we're putting in place right now will have an impact in that regard too.

Perhaps you could speak to how you address issues of counterfeit right now. What I'd like to hear from you—and you can take some time doing this—is a description of what you do now when you're dealing with suspected counterfeit, when you identify areas where you know your product has been counterfeited.

Then take the time to talk about how the world will differ when this legislation is passed.

**Mr. Kevin Spreekmeester:** I can give you a couple of good examples of how we deal with counterfeit, or IP to the same degree.

We'll find out through services around the world, say, through the IP crime unit in London that there's been a seizure of counterfeit products crossing the Danish border. Depending on the volume, we then have to make a call because we're paying for any sort of legal proceedings. Do we want to go to court with this? Do we want police action? How far do we want to go? In cases in both Sweden and in China, we have gone through legal channels and ended up with importers of counterfeit product behind bars. It really just sends a message to other would-be counterfeiters that we, for one, are going to make it difficult for them to counterfeit and import our products. We do things like that.

We make it difficult on a business to business and a business to consumer platform for counterfeiters to sell their products. So we work with financial institutions, PayPal, Visa, and different banks, to try to seize the accounts of counterfeiters and those who would sell counterfeit.

In China we will selectively raid factories to try to get to the root of counterfeit, but that's a whole other world that, quite honestly, we don't completely understand, and we're trying to. So we make selective raids.

With this bill's passing and future legislation that might protect consumers more online, what would the world look like? First of all, we would be able to take the money and the resources that we invest now to fight counterfeit, and put that into marketing Canada and our brand. Consumers would be able to purchase online a little bit more confidently. We would spend less time answering consumers who believe they've bought a Canada Goose jacket and have got something in the mail that isn't, for all the reasons I explained before, and they're calling us to say, what did you ship me? It would be a lot cleaner commercial enterprise for us.

• (1550)

**Hon. Mike Lake:** Tell me a little bit about the size of your business and how many employees you have here in Canada, because I think some people following this might not understand the impact.

**Mr. Kevin Spreekmeester:** We have over 400.

We sell in over 50 countries around the world. Still today, we're growing by 30% year over year. We own two factories in Canada, one in Winnipeg and one in Toronto, and we subcontract another 20-plus. We have taken what was a decimated apparel manufacturing infrastructure and worked diligently over time to rebuild it so that this is a viable business.

**Hon. Mike Lake:** Before I was elected, I worked for the Edmonton Oilers for 11 years, so I understand the importance of a brand and the importance of protecting that brand, because strong brands are always under attack in these ways.

Maybe you could talk about the investment your company has made in that brand.

**Mr. Kevin Spreekmeester:** I don't know how you can separate the investment in the brand from the company or from any one of us. People buy Canada Goose because it's an authentic, iconic brand.

We created the premium outerwear segment in the industry. There are all kinds of brands—or faux brands—that are trailing on our

coattails, manufacturing in the same half-dozen factories in China, calling themselves a brand, and trying to take market share.

That's okay, but I think that without our brand, without the authenticity of Canada Goose, without protecting our name and what we stand for—being made in Canada and being authentic and everything that we put behind that—we may as well be one of the others. If we don't protect that brand, we're just another jacket—arguably the warmest jacket on the planet, but just another jacket.

**Some hon. members:** Oh, oh!

**The Chair:** Thank you, Mr. Spreekmeester. I know that these days in Ottawa people appreciate that.

Now we'll go on to Mr. Thibeault for seven minutes.

**Mr. Glenn Thibeault (Sudbury, NDP):** Thank you, Chair.

I'd like to thank both our witnesses for being here today.

I'd like to start with you, Ms. Nott. We've heard previously that potentially dangerous counterfeit goods like batteries, electrical equipment, and even pharmaceutical drugs have been making their way into the legitimate supply chain and ending up on retailers' shelves.

Maybe you can lend us a little insight and explain how a counterfeit product would go from the black market, so to speak, to a legitimate one, and end up on a retailer's shelf. In other words, how are counterfeit goods permeating the legitimate supply chain?

**Ms. Joy Nott:** In order to explain that, I'll quickly do a compare-and-contrast of an import coming into Canada versus an import going into the United States.

For an import coming into Canada with any sort of trademark or brand name associated with it, it shows up at the border and is... I'll use Canada Goose as the example, since he's my co-witness. Jackets would show up at the border and would be described to customs officers as winter jackets, men's and ladies' winter jackets. Even if an officer opened up the box and took a look at the actual jackets, if they were branded "Canada Goose" and were counterfeit, there's nothing in the way our current process works for that officer to do anything about that shipment.

If the documentation coming with it legitimately says they're men's and ladies' winter jackets, if that's what the officer finds in the box, and if it's the right piece count and whatever else, right now the officer has to shrug and let the shipment go, even if the officer strongly suspects as a consumer that it's not actually Canada Goose. There is nothing they can do to stop that shipment from proceeding into the marketplace.

In the United States, however, in exactly the same scenario, a U.S. Customs officer would open up the box—I'm oversimplifying for the sake of illustration—and check a database. The officer would say that Canada Goose has registered their trademark and is telling them that only the following 15 factories, for example, or 20 factories, which is what I think he just said, are authorized to ship that product to that country. That particular shipment, for example, is not coming from one of those factories, or that particular shipment is not actually going to Canada Goose, but Canada Goose has told them that all imports of their product from foreign countries would be addressed to them. That sort of database, then, tells the officer there's something wrong with this shipment.

Secondly, that database turns to the importer and actually expects that importer, if they're going to use something like Canada Goose.... If they want to import these and they're branded "Canada Goose", where is their written confirmation from Canada Goose that they, Mr. or Ms. Importer, have the authorization of Canada Goose to bring these goods into the country? Without that written confirmation that they are legally allowed by the owners of the trademark to import those goods into the market, the goods are seized, whereas today at the border we don't have anything comparable.

As I was saying earlier, while we are fully in support of this piece of legislation, our fear is that at the border, given the resources and given how this would be a new process for Canada Customs, we don't know how that process would be launched and what would actually happen with a shipment at the border. The devil is in the details, and we don't know those details.

• (1555)

**Mr. Glenn Thibeault:** Sure. I know we're going to get to some questions soon, and some of my colleagues will ask about the resource piece.

But in your opinion, do you think Bill C-8 will have a tangible impact on the volume and flow of counterfeit products entering Canada?

**Ms. Joy Nott:** I really do, as long as we can get those details right and how it operationally happens at the frontier points.

None of my members expressed any concern about customs officers having undue power or being expected to become trademark experts. Those aren't the concerns we're hearing. We are hearing that they're very much in favour of having something, anything, in place today that would stop that Canada Goose shipment I was talking about earlier. Something to give customs officers the authorization and the power to say, "Hmmm, something is suspect here. We're going to detain these shipments at the very least." Having the power to confiscate them at the border, with evidence from Canada Goose proving them to be counterfeit, so they don't hit the marketplace, that in itself is huge.

Going back to what Mr. Spreekmeester was talking about, online counterfeit, I don't think there's ever going to be—not in this legislation anyway—anything to stop an individual consumer from going online and buying an individual jacket through United Parcel Service or Federal Express or Canada Post, and shipping it to an individual at their home. Even this piece of legislation doesn't try to address that because I don't know how you would. I share my co-

testifier's concern with how you tackle online counterfeit, and business directly to consumers. That's a tough nut to crack.

But for business to business, other G-8 countries have tackled this problem. Canada would be well served in following their example.

**Mr. Glenn Thibeault:** That flows right to my next question.

What's your perspective on whether Bill C-8 will protect Canadian consumers from unwittingly purchasing potentially dangerous counterfeit products found in some of Canada's largest retail chains?

**Ms. Joy Nott:** I do think the world is never perfect. Will it completely exclude every single circumstance? No, I don't think that's realistic. Will it cut down significantly on the number of counterfeit products finding their way into legitimate supply chains? Yes, I think it will—the caveat being, as long as we have some workable, feasible plan for boots on the ground, at the border. If we give the customs officers the tools they need, I do think it would make a significant impact. At the very least, it would stem the flow.

Last year, I was in Hong Kong and the whole concept of counterfeiting came up. It was well noted, by the different companies I was talking to, that Canada really has no infrastructure in place to address counterfeits, at the time of import, at the border.

**The Chair:** Thanks very much, Ms. Nott.

**Ms. Joy Nott:** The fact that it's known internationally, I don't think serves us well.

**The Chair:** Thank you. No, it wouldn't.

Now we go to Mr. McColeman for seven minutes.

**Mr. Phil McColeman (Brant, CPC):** Thank you, witnesses, for being here today.

Kevin, you mentioned something very interesting about the amount of investment you've made in trying to win this battle or trying to make a dent in it, and that some importers have gone to jail.

Can you describe how that happened, in which countries, and the process you had to go through to get that done?

• (1600)

**Mr. Kevin Spreekmeester:** Sure, I'll speak from a lay perspective because I'm not of a legal mind. In Sweden, we caught someone importing counterfeit. We were alerted by our legal firm in Copenhagen, which operates throughout Scandinavia on our behalf. The police went to that person's home and found plenty of Canada Goose and other products. They arrested them and we prosecuted them. Within Scandinavian law, they were fined and sent to jail.

In China, we raided a factory—the Chinese authorities worked with us. Again, someone was sent to jail. I don't know many of the details beyond that. If I had to worry about all those details, I'd not get any marketing done.

**Mr. Phil McColeman:** I appreciate that. Having had my own businesses all my working life prior to my political life, I can imagine the kind of margin you have to build into your product cost just for doing the things you're doing, which could well be used, as you say, to expand and create jobs and do all the good things as you build more market share and/or reduce the price to consumers at the same time.

As far as the online trade is concerned and trying to find a way to counteract that goes, are there any leading jurisdictions right now that you're aware of around the globe that are making any inroads on this one? I'd like both witnesses to answer this question—

**Mr. Kevin Spreekmeester:** I don't know of any leading jurisdictions. I can tell you what the fear is, and that's the infringement of freedom of speech when it comes down to it. Through our participation in the outdoor industry and their anti-counterfeit task force, we learned that when monitoring the Internet for anti-counterfeiting purposes on an anti-counterfeit platform there's a fine line between impinging on freedom of speech, freedom of expression, and policing. That's where the holdup seemed to be, certainly in the United States. But I've yet to see a good example globally of any region that has taken the lead and policed the Internet outside of the MarkMonitor-type examples of just going after counterfeit websites.

**Mr. Phil McColeman:** Ms. Nott, do you have comments here?

**Ms. Joy Nott:** I would have to agree with that. I'm not personally aware of any sort of jurisdiction that's taken a remarkable lead in this area. It's a problem. I think just Internet law overall is something that's still in its infancy in a lot of jurisdictions, including both Canada and the United States.

As these things surface, the United States I know is highly concerned about it because, obviously, a lot of the brands and large multinationals are U.S.-based companies. I know there's a high level of concern in the United States, but I don't think they've figured out anything yet on a business to consumer level, meaning for those one-off purchases where you buy something on the Internet and have it shipped to your home. I don't think anybody has gained any real traction in that particular regard.

**Mr. Phil McColeman:** We had a witness from the Canadian Chamber of Commerce, which actually has a division, as you know, dealing with IP and counterfeit. In his testimony he talked about a simplified approach to when goods arrive at the border and handling those goods.

It struck a note, Ms. Nott, when you had said that we have to guard against slowing down legitimate trade and make sure things don't get held up in terms of delivery timelines and such. Are you aware of what he described as a simplified approach? He used a European example for that approach for the process when goods arrive, how they're dealt with expeditiously to determine counterfeiting, and how decisions are then made and the products are either destroyed or go into the chain.

• (1605)

**Ms. Joy Nott:** There are a number of jurisdictions that have some sort of process set up at the border to safeguard against counterfeits entering into the country. The United States, of course, being our largest trading partner, has a process in place. While their process is

probably well known to a lot of Canadians, I would just hesitate to say that we should just adopt the American way, or strictly adopt the European way.

I think there are best practices to be learned. Since we're entering this now for the first time, I think that it would behoove Canada to take a look at how other jurisdictions are dealing with this and adopt their best practices for boots-on-the-ground processes at the border and create our own way of doing it.

I can say for example that in the United States they have a quite comprehensive methodology at the border. However, it's very paper-driven, literally driven with documents that need to be faxed to various government authorities and whatever. I don't mean to sound flip, but it's a process they probably put in place some time in the 1980s and they're now struggling with how to take that process and automate it. I would suggest that we try to avoid walking in their footsteps and look at how do we can make this a clean 21st century solution for Canadian importers and Canadian business overall right from day one, as opposed to investing in older-type infrastructure and copying some of our trading partners.

**Mr. Phil McColeman:** Thank you.

**Ms. Joy Nott:** My overall concerns are with that and the constraints that I understand Canada customs is currently dealing with.

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

Thank you, Mr. McColeman.

Now on to Mr. Bélanger.

**Hon. Mauril Bélanger:** Thank you, Mr. Chairman.

I want to apologize to Ms. Nott and Mr. Spreekmeester. I'll be diverting our attention and, hopefully, I'll have time to get back and ask them a couple of questions.

Mr. Chairman, as I mentioned earlier, I would like to move a motion for which notice has been given by my colleague Madam Sgro. I'll read it, then I'd like to say why I'm moving it now.

**The motion has been distributed to folks. Here it is:**

That, given that co-operatives greatly empower each member, that they follow a model resulting in a combination of business success and social responsibility, and play an important role in the economy and in our communities, and to follow on logically from the Special Committee on Co-operatives and the fact that the government has completed the transfer of the responsibility for co-operatives to Industry Canada following a recommendation of the Special Committee, the Standing Committee on Industry, Science and Technology establish a Subcommittee on Co-operatives; and that the members of the subcommittee be named after the usual consultations with the Whips; and that the committee consist of seven members which shall include four members from the government party, two members from the Official Opposition and one member from the Liberal Party, provided that the Chair is from the government party; that in addition to the Chair, there be one Vice-Chair from each of the opposition parties; that the subcommittee be granted all of the powers of the Committee pursuant to Standing Order 108(1) except the power to report directly to the House.

The reason I am moving it now is that, unfortunately, I suspect that we may end up having to deal with this in camera. I would hope not, but in case we do I want to say publicly that I will be moving this motion now.

Mr. Chairman, in the spirit of cooperation, I am quite prepared to finish the rounds and deal with this afterwards, if that's your wish. I do believe in cooperation and working that way. I always have. That will be up to you.

When I moved the motion initially in the House to create a special committee, the government was opposed. I had a couple of ministers and a parliamentary secretary approach me and ask that we not do that. But to everyone's surprise, the motion was adopted unanimously and the committee did good work. I have said, and I'll repeat, that the government reacted well to many of the recommendations that were made.

The responsibility is here now, and there are a number of issues that flow from that transfer. I mentioned a few of them, and I'll do so again. For instance, there is the Business Development Bank. Its mandate had to be reviewed two and a half years ago; it hasn't been and should be, because they would love to be able to do more in terms—

**Hon. Mike Lake:** On a point of order—

**The Chair:** On a point of order, Mr. Lake.

**Hon. Mike Lake:** In respect to the witnesses, Mr. Bélanger said that he'd be willing to defer this to the end of the meeting. That would make sense, given that we have witnesses who took the time to come to testify.

Could we go on to that? We have a half hour scheduled for committee business.

**Hon. Mauril Bélanger:** That will be the chair's call, but I do have seven minutes, don't I?

• (1610)

**The Chair:** You do have seven minutes, and you have four minutes now.

**Hon. Mauril Bélanger:** Thank you, sir.

The Business Development Bank wants to be able to create, as it has done for venture capital, pools of capital to help the co-ops, but because of its mandate it currently cannot do so. A Senate committee has actually recommended that, so I don't know why the mandate hasn't been reviewed. That's one example.

There are a number of regional economic development organizations. FedNor reports through the Department of Industry. There are others that don't but that are affiliated and work with them. Again, each of these could have a greater role in helping solve the biggest problem identified by the committee after hearing 50 witnesses, which is the capitalization of co-ops. With regard to StatsCan, there's a necessity there for information. The dismantling of the secretariat at Agriculture and the transferring of only two people out of the 90 who were there means there remains a need for stats, and those too flow from Industry Canada.

There are also a variety of programs in Industry Canada that could be looked at through the prism of co-ops. There are a few other files of significance that don't necessarily deal with industry but that don't deal with the finance department where the credit unions remain. Therefore, someone has to look at those and I would hope that would be the subcommittee.

Having mentioned these, Mr. Chairman, I also want to say regarding the schedule of meetings that I'm quite flexible on that. Of course, the government has a majority and can impose on that, but the meetings don't need to be twice a week. I've been whip on the government side and I understand that members of the government have to sit on two, sometimes three, committees, and the creation of a subcommittee frightens the whip's office and frightens many members. We can be very accommodating and perhaps we can even put a time limit on it. We can try it for a year and see what happens.

I'm just saying this now because, unfortunately, I've learned that quite often these kinds of initiatives get dealt with at in camera meetings and nothing ever comes out, because the only things one can report from in camera meetings are positively adopted resolutions. So if a motion is defeated in camera, it can't be reported.

I think people in the co-op community—there are 9,000 of them across the country and 150,000 employees—deserve to know whether or not there's enough will to create a subcommittee to try to address some of the very significant issues that are part and parcel of the economic well-being of Canadians.

I've said that, and we'll see what happens later on.

Do I have a couple minutes?

**The Chair:** You have one minute and 15 seconds.

**Hon. Mauril Bélanger:** Thank you.

There are a couple things, very quickly, I want to ask of Madame Nott.

Can you tell us why—

**Mr. Mark Warawa (Langley, CPC):** On a point of order, I have a question for you, Chair. Procedurally, my understanding is that a motion has been moved. It has been accepted, and then the new order of business is the motion that's on the table. None of the witnesses have anything to do with the motion.

**Hon. Mauril Bélanger:** I'm not asking them questions about the motion.

**Mr. Mark Warawa:** But what is on the table right now—and that's my point of order—is the motion. So all questioning has to be relevant to the motion on the table. Until it's officially deferred, this is what we must discuss. All discussion, I believe, needs to be relevant to the motion on the table.

**The Chair:** It does if that's the will of the committee, Mr. Warawa. I sensed that the will of the committee was to deal with it afterwards. Mr. Bélanger had mentioned that. Mr. Lake had a point of order directing in that way, but certainly, if you want the debate to continue on the motion, then we can do that and go directly to that.

Madam Gallant.

**Mrs. Cheryl Gallant (Renfrew—Nipissing—Pembroke, CPC):** I have a question, Mr. Chairman.

The member opposite introduced his motion during his turn in the speaking order. So when that number of minutes is up and after we've finished dealing with the motion, does he get another seven minutes to ask questions or just the balance that's left?



**The Chair:** No, Madam Gallant. In fact there's no hard and fast rule in this regard, because we are balancing the agenda of the committee with the individual freedom of the member, and that's what I'm trying to do here. There's not a lot, certainly, that I have read in the procedure of the committee that gives exact detail. That's why I want to move with the will of the committee.

So if I sense the will of the committee is to go right into debate on this motion, then we'll do that. If I sense the will of the committee is to move on and allow Mr. Bélanger to use the last minute for questions and then have everybody return to the topic at hand, I'll do that. Right now I'll go to Madame Charlton to see what she has on her mind.

• (1615)

**Ms. Chris Charlton (Hamilton Mountain, NDP):** Thank you very much, Chair.

As you can probably guess, my NDP colleagues and I very much support Mr. Belanger's motion. If the Conservative colleagues on this committee do as well, then perhaps we could just pass it by unanimous consent and get back to the witnesses.

**An hon. member:** I like that idea.

**The Chair:** I don't sense that would be the will of the committee.

Mr. Wallace?

**Mr. Mike Wallace (Burlington, CPC):** Did our colleague from the Liberal party actually move the motion?

**The Chair:** Yes.

**Mr. Mike Wallace:** So the motion has been moved; it's future business. I move that we move in camera to talk about future business. Those are the rules. If that's what he wants to do, to move it now, those are the rules.

**The Chair:** All right, Mr. Wallace.

A motion has been put on the floor to move in camera. It's a dilatory motion. We'll go right to a vote.

**Hon. Mauril Bélanger:** I'd like a recorded vote.

**Hon. Mike Lake:** Has he given him a seven minute rant on an issue....

**Mr. Mike Wallace:** But technically he could cut through the whole meeting.

**Hon. Mike Lake:** Exactly.

**Mr. Mike Wallace:** There's no time limit on moving a motion.

**Ms. Chris Charlton:** In that case, grab the bull by the horns.

**Mr. Mike Wallace:** It's too late now. I'm voting in favour of going in camera.

**The Chair:** It's going to be a recorded vote.

(Motion agreed to: yeas 6; nays 5)

The motion is carried and we'll move in camera. That means everyone, except members—

**Mr. Ed Holder (London West, CPC):** I have a point of order.

**The Chair:** Yes, Mr. Holder.

**Mr. Ed Holder:** Thank you.

Maybe it's a point of clarification. Maybe you could guide this humble servant of the committee. With regard to our witnesses who have made some effort to be here, it's unfortunate this procedure happened the way it did.

My practical question is whether or not we are likely to come out of camera at some point and then be able to hear additional testimony from these nice people.

**The Chair:** Because of technology, we'll have to reconnect with Ms. Nott. The previous connection will have to be terminated because of the committee going in camera. We'll ask Mr. Spreekmeester if he would stay around for at least a short time to see if we'll be returning to the subject at hand. That's how we will proceed for the moment.

I'll need everybody whose neither a member of Parliament nor staff of a member of Parliament to leave the room.

Ms. Nott, we'll have to disconnect and reconnect, should we be coming back to the subject at hand.

Thank you everybody for your patience. We're suspending.

[*Proceedings continue in camera*]

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\_\_\_\_\_ (Pause) \_\_\_\_\_

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[ *Public proceedings resume* ]

• (1645)

**The Chair:** Ms. Nott, can you hear me?

**Ms. Joy Nott:** Yes, I can hear you.

Can you hear me?

**The Chair:** We can hear you loud and clear.

I think your question was for Ms. Nott, Mr. Bélanger. You'll need to do it fast. You have a minute and two seconds.

**Hon. Mauril Bélanger:** Very quickly, I was wondering if you could tell us what the differences are in administering the law between the U.S. customs and Canadian customs, which you seem to be saying is better dealt with in the U.S., and which we could be copying in Canada and making sure that the details are satisfactory to you. You may want to send some of that to the committee for it to be shared with committee members if you have a lengthy response.

**Ms. Joy Nott:** In very short order, the difference between Canada and the United States right now is simply that the United States does have a process at the border to question, stop, and scrutinize any kind of trademarked product, whereas in Canada, as long as the goods are described appropriately, as I said earlier in my example of the Canada Goose jackets, as long as the documentation that accompanies the shipment declares them as winter jackets, there's nothing in Canada that can be done currently. In the United States the minute anything is trademarked, a shipment needs to declare, on the documentation, without even opening a box, that it is trademarked goods, and that they have the permission of the trademark owner to import those goods. That's a documentary process.

The one thing, as I said earlier, is that in the United States they have a well-known—it's been in place for a very long time—but very document-heavy process. While I think we should be copying it in spirit, I would hesitate on copying the paper-heavy process. I think we should be looking in Canada at developing some sort of an electronic way, because the paper process, of course, always has a risk of slowing down the supply chain.

• (1650)

**The Chair:** Thank you very much, Ms. Nott.

I'm going to go on to Mr. Warawa right now. We'll just deal with four questioners of five minutes each, and then we'll need to get back into committee business. I did want our members to know that Mr. Spreekmeester needed to catch a plane back to Toronto. I just got a note to that effect.

Mr. Warawa, go ahead.

**Mr. Mark Warawa:** Thank you, Chair.

Ms. Nott, thank you for being here.

We heard a number of witnesses at our last meeting suggest we look at the European model. One of the previous questions to you was whether there was any other jurisdiction doing a good job. In the European model, where items are detained as suspected counterfeit goods, it isn't the rights holder that is paying, it's the importer. What is being suggested is that if items are being held, then they can be held for up to 10 days to determine whether or not they are counterfeit. If there are concerns that they are counterfeit, it's the rights holder that would be paying the costs, which could be quite extensive. Do you have any input on that?

I've just lost my other question, so I'll have to ask it later, sorry.

**The Chair:** We'll come back to you.

**Ms. Joy Nott:** Maybe it will come to you as I answer.

In answer to your question, I think that should suspected counterfeit goods be apprehended at the border, I absolutely think that it should be the importer trying to import them into the jurisdiction that must incur any costs and any penalties. For the rights holder of the actual trademark, if it's a legitimate shipment, then, fine, through whatever process of vetting, that should easily be discernible to the customs authorities that it is a legitimate shipment, and then they let it go. If indeed it's proven to be counterfeit or it's suspected to be counterfeit and the importer cannot prove otherwise, any costs, any penalties, should be borne by the importer and not the trademark rights holder because otherwise it doesn't balance the scale.

**Mr. Mark Warawa:** The other question had to do with in-transit inspections and detention. One group, or half of the witnesses, suggested that we inspect items that are going through Canada to the U.S. market because the U.S. market is inspecting items coming into the Canadian market. Do you have any comment on that?

**Ms. Joy Nott:** The only comment I have on that is, as I'm sure you know, Canada is currently negotiating with the United States a Beyond the Border strategy that was announced by Prime Minister Harper and President Obama. As part of that overall agreement, there is a pilot project right now in Prince Rupert, and then there's another one between Montreal and the United States, using the concept of

inspecting once, accepting twice. For example, if a steamship line chose the Port of Prince Rupert to dock and the containers that were offloaded at Prince Rupert were ultimately destined for the United States—just transiting through Canada because they had to in order to get to the United States—then under the Beyond the Border agreement, whichever party, Canada or the United States, who physically received the goods first would be the party to do the searching and checking. Thus, when it actually got to the frontier points of the United States and crossed legally and technically onto U.S. soil, there would be no need for a customs officer to re-check it because it would have been checked at the first point of entry into North America. North America is defined as Canada and the United States.

I don't know if you are familiar with that aspect. I know it's minutia, but it's part of the Beyond the Border deal. It's currently being piloted between Canada's CBSA and the U.S. CBP.

I don't know if that directly answers your question.

**Mr. Mark Warawa:** It does.

**Ms. Joy Nott:** It would work in reverse as well.

**Mr. Mark Warawa:** Thank you very much. I'm done.

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

Now we go on to Ms. Charlton.

**Ms. Chris Charlton:** Thank you very much, Chair.

Thank you very much, Ms. Nott. I apologize about the way this afternoon has gone for you. We sure would have liked to spend more time with you.

I just have one very quick question for you. You said that the devil is in the details and that enforcement is a concern for you, and I certainly understand that because you're probably keenly aware about the cutbacks to CBSA and, without enforcement, Bill C-8 doesn't mean very much. Because of those uncertainties, would you like to see some kind of a periodic review of how the legislation or the implementation of the legislation is working so that we have some metrics and perhaps, after whatever period of time, we might be able to review where we could improve the legislation, and would you be comfortable with those reports going to Parliament so that they would be publicly accessible?

• (1655)

**Ms. Joy Nott:** I would have no objection to that. Just from past experience, not specifically on this piece of legislation, but traditionally, it's not the legislation that causes an issue; it's sometimes the regulations and wording within regulations that support the legislation.

Then the next scenario would be it's not the legislation, it's not the regulations, but it's the way they're being interpreted by government bureaucrats such as CBSA officers and that sort of thing.

Do I support the monitoring of this sort of thing? Absolutely I do. I think that's a great idea because, from a business perspective, business lives on metrics and on data. This is how they help to make decisions. Right now when it comes to copyright infringement, trademark infringement, and the ability to import into Canada, it's a little bit like the wild west in that there's nothing that stops these shipments at the border currently unless the owner of the trademark takes specific, very onerous action through Canadian federal courts to register something.

**Ms. Chris Charlton:** Thank you very much, Ms. Nott. I'm sorry, I don't mean to cut you off, but I do have to get to one other item. As you probably noticed before you were so rudely interrupted, we had a bit of an issue here about whether and when our committee should move in camera.

I had the privilege of moving a motion on behalf of our caucus a while ago that I want us to return to at this point. It was:

That the Committee may meet in camera only for the purpose of discussing: (a) wages, salaries and other employee benefits; (b) contracts and contract negotiations; (c) labour relations and personnel matters; (d) a draft agenda or draft report; (e) briefings concerning national security; and that all votes taken in camera be recorded in the Minutes of Proceedings, including how each member voted when recorded votes are requested.

I think it's really important that we deal with that issue today. It's what got us into the mess this afternoon. I think we should clarify the rules under which we move in camera, especially in committees like this where we're being rude to witnesses—

**Hon. Mike Lake:** I just want to be clear. Is Ms. Charlton moving this motion right now? Are we actually right now on this motion? I see her nodding. This is bizarre. In effect she's ending the committee meeting again after we just had Mauril end it already and put a pause to it.

I think this has to change. We just can't consistently have these games being played by the opposition members.

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

Is this on the same point of order?

**Mr. Ed Holder:** I thought Mr. Lake had said that we move in camera.

**The Chair:** Is this on the same point of order, Mr. Thibeault?

**Mr. Glenn Thibeault:** Just for clarification, I believe it was the Conservatives who ended Mr. Bélanger's comments by moving that we move in camera. It was not Mr. Bélanger who said he wanted to move in camera. Once again, it's the Conservatives who always move into camera any time a motion is brought forward.

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

I don't think that's a point of order, but neither was anything else, so that's fine.

Madam Charlton.

**Ms. Chris Charlton:** Thank you, Chair.

This is really about trying to move us forward in a way that we will all understand when we go into camera. Members have had notice of motion. We don't need a long debate about this.

**Mr. Phil McColeman:** Chair, on a point of order.

**The Chair:** Yes, Mr. McColeman.

**Mr. Phil McColeman:** Having the benefit now of chairing a committee, I know there are rules that are in place. I take exception to the comment Ms. Charlton is making that there are no rules or that the rules are not clear. They are clear.

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

Ms. Charlton, you can continue.

**Ms. Chris Charlton:** Thank you, Chair.

The reality is that, as government members constantly remind us, committees are masters of their own house. We determine how we want to proceed. I've moved a motion that suggests we do not constantly move in camera, that there be very precise reasons for doing so. I think Canadians have a right to know what happens in committee. Committees are an extension of the House. Why would we be willing to debate things publicly in the House but not be willing to have that kind of public scrutiny available to Canadians in committee?

I think the limitations that our motion proposes are suitable. Of course, we don't want to talk about contracts and contract negotiations in public. But I think for the kinds of things we're deciding here and how we proceed with committee business, Canadians have a right to know about those things. Why would we be afraid to talk to Canadians about whether we approve a motion on whether we want to set up a subcommittee on cooperatives or not? Why can Canadians not be privy to that conversation? I think this is a very straightforward and reasonable motion, which is why we gave notice of it. I think this is the perfect time to see whether we can pass this motion.

• (1700)

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

Debate?

Mr. Lake.

**Hon. Mike Lake:** So we're now debating the actual motion, not the points of order, I would imagine.

**The Chair:** Mrs. Gallant.

**Mrs. Cheryl Gallant:** I have a point of order. It's five o'clock. I asked whether or not we could extend the committee until 5:30 and was told, no, that at five o'clock we were going to go in camera to do committee business. Are we going to stick to our plan or not?

**The Chair:** I will let Mr. Lake go ahead and then we'll deal with the time, Madam Gallant.

**Hon. Mike Lake:** I'll say this. It is absolutely the history, the tradition, the convention at this committee that when we do committee business we go in camera. There's a reason for that. It's so that we can actually overcome some of the partisanship that we see, and have seen today, and some of the dysfunctional things happening with political gamesmanship and things like that.

When we go in camera to discuss committee business, we have the opportunity to have a discussion, an honest and straightforward discussion with our colleagues on both sides of the table, on whatever we're discussing about moving forward on committee business. It is a time-tested way of conducting ourselves at committee. It's not something that has happened in recent times. It's something that happened, from my understanding, well before I was ever a member of Parliament and seems to be a good way of conducting committee business.

Mr. Chairman, I'll follow that tradition. I will move that we go in camera to discuss this motion.

**The Chair:** We have a motion to go in camera. All in favour?

**Ms. Chris Charlton:** Recorded vote, please.

**The Chair:** Recorded vote. Please respond to the clerk when he calls your name.

(Motion agreed to: yeas 6; nays 5)

**The Chair:** Madam Nott, thank you very much for your testimony. There might still be some other things that you'd like us to consider in the legislation. If you could get those to the clerk, we'll make sure they're considered when we're taking up the clause-by-clause review of the legislation.

**Ms. Joy Nott:** Thank you very much for giving us the opportunity to testify.

**The Chair:** We'll pause and go in camera.

*[Proceedings continue in camera]*

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