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Chair

Mr. Pat Finnigan

Standing Committee on Agriculture and Agri-Food

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• (1105)

[English]

The Chair (Mr. Pat Finnigan (Miramichi—Grand Lake, Lib.)): Welcome everyone to our meeting of the Standing Committee on Agriculture and Agri-Food.

I'd like to welcome Mr. Michael Ferguson, Auditor General of Canada.

[Translation]

Today we are looking at the report that deals mainly with customs duties.

We will begin with Mr. Ferguson's presentation.

Mr. Ferguson, you have 10 minutes. Please go ahead.

Mr. Michael Ferguson (Auditor General of Canada, Office of the Auditor General): Thank you.

Mr. Chair, thank you for this opportunity to discuss our spring 2017 report on customs duties. Joining me at the table is Richard Domingue, the principal responsible for the audit.

Our audit focused on whether the Department of Finance, Global Affairs Canada, and the Canada Border Services Agency carried out their roles to manage customs duties on the many goods imported into Canada each year.

I want to highlight two observations for this committee, as they relate to imports, that could have an impact on the agricultural sector and the food processing industry.

[English]

First, let me address the issue of quota-controlled goods. As you know, Canada applies tariff rate quotas to control the volume of certain imported goods, such as dairy, chicken, turkey, and egg products. These tariff rate quotas limit the volume of goods that can be imported into Canada at a lower rate of duty. Once that volume has been imported, duties apply at a higher rate.

[Translation]

In the audit, we noted a discrepancy between the volume authorized by Global Affairs Canada and the volume declared to the Canada Border Services Agency as eligible for a lower rate of duty. We compared the volume permitted to individual importers by Global Affairs Canada in 2015 with Statistics Canada's import data, which is based on the Canada Border Services Agency's information. We observed that a significant volume of controlled goods entered

Canada without a permit. This means that some importers did not pay the appropriate amount of customs duties. We estimated that, in 2015, some 131 million dollars' worth of dairy, chicken, turkey, beef, and eggs were imported without the appropriate permit. Had the duties been properly assessed on goods that exceeded quotas, the government would have collected \$168 million in customs duties.

[English]

The second observation I want to highlight relates to the duties relief program. This program, administered by the Canada Border Services Agency, allows importers to bring goods into Canada duty-free as long as the goods are further processed in Canada and later exported. For example, chicken can be imported duty-free if it will be used as a topping on frozen pizzas that will be later exported.

We found that the duties relief program had few mechanisms to prevent the diversion of goods into the Canadian economy, especially for those subject to a high rate of duty. We found that there were few incentives for importers to comply with the rules because import licences under the program never expire and because there is no requirement for a financial deposit by importers.

In 2016, the Canada Border Services Agency completed six compliance verifications of duties relief program participants. It found that all six importers of goods under supply management didn't comply with program requirements and were diverting goods into the Canadian market without the proper assessment and collection of duties. The agency later suspended the licences of these importers.

Overall, these are two examples of government activities that operate differently in practice than on paper. Our audit showed that the principles of supply management weren't applied as intended because quota limits on some imports weren't enforced properly, imported agricultural products destined for export were diverted into the Canadian market, and applicable duties weren't always assessed and collected. As a result, Canadian producers may face unexpected competition from some importers.

[Translation]

Mr. Chair, the Canada Border Services Agency, Global Affairs Canada, and the Department of Finance have agreed with our recommendations.

This concludes my opening remarks. We would be pleased to answer any questions the committee may have.

Thank you.

The Chair: Thank you, Mr. Ferguson.

The first question goes to a member of the Conservative Party.

Mr. Anderson, please go ahead.

[English]

Mr. David Anderson (Cypress Hills—Grasslands, CPC): Did you have to do any work on the complications in the system? I know when you come across the border and you're bringing things in, it seems like even the customs agents can't figure out the tariffs. There are so many products to identify. Did you take a look at the complexity of the system, or were you just trying to track down the two issues you identified?

Mr. Michael Ferguson: We looked at the system much more broadly than was expressed in the issues I just mentioned. We started with the descriptions that are supposed to be attached to goods coming across the border. We thought we would look at those descriptions to see whether they were being properly classified when they came across the border. Essentially what we found was that the descriptions being collected are not very helpful in actually identifying what's coming across the border.

I have made the comment that there is a lot of complexity in the customs-duty process, and in being able to know exactly what is coming across the border so that the right duties can be applied. I think there is a lot of complexity that makes the job of the Canada Border Services Agency particularly difficult.

Mr. David Anderson: One more question and then I'll turn it over to Mr. Shipley.

Do you have any suggestions that would actually reduce the size of government bureaucracy rather than expand it?

Mr. Michael Ferguson: I'm going to take a quick look at the recommendations. Essentially what we're saying is that there are a number of aspects of this that should be looked at. If the descriptions aren't particularly useful in applying the classifications, you might wonder why they are asking for descriptions to be applied at all.

We also looked at goods coming across the border through the mail system. If it's a good that duties apply to, the duties are supposed to be applied on anything with a value of over \$20 that comes in through the mail or by couriers. There are lots of times during the year when they can't do that, however, so sometimes they apply the duty limit at a higher rate than they are supposed to. That's something else we said they should look at. In fact, there was a study done by the Canada Border Services Agency indicating that applying duties on goods coming in through the mail at anything below \$100 costs more to collect than the amount taken in from the duties themselves. There were a number of those types of things that we said should be looked at from the point of view of examining the efficiency of the whole system.

• (1110)

Mr. David Anderson: That's a very frustrating point, especially for people bringing in goods.

Mr. Bev Shipley (Lambton—Kent—Middlesex, CPC): The audit goes from January 2013 to May 2016. You made the incredible statement that the activities operate differently in practice than on paper. Was there a previous audit done on the agencies?

Mr. Michael Ferguson: I'll ask Monsieur Domingue to respond to that.

Mr. Bev Shipley: In your recommendations, there's always a date. I remember that previously we actually enforced a date when they had to meet the recommendations they agreed upon. Was there a previous audit when there was an agreement to fix some of these things, and where are they at now in terms of their status?

Mr. Michael Ferguson: I will ask Mr. Domingue to answer the first part of that question. I can tell you that what normally happens is that we issue our recommendations and then the department responds in a report. They also prepare an action plan, a more detailed action plan, for the public accounts committee. I'm not sure whether that's been done on this one yet or not. At some point, though, they will do an action plan and it will have more of those details in it. I can't tell you what they've done since we issued the audit.

Mr. Bev Shipley: The reason I ask is that it's concerning. If we have what they're putting on paper, but they are not fulfilling it as an agency, it becomes a concerning issue. I wouldn't mind if you could give the committee that background.

With respect to quota-controlled goods, it's not just the dollars that have not been collected on unassessed duties; it is also the cost to the industry. They didn't collect the duties on the import or export side. Did you find any information on what it actually costs the industries that were affected?

Mr. Michael Ferguson: I think the important part of this issue is the impact on industry, because these are goods coming across the border in excess of quotas, so that's competition that Canadian industries didn't expect they were going to have to deal with.

I think it's important for people to understand that, yes, we did say that the value of the quota-controlled goods that entered Canada without permits was about \$131 million. If they had entered Canada with the duties being applied, the duties would have been \$168 million. The important thing to recognize is that probably if the system had been operating the way it should have been, the government wouldn't have collected the \$168 million, because the importers wouldn't have brought them in at that level of duty.

I think it's not the \$168 million of uncollected duties that is important; it's the \$131 million worth of additional products competing with those of domestic producers, which they wouldn't have expected would be competing with them, that is important.

Mr. Bev Shipley: Thank you very much.

The Chair: Thank you.

I want to apologize. I forgot to introduce Mr. Domingue; it was a slip on my part. Welcome.

Now, Mr. Longfield, go ahead for six minutes.

Mr. Lloyd Longfield (Guelph, Lib.): Thanks, Mr. Chair.

Thanks, both of you, for coming here. It's a good topic for us to look at. I know supply management will be a topic of conversation this year.

Have you looked at the root causes of why, as you mentioned in your presentation, businesses weren't following the rules? Is part of that because they don't recognize or they don't validate supply management? If it's coming from the States, are they assuming that we're under the same principles that they're under?

• (1115)

Mr. Michael Ferguson: Well, I can't speak to the motivations for what was going on. I think essentially what we were doing was saying that there are quota limits that are applied, and we would expect that those quota limits are actually being enforced. Or under the duties relief program, they're supposed to make sure that those goods are not being diverted into the Canadian market, and in some cases they were. They were doing investigations on those, so that's something the department could probably give you more details on if you want to hear from them.

I can't speak to the exact motivation. I think any time you have this type of a system, there are always going to be people who try to figure out whether there are ways to get around it.

The other thing we talked about was that they weren't using the information they had about the types of problems that existed, to go back to look at some of the customs brokers to see whether, through the customs brokers, they could make sure that the system was better enforced or apply penalties if they needed to apply penalties in some cases.

I think in this type of system there are always incentives for people to try to figure out ways to get around it, and the department needs to be doing a better job of enforcing, looking for places where there is non-compliance, and then perhaps imposing penalties if they need to when there is non-compliance.

Mr. Lloyd Longfield: Thank you.

The departments of the government have approved the recommendations, or have agreed with the recommendations. One of the recommendations is to make licences renewable, conditional on an importer's compliance record, so that would give us some recourse to the people who are not following our quota systems. Is there any kind of a timeline on that? What are the next steps?

In terms of an audit, I'm used to getting an audit from auditors with a management review letter. The management review letter will say, "These are the items that we're looking at for you to address and to get back on within a time frame." Is that the kind of response that the government would normally give you?

Mr. Michael Ferguson: In terms of the response to making licences renewable, they said that:

The Canada Border Services Agency will, in relation to making licences renewable and requiring a financial deposit, consult with the policyholder of the Duties Relief Program, the Department of Finance Canada, in considering these potential improvements to compliance. This will be completed by October 2018, dependent upon the outcome of program consultations led by Global Affairs Canada and the Department of Finance Canada.

That's a little bit of an "off in the future" type of thing, and it sounds like just some internal discussions and things like that, so it's

not really a particular commitment. I think in the action plan that they would probably have to prepare for the public accounts committee, we would expect to see more details about exactly what they were going to do, and perhaps some timelines.

Mr. Lloyd Longfield: Very good. Thank you.

You also talked about the recommendation to explore automated means to validate, and we are looking at pre-clearance in other areas. Would this fall under pre-clearance type legislation that we're considering right now, or is this something that would be in addition to what we're considering?

Mr. Richard Domingue (Principal, Office of the Auditor General): This would be in addition to what we recommended. What we noted was not so much an issue with the pre-clearance, but more an issue regarding the fact that the rules were not followed. It was not an issue of misclassification, per se; it was an issue of the importers importing agricultural goods that were either diverted out of Canada and duties not paid, or about the quota.

I'm not sure automation would solve that issue. The only thing that could be an advantage of adding an automated system is to check the licences against the actual import. Right now, it's in two different systems. A truckload could arrive at the border with no licence, and it has five days to get one, but meanwhile whatever was in the truck is long gone.

Mr. Lloyd Longfield: Right, okay.

It takes two parties, the exporter from the States and the importer from Canada, to understand the system. Maybe in my first question that's where I was diving in, thinking the Americans may not appreciate the complexities, or they do and they're ignoring them. But if we put them right in front of them electronically, they have to comply before they get clearance at the border. You shouldn't leave your facility until you know you have electronic pre-clearance.

• (1120)

Mr. Richard Domingue: We didn't look at the pre-clearance per se, but we noted in the report that there was.... There are two heads to the beast. You have GAC on one side and CBSA on the other side, and they don't really collaborate. That, in itself, was a weakness in the program.

Mr. Lloyd Longfield: Thank you very much. It's good to have those details. I appreciate it.

The Chair: Thank you.

[*Translation*]

It is now Ruth Ellen Brosseau's turn.

[*English*]

Ms. Ruth Ellen Brosseau (Berthier—Maskinongé, NDP): Thank you, Chair.

Thank you to the witnesses for their presentation and appearing before the agriculture committee.

Supply management was mentioned, and we've been talking about supply management since the election, and even before. The government does have a role to play when it comes to controlling imports at the border. I know I've been pretty critical of the government, and I think you shed some light on some failings and these losses to industry and Canadian farmers.

I was wondering if maybe we could talk about diafiltered milk. This is an issue that has been ongoing for the last few years. Presumably, many of the products entering Canada under the guise of duty relief are incomplete products still in the process of production. What does this mean for diafiltered milk?

Mr. Michael Ferguson: We didn't get down into all the details of the specifics of different types of products. In the case of diafiltered milk, for example, it's important first of all for the Canada Border Services Agency to know exactly what is coming across the border. When you have that product showing up at the border, they have to be able to determine what the protein content is in it. That would take certain activities. Just being able to understand whether what's coming across the border is or is not diafiltered milk is the first thing that the agency would have to do.

We didn't get down into the details of each and every different type of controlled product. What we were concerned about in terms of the controlled products was that they were either coming in at levels above the quota or there were opportunities to actually divert them into the Canadian market when they were supposed to be just processed and then exported.

I can't get down into any of the details on diafiltered milk per se, but I'm sure the issues there are at least similar to the issues we did raise.

Ms. Ruth Ellen Brosseau: The duties relief program administered by CBSA was not, I think, conceived for agriculture. A lot of these products are perishable. One thing that comes to mind is that we've had many discussions with Chicken Farmers of Canada, and spent fowl coming into Canada is a huge worry that has caused a lot of damage and losses, very negative financial impacts. There have been solutions proposed by the industry. A lot of work has been done at Trent University for DNA testing. With the duties relief program, they have up to four years to re-export chicken that has been imported.

In 2016, when CBSA revoked the licences of six suppliers, was that related to spent fowl?

Mr. Michael Ferguson: As I understand it, it was related to marinated chicken, so it certainly was related to chicken products coming across the border. All of that issue around the spent fowl or the diafiltered milk goes back to the complexity of what the Canada Border Services Agency has to try to do when these products show up at the border.

As you say, they are perishable. Without detailed testing at the border, once something comes across the border, it's much more difficult for them to control it. I think all of those issues go back to the complexity of actually being able to enforce the rules that are on paper. We therefore end up with these types of problems, because they can't always enforce the rules.

Ms. Ruth Ellen Brosseau: Does CBSA not have the right resources? Is it a problem of money or funding? It doesn't seem that they're doing what they're supposed to be doing.

• (1125)

Mr. Michael Ferguson: I think it's a matter of going back into the first instance and looking at what customs duties are being applied on what goods; then there's the difficulty of enforcing that. To identify whether a product coming across the border is diafiltered milk or not would probably take testing at the border. How much of that do you do? Who does it? Testing food products is not something just anybody can do. You have to make sure they're properly handled. Could some of it be done after it comes across the border?

All of those are the types of things the Canada Border Services Agency needs to look at. What we've done in this audit is highlight particularly the difficulties they are having in trying to apply the program, as it exists on paper, to these types of perishable products.

Ms. Ruth Ellen Brosseau: Is there data collection? Is there a data collection mechanism in place, and do your recommendations touch on that?

You've done amazing work in shedding light on this issue. I'm just worried that it won't get better. We have recommendations; I'm hoping the government will act. They could pull up their socks and do the job and really stand up for supply management. I'm worried that if there's no data collection and no transparency after the fact, this is something that's going to go on and on.

Mr. Richard Domingue: I think the recommendation addresses that issue indirectly when we say that both CBSA and Global Affairs should work together to make sure the licences are respected. This would imply that there will be some sort of data collection and better import monitoring of what crosses the border.

The Chair: Thank you, Ms. Brosseau. That's all the time we have on this one.

[Translation]

Mr. Drouin, you have the floor for six minutes.

[English]

Mr. Francis Drouin (Glengarry—Prescott—Russell, Lib.): Thank you, Mr. Chair, and thanks to the witnesses for being here.

I want to talk about the duty relief program. The agency completed six compliance audits. I want to know whether they shared that data and how and why they did the six compliance audits. The reason I ask is that they did six compliance audits and found them all to be not respecting the program. I'm wondering, then, if they share that data, whether they do this on a random basis, or did they have some intelligence to make them think that these importers were being non-compliant?

Mr. Michael Ferguson: I think it is important to realize that they focused on supply-managed goods. There are other goods coming in under this program that were not causing a problem, but in terms of the supply-managed goods, all six of the verifications they did were in that case.

I'll ask Monsieur Domingue for more details on the information we looked at.

Mr. Richard Domingue: They did share evidence that they had intelligence regarding the marinated chicken industry. That's why they focused specifically on those importers.

Mr. Francis Drouin: Okay, and that's how they complete their audits. Part of the reason I ask is that if they had done this randomly and all six were found to be non-compliant, obviously this would have been an even bigger issue than what we're talking about—not to minimize the problem; it is an issue.

I want to talk a bit about some of your recommendations concerning the management of the program. You talk about making the licences renewable. Perhaps you're saying that if an importer's compliance record is not good, then you would revoke the licence. Is that the idea?

Mr. Michael Ferguson: I guess there would be two aspects. There would be revoking of the licence, but also, making a licence renewable means that there is an automatic point at which the licensing of that particular organization needs to be considered, in contrast with the case that somebody has a licence and then you have to revoke it. That can sometimes be a more difficult exercise than just looking at whether the licence should or should not be renewed.

Adding in the renewal of a licence just adds an additional discipline, perhaps, in the system, for the importer to make sure they're doing what they're supposed to be doing because they know that at some point in the future they're going to have to be able to show that they are, in order to keep their licence.

Mr. Francis Drouin: From an audit perspective, how do you think we can do a better job at tracking? Again under the duties relief program, the importers, let's say for milk, can't keep milk for four years, so they have to displace it fairly shortly or transform it into a product. How long do they have to do that? I want to make sure that Canadian milk gets used for Canadian products, but when they use U.S. milk, is it used for Canadian products or is it used for exports? How do you manage that?

• (1130)

Mr. Michael Ferguson: I understand that this is particularly complex because you're trying to track perishable goods that, when you just look at them, don't look any different, one good from another, so it's particularly complex for them to be able to apply this. I think perhaps in terms of the duties relief program, what they would need to do is go back and look at the six verifications they did to see whether there were any steps that they followed in those six verifications that maybe they could build into part of normal process, or are there some steps that they could do earlier and more often to be able to identify these types of issues?

They were able, through their six verifications, to identify that the rules weren't being respected and therefore revoked the licences. Is there something that they could draw from that to build into their normal process so that they don't have to wait for a verification to identify the problem? That's what I would suggest they do.

Mr. Francis Drouin: I assume the agency wasn't doing a sufficient job at looking at the amounts of imports that would have been used to transform x, y, or z products, and then they would look at the exports. Is that sufficient auditing in terms of the agency

looking at what's happening? If I'm importing 90 kilos of milk into the country, and I'm exporting 90 kilos of transformed goods, or I've used 90 kilos for that product to go back out, is that enough auditing, or should they look on a broader basis?

Mr. Michael Ferguson: Again, with these types of things I think people will always try to do things that are close to the line. Just looking at the amount coming in and the amount going out may not be sufficient because there may be ways of altering those goods in the meantime so that what goes back out looks the same as what came in. There are those types of things that could happen.

I think that they need to look at the data that's available to them, and they need to try to use that to identify ways that people might be getting around this system. I think that they need to be a bit creative in trying to think about how they can use the data to identify signs that people are not respecting the system.

Mr. Francis Drouin: You talked about penalties. The penalty for the first offence, you said, is around \$150 and \$450 for the third offence. So if I'm speeding at over 50 kilometres an hour in my area, I get a bigger penalty than an importer would get.

The Chair: Give a quick response, please. We're out of time.

Mr. Francis Drouin: Do you have a number on what the penalty should be?

Mr. Michael Ferguson: Again, we just made a recommendation that they should review the penalties, so that's really for them. I guess what we did say was that the average penalty that they applied was \$151, so they should just look at whether the penalties are at a level that are having an impact on behaviour.

The Chair: Thank you, Mr. Ferguson.

[*Translation*]

Thank you, Mr. Drouin.

Mr. Breton, you may go ahead for six minutes.

Mr. Pierre Breton (Shefford, Lib.): Thank you, Mr. Chair.

Mr. Drouin asked my first question, so I'd like to give Mr. Ferguson a chance to elaborate, as I think this is an important issue.

American exporters won't be inclined to comply with the regulations once they know what the penalties are for violating the rules.

I think the penalties are quite low, indeed, so I'd like you to explain your recommendations regarding the penalties further.

Mr. Michael Ferguson: Penalty rates is an issue we flagged. Clearly, it's tough to know whether the penalties affect importers' behaviour.

I'm going to ask Mr. Domingue to elaborate.

•(1135)

Mr. Richard Domingue: I want to make clear that the penalty is imposed on the Canadian importer, not on the exporter, American or otherwise. It is therefore up to Canadian importers to ensure that they are following the rules on quota-controlled goods, for instance.

Mr. Pierre Breton: It boils down to the same thing: the penalties are still very low.

Mr. Richard Domingue: Indeed, there isn't much incentive to behave properly and follow the rules.

Mr. Pierre Breton: Exactly.

What would you recommend? Do the penalties need to go up?

Mr. Richard Domingue: In paragraph 2.35 of our report, we recommend that the Canada Border Services Agency review its penalty rate scale.

Mr. Pierre Breton: Do you believe a review of the rate scale could serve as a deterrent?

Mr. Richard Domingue: The optimal penalty rate is the one that serves as a deterrent. We didn't specify an amount in the report. However, a certain degree of market discipline is necessary, and if that discipline goes hand in hand with appropriate penalties, it should serve as a deterrent.

Mr. Pierre Breton: We're talking about companies, here. A speeding ticket for going 125 kilometres per hour on the highway costs more, not to mention the demerit points. In this case, the economic impact on the Canadian market is significant. Thank you for that recommendation.

I'm not sure whether you think the agency's six compliance verifications in relation to supply-managed goods had a positive effect. Personally, it strikes me as a positive initiative and a step in the right direction. I wonder why the agency doesn't do more of them. Did any of your recommendations deal with that specifically? Considering that six out of six importers were found to be non-compliant, what should be done to ensure more such verifications are performed?

Mr. Michael Ferguson: I should point something out. As paragraph 2.62 of our report indicates, it was the agency that decided to pursue the verifications in those specific cases. It was the agency, then, that conducted the verifications. In each case, the agency identified problems. It may be a good idea to ask the agency whether more such verifications are possible. That's a question for the agency, since it was the one that conducted all six.

Mr. Pierre Breton: I see it as a step in the right direction.

Given your examination, do you think the agency has sufficient financial and human resources to further improve its control mechanisms? What can you tell us about that?

Mr. Richard Domingue: We didn't examine resources, specifically, or assess whether the agency had the necessary resources to deliver the program.

That said, during the audit, we certainly observed some frustration on the agency's part in terms of the efforts devoted to program controls. Would more resources fix the problem? I'm not sure.

Instead of simply suggesting that the agency acquire more resources, we opted to focus on increased market discipline, so that the agency doesn't have to do as much monitoring. Our recommended approach was a bit more preventive, in other words, issuing permits with expiry dates, charging higher penalties, and working with Global Affairs Canada to verify compliance with import permits.

Mr. Pierre Breton: I quite like the educational dimension and the suggestion around increased market discipline. I do, nevertheless, think that the rules should set out enforcement measures and control mechanisms.

You mentioned some frustration on the agency's part. Could you elaborate on that?

•(1140)

The Chair: Thank you, Mr. Breton. Unfortunately, your time is up.

Mr. Gourde, you may go ahead for six minutes.

Mr. Jacques Gourde (Lévis—Lotbinière, CPC): Thank you, Mr. Chair.

I would like to thank the witnesses for being here.

Our importers have quotas they must comply with, quotas set by the Department of Foreign Affairs and International Trade, now known as Global Affairs Canada.

Our dairy producers have a predetermined volume of production that is permitted every month, and if they do not reach it, they can produce a bit more the following month. At a certain point, that production is capped under the quotas.

Are importers subject to regular follow-up, either monthly or quarterly, in terms of duty-free volumes permitted? Is that monitored at all? If an importer reaches their quota after nine months, they should no longer be able to import for the next three months, but they may continue to do so, regardless. Is that something that can be monitored?

Mr. Richard Domingue: In theory, yes. Global Affairs Canada is responsible for controlling permits issued to importers.

In the course of the audit, however, we noted a discrepancy between the volume declared to the Canada Border Services Agency and the volume authorized by Global Affairs Canada under import permits. That's why we state in the report that 131 million dollars' worth of goods were imported without the appropriate customs duties being paid. In fact, the Canada Border Services Agency and Global Affairs Canada do not have a coordinated system.

Mr. Jacques Gourde: Did you note any schemes by importers where, for instance, they declared that a 20-tonne truck was carrying a 17-tonne shipment of chicken that was in fact 20 tonnes? I'm referring to situations where the reported volume is underestimated; the actual volume could be 10% or 12% higher than what is declared every time a shipment enters the country. At the end of the day, that means a lot more products are being imported.

Mr. Richard Domingue: Earlier, we were discussing incentives or the lack thereof. We didn't note that kind of thing, specifically. However, in an effort not to go over an import permit volume, someone could easily underestimate the value of their imports to keep more room as the year progresses. That is a possible tactic, but not one we observed.

Mr. Jacques Gourde: Are shipments subject to checks? If we go back to my example, is there a possibility that the truck whose declared volume was 17 tonnes could undergo a random weight check, or is that not something that is done?

Mr. Richard Domingue: The Canada Border Services Agency does not perform front-line controls. Its mission is to facilitate trade, and since these are perishable goods, they need to move across the border quickly. They are not subject to any controls when they cross the border, including the Canada-U.S. border.

Mr. Jacques Gourde: Is it possible they could be subject to control once they reach their destination, on the importer's end?

Mr. Richard Domingue: Any control activities are performed at the destination point, at the storage facility or processing plant.

Mr. Jacques Gourde: Once the shipment is unloaded, the goods are transferred to various storage facilities. They can be divided amongst three or four different locations, making it practically impossible to retrace them.

Mr. Richard Domingue: Retracing goods that have been dispersed across the system is the challenge that the Canada Border Services Agency faces. They may have been stored in a warehouse one day and be gone the next; the goods can indeed end up somewhere else.

Mr. Jacques Gourde: I think that's a huge challenge. A reopening of the borders could send import volumes up by 3%, 4%, or even 5%, and the range of products would be even more diverse. That increases the possibility of goods coming into the country without being subject to adequate controls. Yogurt, cheese, and other product imports could be slightly higher, making it difficult to pinpoint exactly how many litres, kilograms, and so forth are coming in.

That doesn't even include cases where goods have perished in transit. Does that quantity come off the licence? Control mechanisms need to be reviewed.

Would it be easier to centralize the control function, instead of delegating it to three different departments?

Mr. Richard Domingue: Certainly, the fact that multiple departments are involved does complicate things. The two organizations have to communicate and coordinate their efforts. We did not make a recommendation on centralization, specifically. Our recommendations focused on the strengths and weaknesses observed in the current system.

• (1145)

Mr. Jacques Gourde: Which department do you think should have control of the ball? In other words, which one should be in charge?

When two or three organizations are involved, each one works towards its own mandate, and opportunities are missed because of this silo approach.

Should one of the three departments take the reins?

Mr. Richard Domingue: We didn't provide an opinion on that specifically.

It's important to understand that the Canada Border Services Agency has a very specific mandate. They are the people on the ground. Global Affairs Canada is more involved on the policy side. Despite also having a presence on the ground, Global Affairs Canada doesn't have the staff needed to carry out these kinds of verifications.

In any case, we did not make a clear determination as to which department should be in control of the ball.

Mr. Jacques Gourde: I have one last question.

Is there an ad hoc team that conducts more specific verifications and determines, for instance, to tackle a given problem in order to find a solution? Conversely, are verifications conducted further to complaints involving a suspected permit violation? In that case, a warning or notice would go out to the importer, who would have to prove that their permit was valid.

The Chair: Could we get a quick answer to that, please?

Mr. Richard Domingue: As we explain in the report, the Canada Border Services Agency conducts random and targeted verifications. Targeted verifications are definitely the most effective, in that the information collected suggests a problem within a specific industry.

The Chair: Thank you, Mr. Domingue.

[English]

Ms. Lockhart, you have six minutes.

Mrs. Alaina Lockhart (Fundy Royal, Lib.): Thank you, Mr. Chair.

Thank you both for being here today.

I'm looking at your report, and the numbers in exhibit 2.2 are from 2015. These are on the customs duties on quota-controlled goods that weren't assessed. Has any follow-up work been done? Are the numbers for 2016 available yet?

Mr. Michael Ferguson: These were just numbers that we put together when we did the comparison of all of that quota information. The numbers were not coming from the department. Hopefully the department would keep those types of numbers up to date so that they would have an idea of it, but it would be something that they'd have to do.

Mrs. Alaina Lockhart: Sure. I think those came from Global Affairs and Statistics Canada. That's where you drew the numbers from.

Yes, it would be interesting to see the changes for 2016. I understand there was an increased number of audits on supply-managed goods this year, and in fact there were six suspensions of importer licences because of that. Do you see that as a positive improvement, from your report?

Mr. Michael Ferguson: Well, the six that we referred to with regard to the duties relief program were all done before we issued the report.

Monsieur Domingue might know what has gone on since.

Mr. Richard Domingue: I understand that there was one additional case recently. My understanding is that they're up to seven, but when we did the audit, it was six. The seven needs to be verified. We don't know if that's—

Mrs. Alaina Lockhart: Okay. I guess I'm just trying to verify whether or not we're moving in the right direction.

There's also been consulting amongst industry—including CBSA, Global Affairs, Finance, and Agriculture—with a working group of those stakeholders. Do you have any advice on what they should be focused on and what outcome they should be looking toward?

Mr. Michael Ferguson: This issue is obviously particularly complex. You start with whatever it is, the 7,000 different items that are in the customs tariff that have to be enforced. You have 10-digit coding that has to be applied to everything. You have to get it down to very detailed levels. Then you have duties that apply that are difficult. It's not just a matter of one duty on product x and another duty on product y. When you're dealing with something like diafiltered milk, for example, it's the protein level in the product that determines the level of the duty. So it's about applying the duties, knowing what the product is that's coming across the border, and then actually being able to enforce all of that.

Again, we have identified in here that in the case of a number of things coming across the border, importers will have up to four years to change the classification of what they brought in. By then the goods are long gone into the economy. If the importer's coming back four years later and saying, "You know what? I didn't bring in product x, I brought in product y", it's difficult to know whether that was the right thing.

This is not going to be simple to solve, but I think it does no one any good to have a system that cannot be applied. I think what they need to do is to go back and figure it out. Is it enforceable? How do we enforce it? What different steps would we have to take to enforce it? How do we know whether people are complying with it? I think it's going to take a serious look at the whole system. What are the goods that the duties have to be applied on, and how can we then make sure that those duties are actually being applied?

For us, the way we look at this is that, again, it's not for us to say what the duty system should be, or what duty should be applied on, but once it's been decided, then there needs to be a system that actually enforces it. Again, Canadian producers, Canadian businesses, need to know that the rules are being applied as they expect them to be applied, so that they know what the market is that they're working in.

• (1150)

Mrs. Alaina Lockhart: From what you're saying then, it is going to require several departments working together to address this.

Mr. Michael Ferguson: I think so, and it's going to be complex, but it's also important so that Canadian producers and Canadian industry are confident that when there is a system being explained to them, that system is actually the one that's being enforced.

The Chair: Thank you.

Now Mr. Anderson, for five minutes.

Mr. David Anderson: Again, I wanted to bring this up. We've been talking about supply-managed goods. In your report a couple of

times you refer to quota-controlled products, and beef is on that list. Maybe I should know this, but in what areas is beef controlled with quota limits?

Mr. Richard Domingue: On quota-controlled goods, there are a number of products like steel and beef, and they are not necessarily supply-managed goods.

Mr. David Anderson: Okay, why are they—

Mr. Richard Domingue: Beef happened to be on this list, and steel would be on the list, but it's not under supply management.

Mr. David Anderson: Okay, it's just that you've included it in your list of imports of quota-controlled goods that exceed volume. These goods include dairy, chicken, turkey, beef, and eggs. Do you know what the limits are on beef? Where are those quota limits?

Mr. Richard Domingue: No, I don't have that.

Mr. David Anderson: I am not aware of any and I was just surprised to see that included in the list.

What we're talking about today, is it applying just between the U.S. and Canada? When you talk about penalties not being paid and duties not being paid, did you examine steel and beef and other things as well, or is there a discussion? Are they limited to these supply-managed products that we're talking about?

Mr. Richard Domingue: We looked at those products listed in exhibit 2.2, so we didn't venture into the steel issue or duties paid or not paid on steel, for example.

• (1155)

Mr. David Anderson: One of your solutions for the duties relief program is to require a financial deposit proportionate to the value of duties at risk. Do you have any suggestions on how that might be done ahead of time?

One of the issues we have with smaller companies in other areas of agriculture is that they often have to lay down a bond or deposit in order to operate. This prevents smaller companies and medium-sized companies from operating in certain areas, particularly around buying and selling wheat products and those kinds of things. Can you tell me a little bit more about what you were thinking when you said we should require a financial deposit for those types of issues?

Mr. Richard Domingue: The principles applicable to the bonded warehouse could be applicable for those importers. It's up to the government to decide if it will be detrimental or not to some smaller importers. Our belief is there needs to be incentive in the system to respect the rules. If you get a licence that is not a licence for life, and if there is a financial commitment attached to that, we believe there would be market discipline and better behaviour.

Mr. David Anderson: Okay. I think that in terms of bureaucratic compliance, it's easier to make the rules for removing a licence simpler rather than requiring everybody to come and get a temporary licence and have to go through that whole system.

On that duties relief program, which we've talked a bit about, where is the real weak spot here? Is it in terms of what people are declaring and not following up on the declarations?

On the cost of compliance, you talked about fines being too low. Is it the licensing? You talked about making licences temporary rather than permanent. Or is it follow-up? Where would you see the weak spot of that program being? People are moving product in and out and avoiding compliance. Where is that happening?

Mr. Michael Ferguson: Again, what they're doing is importing a certain level of product that is then supposed to be processed and exported, but they are finding ways of diverting that into the Canadian market. I think it's simply a matter of the Canada Border Services Agency needing better ways of tracking what's coming in and what's happening to it. As they their investigations, they find out where there are problems and how goods are being diverted into the Canadian market. They should use that information earlier in the process to see whether there are signs that those types of activities are going on, as opposed to waiting until later on and doing an investigation into it.

Mr. David Anderson: Is their system so complicated that they can't keep track of an in and out? It should be that product comes in, and that amount of product or something fairly equivalent should be going out. Are they just not tracking that? Is that where the issue is?

Mr. Michael Ferguson: Remember that you are talking about goods that are being processed. If it is based on a certain volume, and then that good is being processed and you're talking about a food product, it's possible that in the processing the volume is altered. If the volume is altered, then the amount that came in may be in fact different from the amount that exists after processing. It would be possible to export a volume that equalled the volume that came in, but still have something left over, because processing can alter the volume, if you will. Things like that could happen. They need to understand what things do happen that cause there to be a leftover amount that can diverted into the Canadian economy, for example, and how they identify whether or not that's happening earlier on in the process.

The Chair: Thank you.

[Translation]

Ms. Brosseau, you may go ahead for three minutes.

Ms. Ruth Ellen Brosseau: Thank you, Mr. Chair.

Gentleman, your report raises concerns. We are experiencing huge losses because customs duties are not being collected, diminishing economic returns. You made recommendations to address that, as my colleagues have repeatedly mentioned. It's really time for the federal government to show some leadership. A number of agencies are responsible for what goes on at the border.

How did the Department of Finance respond to your report? Is a lack of cooperation or data to blame? Do you think the situation will get better?

Mr. Richard Domingue: The Department of Finance's involvement is limited to the duties relief program. The recommendation related to quota-controlled goods, in other words, goods requiring a permit, was not addressed to the Department of Finance but, rather, to the Canada Border Services Agency and Global Affairs Canada.

Their response, which appears in paragraph 2.55, indicates that the two organizations will examine ways to work together more effectively and explore automated means to validate accounting declarations when it comes to verifying permits. Their response was quite positive.

Ms. Ruth Ellen Brosseau: If I'm not mistaken, the Minister of Agriculture and Agri-Food is supposed to undertake consultations on the duties relief program. Have you had any discussions on the subject? Are you aware of the minister's efforts in relation to the consultations or his thoughts on the program?

• (1200)

Mr. Richard Domingue: To tell you the truth, the department did not share any consultation results with us. We do not know whether the consultations have begun. We have no information on that.

Ms. Ruth Ellen Brosseau: That information would probably be very useful. My understanding is that the minister launched the consultations in 2016.

I'm not sure whether Mr. Poissant, the parliamentary secretary to the minister, has any information. Perhaps he can tell us more.

[English]

The minister was doing a consultation on duty release. Are you aware of this? I'm sorry. I'm wondering because this is really important. It would be interesting for our committee to know when the conclusions of the minister's consultation would be finalized.

[Translation]

Mr. Jean-Claude Poissant (La Prairie, Lib.): The minister remains abreast of what goes on at the border as it relates to the dairy sector. We receive updates. We keep a very close eye on the situation.

[English]

The Chair: Thank you.

Unfortunately, this is all the time we have. I want to thank Mr. Ferguson and Mr. Domingue for giving us their report on how to manage the duty imports effectively as they pertain to agriculture.

We shall break for a short period and then come back.

Thank you.

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_____ (Pause) _____

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• (1205)

The Chair: We'll start this portion of the meeting.

I want to welcome the Canadian Seed Trade Association. Today we have Mr. Dave Carey, director of government affairs and policy. Also, from the Canadian Horticultural Council, we have Ms. Rebecca Lee, executive director, and Mr. Ken Forth, chair, trade and marketing committee.

Welcome to all of you. We'll start with an opening statement.

Mr. Carey, you have up to 10 minutes.

•(1210)

Mr. Dave Carey (Director, Government Affairs and Policy, Canadian Seed Trade Association): Mr. Chair and honourable members, on behalf of the Canadian Seed Trade Association, CSTA, I would like to thank the committee for your invitation to discuss our perspective on non-tariff trade barriers in relation to free trade agreements.

Before I offer comments, I want to quickly frame the context in which I will be offering my remarks by giving you a high-level overview of CSTA and our membership. CSTA is a not-for-profit, non-partisan trade association and the national voice of the seed industry. We bring together more than 130 companies engaged in all aspects of seed from research, development, and plant breeding to production, processing, marketing, distribution, and sales, both domestically and internationally.

CSTA members serve the needs of their farmer customers by developing seed produced through various production methods. These include organic, conventional, and biotechnology, and they range from small family-owned companies to large multinational firms. Our members work with over 50 different crop kinds that range from corn, soybeans, and canola to wheat, barley, forage and grasses, and vegetable and garden seed.

Seed is the start of it all, the first link in the agriculture value chain, an industry that is vital to the economic well-being of Canadians. The seed industry contributes close to \$6 billion to the Canadian economy, employs more than 57,000 Canadians, and exports close to half a billion dollars a year.

Our members are united in their support of our mandate and mission statement, which is to foster seed industry innovation and trade. Given our mandate, CSTA is strongly supportive of the ongoing efforts of the Canadian government to increase market opportunities by pursuing free trade agreements while also addressing tariff and non-tariff trade barriers. Our first strategic priority is the unrestricted trade of seed around the world.

Seed generally trades with zero or very low tariffs, and many countries don't even apply or bind any tariffs on seed for sowing. While this is an advantage for our commodity type, we do experience a number of issues around non-tariff trade barriers.

With the remainder of my time, I will touch on some of the trade barriers we face and offer our perspective on current and future free trade deals. However, before I begin, I want to say that the Canadian industry is extremely well served by the negotiators and the market access secretariat of Agriculture and Agri-Food Canada. They have world-class people working for them day in and day out to grow markets for industry.

Canada is also very well served by our regulators. The two that most impact my members are the the Canadian Food Inspection Agency and the Pest Management Regulatory Agency. CFIA plays a leadership role at the International Plant Protection Convention, and PMRA at Codex.

I had the pleasure of witnessing CFIA's leadership first-hand while attending the recent IPPC meetings in Incheon, Korea where, after a number of years and different iterations, the 183 contracting member countries of the IPPC adopted an international standard for

phytosanitary measures for seed that seeks to harmonize the import, export, and re-export of seed. The IPPC is overseen by the United Nations Food and Agriculture Organization. There is now an 18-month goal implementation period.

One of the biggest non-tariff trade barriers faced by our industry is sanitary and phytosanitary measures, or SPS. Our members, as I mentioned, cover 50 different crop kinds and export to more than 70 different countries annually. It can be very complicated for members to navigate the multitude of trading rules, and they often face issues where SPS rules make exporting a real challenge. I'll give you a few examples.

On treatments, countries may require that shipments of seed be treated in a certain manner, such as through fumigation, in order to allow entry in the importing country, but the treatment method the importing country prescribes is not approved in Canada. Some countries may also require seed be treated with a certain insecticide or fungicide that also may not be registered in Canada, in a lot of cases for good reasons. The real-life example is Mexico's recent WTO notification.

Regarding pests, certain pests are viewed at a different threat level by different countries. Documentation, phytosanitary certificates, treatments, and field inspections are sometimes required for pests that are not present in Canada, such as a tropical insect. It's very difficult for our regulators when we're dealing with an issue and we don't have a protocol to conduct an inspection because that pest is not found in Canada.

Seed as a pathway is the last SPS I'll touch on. Most countries view seed as a low phytosanitary risk due to the rigorous conditioning and controls in place, and therefore our companies aren't subjected to overly burdensome import requirements. However, some countries view seed as a high risk and may require tests to be carried out using protocols not used or recognized in Canada as legitimate. Mexico is also an example of where they view seed as a high risk as opposed to the U.S. and most of our other trading partners.

•(1215)

Another one that I know you've heard about so far is on biotechnology. Asynchronous approvals and zero tolerances for products of biotechnology continue to be an issue. Canadian farmers are early adopters of new technologies that improve productivity, provide health and environmental solutions, and enhance competitiveness. Canadian farmers have embraced modern biotechnology in their cropping systems, and as a result, the majority of acres planted in corn, canola, and soybeans in Canada are products of biotechnology. They contain biotech improvements, often called "traits".

These products have received full approval for food, feed, and environmental release through Canada's very detailed and stringent science- and risk-based regulatory assessment processes, both at Health Canada and CFIA. While Canadian developers are committed to seeking approvals for their innovations in important export markets as part of their commercialization plans, some countries simply do not have effective, functioning regulatory processes, and some have established a zero tolerance policy for any genetically modified product that their own regulatory system has not approved. Seed for sowing in the EU is a good example of this.

The impact on the seed industry has been significant, as countries are requiring legal declarations that there is zero presence of genetically modified product in seed shipments. Zero is not possible to achieve, and that has impacted our members. The CSTA believes that approval processes for products of modern biotech; mutual recognition of assessments and approvals; and a science-based, low-level presence policy for seed should be a part of Canada's negotiating position for all trade agreements.

Lastly, I'll just touch on some free trade deals. CSTA was and continues to be a strong proponent of the TPP, and testified to that support in June 2016. It would have allowed preferential access to nearly 80% of our seed export markets. We would like to strongly urge the Canadian government to continue to pursue multilateral discussions with the remaining TPP partners and to also consider using agreed-upon text and provisions included in the TPP in future trade agreements.

CSTA is a strong proponent of science-based decision-making, and supports the inclusion of provisions in free trade agreements that would commit signatory countries to science, transparency, and incorporating the concept of equivalence.

The TPP also contains provisions that require countries to make their science-based approval processes for new biotechnology traits more transparent, thereby providing a greater sense of predictability and encouraging investment in innovation here in Canada. We would also support provisions around low-level presence being included in all future agreements. The TPP was the first-ever trade deal to contain such a provision. The provisions essentially establish a process to address instances where a low-level presence occurs, which will reduce trade disruptions and, again, increase transparency.

CSTA was pleased to see CETA receive royal assent, but we still have concerns with the EU's hazard-based evaluation system, as well as the very slow and unpredictable approval process for products of biotechnology. It's rectifying hazard versus risk.

CSTA would also like to encourage the government to continue to consult and then negotiate a trade agreement with China. As other witnesses to this study have attested to already, there have been and will continue to be significant trade issues with China related to SPS and biotech approvals.

Lastly, it is our hope that the Regulatory Cooperation Council between Canada and the United States will continue to be an active entity regardless of the NAFTA renegotiations. Our industry saw real value in being able to attend the RCC meetings, in particular the PMRA-EPA interface and the CFIA-APHIS interface meetings.

In conclusion, Canada is a trading nation and agriculture is a global industry. As such, bilateral or multilateral agreements that seek to establish rules-based trade among major export markets are extremely important to the Canadian seed industry. The commercial world seed market is assessed to be approximately \$45 billion U.S. a year, based on 2013 numbers. This is a global market where Canada has a lot more room to grow and expand our market share. Free trade agreements are also crucial for Canada's burgeoning non-traditional exports for seed, such as variety and germplasm exchange agreements, multinational R and D, contractual agreements for production of seed for export and import, marketing new varieties imported into Canada, and marketing new varieties abroad.

CSTA members, their farmer customers, and Canadians will benefit from reductions in tariff and non-tariff trade barriers on seed exports, and will see many positive gains from access to new markets and agricultural innovations.

We would like to thank the committee for undertaking this important study, and we welcome any question that you have today.

Thank you, Mr. Chair.

The Chair: Thank you, Mr. Carey.

I understand you will be sharing your opening statement. Go ahead, Ms. Lee.

Ms. Rebecca Lee (Executive Director, Canadian Horticultural Council): Mr. Chair, honourable members, good afternoon.

Thank you for the opportunity to come here today to discuss some of the non-tariff trade barriers that are affecting members of the Canadian Horticultural Council.

CHC is an Ottawa-based, voluntary, not-for-profit, national association that represents fresh fruit and vegetable growers across Canada who are involved in the production of over 120 different types of crops on over 27,500 farms, with farm cash receipts of \$5.5 billion in 2015. Since 1922, in collaboration with members and the government, CHC has advocated on issues with long-lasting impacts on Canada's horticultural sector, promoting healthy, safe, and sustainable food, and ensuring the continued success of our industry.

Global competitiveness is a high priority for CHC members, and we welcome all opportunities for collaboration with the Government of Canada to prioritize agriculture as a key sector for the Canadian economy and to meet the goal of increasing agrifood exports to \$75 billion by 2025. While we look forward to growing new markets through free trade agreements, there are a number of non-tariff trade barriers that should be considered when negotiating Canada's free trade agreements.

Canada's maximum residue limits, or MRLs, are set by Health Canada through the Pest Management Regulatory Agency. Health Canada sets science-based MRLs to ensure that the food Canadians eat is safe. The MRLs for each pesticide-crop combination are set at levels well below the amount that could pose a health concern.

When Canada and another trading country do not agree on these MRLs, it means the risk assessments conducted in each country differ in the amount of pesticide determined to be acceptable to remain on certain produce when it enters the market. This poses a huge technical barrier for imports and exports.

For example, Nova Scotia used to export apples to the EU, but the province stopped doing so when the EU dropped its MRL for diphenylamine—a common storage treatment for apples—to 0.01 ppm. In Canada, the maximum residue limit for this product is set at 5 ppm. In the U.S. it's 10 ppm.

Without harmonized MRLs, the risk is often too high for growers to venture into new markets. A producer in full compliance of the Canadian pesticide product label uses can have their crop rejected by the destination country due to residue violation resulting from an MRL set below the Canadian level.

Last week, CHC sent in a submission on the possible free trade agreement with China. Many of our members voiced their concern with the lack of harmonization regarding residue levels, which creates a substantial barrier for those in the horticultural sector. There have been efforts by international organizations such as the WTO and Codex to develop a world standard, but so far there is none recognized by all countries. The majority of countries are setting their own tolerance levels, and the result is inconsistent MRL standards among trading partners.

The priority to enhance trade in agricultural commodities may not be entirely successful without the work of PMRA to create MRLs for new registrations and see that they are harmonized around the world. The roles played by PMRA at Codex are essential. However, PMRA has been forced to back away from this work at this critical juncture due to severe budget restraints. Canadian horticultural producers support adequate funding of the PMRA, so they are able to continue not only to do their registration and re-evaluation work well and on time, but also to provide their expertise to further Canadian involvement in science internationally, including in harmonization of MRLs.

Trade negotiators should continue to lobby for science-based MRLs to be harmonized between trading countries to ease this technical barrier.

With regard to phytosanitary import requirements, particularly with fresh produce, it is important for our products to cross our trading partners' borders quickly, without delays, to ensure they

arrive in the foreign market with the same high quality as when they leave Canada.

Phytosanitary import requirements can become significant deterrents to market access for fresh Canadian produce, as other countries may impose restrictions that are not always supported by a science-based assessment of risk. Some of these include unreasonable laboratory testing requirements, costly pre-clearance inspections, lack of acceptance of CFIA-accredited laboratory tests, and inconsistent and non-transparent regulations, such as phytosanitary requirements that change without fair notice.

In CHC's recent member consultation regarding a potential China free trade agreement, strict and inconsistent phytosanitary restrictions were one of the biggest barriers for our growers entering the Chinese market.

To reduce this trade barrier, we support the inclusion of enhanced and technically justified phytosanitary requirements that are harmonized between countries. This would strengthen the need for importing countries to conduct science-based risk assessments and allow fair market access opportunities based on valid phytosanitary conditions.

● (1220)

I'll now turn to hazard-based in-or-out regulatory decisions.

Building on our advocacy for a science-based approach, an additional non-tariff barrier is when governments take fundamentally different approaches to make regulatory decisions. This is the case currently with the EU, and it has the potential to become a trade barrier with other countries as well.

For example, Canada looks at actual cases and uses a science-based approach to see how to mitigate risk while continuing to use a crop protection product. In contrast, the EU makes decisions based on the simple existence of a hazard, without researching to find a solution to the risk. An example is the EU arbitrary limit for the detection of any pesticide in drinking water of 0.1 micrograms per litre, which is not based on risk. This is a different approach and comes at a cost to Canadian growers who may wish to remain in that market and have to adhere to foreign regulatory decisions.

CHC would encourage an approach whereby trade negotiations include that phytosanitary risk mitigation, based on science, is recognized in the registration of crop protection products.

•(1225)

Mr. Ken Forth (Chair, Trade and Marketing Committee, Canadian Horticultural Council): Further on fair market access, to keep Canadian fresh produce competitive here at home, we need to continue to have the support of anti-dumping rules, through the maintenance of ministerial exemptions.

Fruits and vegetables are perishable crops that are stored under costly, highly managed conditions from harvest until utilized. In the case of many crops—apples, potatoes, and root crops—growers and packers manage the available supply through the winter, spring, and summer to provide high-quality produce until the next crop is harvested. The predictability of the market ensures that, for example, Canadian potato producers provide a consistent, high-quality supply of fresh potatoes to consumers and the processing industry.

The orderly import and interprovincial trade of potatoes is facilitated either in the free import of potatoes meeting the requirements of the fresh fruit and vegetable regulations of the Canada Agricultural Products Act or through the ministerial exemption provision of these regulations.

Ministerial exemptions provide exemption from some requirements of the regulations; for example, container size and grade standards. Without the ME provisions, produce such as apples and potatoes could not be moved in bulk shipments or totes, and could not be moved in ungraded form.

At the same time, ministerial exemptions eliminate the potential dumping of large quantities of potatoes in Canada or in a province, which could result from unrestricted bulk shipments of potatoes. In the absence of this orderly marketing, Canadian producers would continue to incur the high costs and high risks associated with the storage of potatoes, yet be exposed to the unpredictable bulk shipments into their province, and accompanying economic uncertainty.

Similarly, the requirement for a ministerial exemption for grade exemptions limits the dumping of low-quality produce into the Canadian market. Such dumping could severely impact the market price for high-quality Canadian products.

As we head toward the NAFTA consultations, this is front of mind for most of our growers, who view it as essential that ministerial exemptions under the fresh fruit and vegetable regulations be maintained and not lost through NAFTA renegotiations.

I'll now turn to the cost of competition to Canadian growers.

Because Canadian growers adhere to strict food quality standards and labour laws, as well as environmental standards such as carbon pricing, their costs of production are often much higher than those of growers in other countries. Due to these production costs, other countries are often able to enter our market at lower prices, forcing growers to absorb the costs on increasingly lower margins.

While our sector promotes competition and free trade, we value the opportunity to provide fresh, safe produce to Canadians, without having to depend on imports, especially during the summer months. The Government of Canada may need to assist Canadian growers, through regulating imports to ensure foreign product meets Canada's

high standards, including labour, environment, and of course, the quality and safety of the product.

In conclusion, the fresh produce sector wants to be more competitive and enter new markets. However, there are significant non-tariff trade barriers that stand in the way of our sector and deter Canadian growers from exporting their products. Strengthening the regulatory system and providing the appropriate policy support within Canada, while harmonizing regulations with trading partners, will contribute to creating the necessary conditions for success.

For Canadian exports, it's very important to have the embassies in our trading countries establish good working relationships, which can help encourage new market opportunities for Canadian growers. Key to exporters' confidence in the new markets will be ensuring that a fully developed dispute resolution mechanism is in place in the countries Canada is negotiating with. The work in Canada of the Fruit and Vegetable Dispute Resolution Corporation on slow pay and no pay could be used as a model.

Additionally, especially with our largest trading partner, we need resolution of the Perishable Agricultural Commodities Act. That's a United States act. It's called the PACA trust. The Canadian Horticultural Council has been trying for decades to get a reciprocal system in Canada for Americans, so we can use it here too, between provinces and between buyers.

•(1230)

The Chair: I ask you to conclude quickly; we're running out of time for the statement.

Mr. Ken Forth: All right.

A number of years ago our preferential treatment in the United States was taken away from us in PACA, so now we're just like any other country trading with the Americans. We need that to be resolved here so we can get that back in the U.S.

The Chair: Thank you, Mr. Forth.

We shall move to our questioning period.

We have Mr. Shipley for six minutes.

Mr. Bev Shipley: Thank you very much.

Thanks to the witnesses.

Both of you have talked about the maximum residue levels. We have import countries and everybody talks about science-based. What we don't talk about is political science-based, which seems to be the driver above the actual analysis that comes from the science. I'm wondering, when we're talking about that, and you're talking about industries, do you keep a full discussion with the industry people that will have an impact on governments?

I'll give you an example. When we talked about CETA in Europe, the farmers over there who did not have access to GMOs said they would love to have access because they understood the value of it and the production value to it, but there was the political drive not to. It didn't matter about the science. How do you deal with that with an industry?

Then I want to come back a little to the PACA.

Dave first, and then maybe Rebecca.

Mr. Dave Carey: Sure, I'll leave it to my colleagues in the Horticultural Council to talk about maximum residue limits, because that's not one that we deal with on the seed side, but we definitely do deal with foreign markets where decisions do not seem to be made on the best possible science.

We have a strong working relationship with the European Seed Association, as well as the International Seed Federation. I think from our members' perspective, as well as those companies, especially the multinationals that operate in all the jurisdictions, when it comes to the import or export of biotech products into the EU, it still happens. It still happens for feed, it still happens for things, but it doesn't happen for sowing. We hear from a lot of our members that a lot of our companies have given up trying to get approval so they can actually export seed to the EU, so the EU farmers, who do often want it, can actually plant and grow that crop.

Right now, the only access they have to biotech products is for feed for animals or just the straight importing of products. We do talk to them quite a bit, but as you said, the European approval process is not great; but it's when it actually gets past that process to the EU member states that everything gets into a logjam.

Mr. Bev Shipley: I don't know if Rebecca or Ken would have a comment.

Ms. Rebecca Lee: I think there's a difference to be made perhaps with the relationship we have with our U.S. colleagues or counterparts versus the other countries. There's a closer relationship with the U.S., obviously, because most of our trade is with them.

The discussions are certainly monthly, if not weekly, with certain groups that we participate in. With the NAFTA pesticide group, for example, it's really top of mind. I do know they have concerns regarding the MRLs as well. With the EU, it's less common—

Mr. Bev Shipley: Ken, you mentioned PACA, and you know that through that whole process it got separated away. The non-payment issue got settled. The outstanding issue.... Dr. Cumings presented to us and gave a breakdown that, I believe, actually helped both sides understand some of the complications and the complexity of it. It's around the bankruptcy part.

Almost a couple of years ago I thought we were at a stage of having that come forward and be resolved. Can you tell us now what you're being told in terms of the status of it from the government?

Mr. Ken Forth: We're being told nothing. I'm not a politician. Apparently, when things go in cabinet confidence you're not allowed to talk about them, so we've been very patient, even though some of us are intensely impatient. It's been now a year since this committee recommended that you move forward. We've been pretty patient and nothing has happened. As far as we know, we're at the same place we were a year ago.

•(1235)

Mr. Bev Shipley: I may leave that, but there may be a further question.

Dave, we've been talking about trade barriers. We've had this report, and our committee took it on regarding neonics, and the ability to be competitive, and the scientific evidence for it. In Canada it looks like we're going to be heading towards the phase-out of it, whereas our competitors are not.

What type of impact does that have in terms of your seed production people and their ability to be competitive in terms of the United States mainly?

Mr. Dave Carey: The first round of neonic regulations was for Ontario only, but the problem is, to be able to develop the pesticide or insecticide, a company has to be of a certain size. It takes over \$100 million U.S. to bring a product to market. The problem is, when they saw Ontario, they saw Canada. These foreign multinationals, when they're trying to get investment for Canada, don't see Ontario as a province within Canada. They see Ontario regulation as Canadians outlawing the use of neonics for corn and soybeans. That's how our multinationals saw it.

Now, PMRA has proposed a decision to phase out imidacloprid, which is one of the three classes of neonics. It's of huge concern. It's also sparked a special re-evaluation of the other two, thiamethoxam and clothianidin. Without access to those, our members will be at an extreme disadvantage. We have some smaller companies that operate on both sides of the border that might consider just operating out of the U.S.

Mr. Bev Shipley: Thank you.

The Chair: Ms. Lockhart, go ahead for six minutes.

Mrs. Alaina Lockhart: Thank you, Mr. Chair.

Thank you to each of you for appearing today.

One of the things that both of your groups spoke about was hazard-based evaluation systems, and your concern with those surrounding CETA. Can you elaborate a little bit more for me on what your concerns are about that system?

Mr. Dave Carey: Yes. I'm not a scientist, and we've actually spoken with PMRA about this. My understanding is that when it comes to especially a pesticide, a hazard-based assessment is sort of the beginning stages of what a risk-based assessment is. Hazard will look at a potential product, its profile, and whether there is a potential hazard there. If there is, then the EU often takes action. But in Canada, if it's identified as a hazard, then you get on to the risk, and you identify how the product is used, whether there are ways to mitigate it, and what levels are being used.

In my layman's opinion, risk is taking hazard to the full extent. If there's a hazard, we need to take action. Risk is like, there's a hazard, but you're only ever going to be in contact with parts per billion, and there are ways to mitigate that, including through personal protection equipment. That's our concern, that it's not as nuanced or as fulsome an evaluation.

Ms. Rebecca Lee: The example I've been given to understand the situation is that the EU approach would be the equivalent of refusing to use electricity because of the risk of shock. We all know that if appropriate safeguards are put in place, the risk of electrocution is minimal. Basically, it's an all or nothing. If there's a hazard, then we're not even going to go there, whereas Canada will say, well, there is a risk, so let's see what we can do to minimize it.

Mrs. Alaina Lockhart: What steps do you suggest for going forward with that as a potential barrier?

Ms. Rebecca Lee: Try to convince the EU to look at mitigation. There are international standards on that through the IPPC, which Dave mentioned earlier. They provide guidelines. They are international agreements on how to go through risk assessment and risk mitigation, so use those standards.

Mrs. Alaina Lockhart: So the international body already exists to do that?

Ms. Rebecca Lee: Oh yes, there is the Codex.

Mrs. Alaina Lockhart: Very good.

I would also like to ask each of you what you see as the biggest potential market for your sector. What are the barriers that exist for that particular market?

Mr. Dave Carey: I'll start. Our biggest market is the United States. About 70% of our exports go to the United States, but some priority markets would be markets like Japan and China in particular. The TPP was something that really appealed to us because it encompassed all of those markets. Our preference has always been for multilateral as opposed to bilateral, because you get more equivalency.

The U.S. and the renegotiation of NAFTA is something we're certainly looking at. Oftentimes, when our members talk about it—our members usually operate on both sides of the border—they don't even see it as imports-exports; they see it as company transfers, so that's a big deal. When a company can't transfer internally, that becomes a major trade barrier.

Mrs. Alaina Lockhart: Do you see renegotiating NAFTA as an opportunity to align some more regulations?

• (1240)

Mr. Dave Carey: Yes. I think NAFTA renegotiations have often been looked at as a bad thing, but I think there are industries that

exist now that didn't exist when NAFTA was negotiated, but it has to be done correctly. My hope is that the administration in the United States would take that approach.

Mrs. Alaina Lockhart: Great.

Mr. Ken Forth: We would like to see the TPP continue, even though the Americans aren't there. If we could negotiate a deal with all of those stakeholders at one time, that would work. If that breaks down, then it's all bilateral, and it will take more than forever. That's where we want to go with that.

As far as NAFTA is concerned, we need a little more protection, but some of the rhetoric we're hearing from the other country is that we're going to lose a lot of stuff, and that's not where we want to be. The fruit and vegetable industry is pretty much a free trade zone, and we certainly don't want to see anything hamper any of that.

Mrs. Alaina Lockhart: You mentioned, Mr. Carey, your counterparts in the U.S. and how close the trade relationship is. Is it the same with horticulture as well? Do your associations work back and forth in collaboration?

Mr. Ken Forth: Yes. We were at a trade meeting the other day, and we all need each other.

Mrs. Alaina Lockhart: One thing that became really apparent to me recently—we did some research before we went to the U.S.—is that Canada is the biggest customer of many of the individual states. I can see, especially in horticulture, how those cross-border relationships are very important.

Mr. Ken Forth: It's so important because of the perishability. If we are ever stopped at the border in those old "hold and test" days.... If you have a load of lettuce at the border for three weeks, guess what? It's not going across.

Mrs. Alaina Lockhart: It's not good.

Does country-of-origin labelling impact either one of your sectors at all?

Mr. Dave Carey: From the seed side, no, because seed is one of the most imported, exported, and re-exported commodities. To this point, issues have more been around specific commodity types. We've never gotten into the COOL debate on our side, thankfully.

Mrs. Alaina Lockhart: Thank you very much.

The Chair: Now it's Madame Brosseau, for six minutes.

Ms. Ruth Ellen Brosseau: Thank you, Chair. I would like to thank the witnesses for their participation on this important study.

I think it was last week that we talked again about PACA. I've been on the committee for a few years, and we talk about it often. There were commitments, I think from all parties, during the election campaign. After the election there were more commitments and promises.

As a committee, on certain issues we all find common ground and we recognize the importance of agriculture and we can work together on certain issues. I know we sent a letter to the minister for support of a PACA trust, asking him to act. If I'm not mistaken, last year the Minister of Agriculture said he had to talk with the Minister of Finance. He was at our committee a little while ago and said he couldn't say anything unless he contacted and talked with Minister Navdeep Bains.

I think the Minister of Agriculture needs to take a lead on this issue. It's really important. We've talked about it long enough. I know you have been very patient, and farmers have been very patient. I don't know what the committee could do to send a stronger message. I don't know what is blocking. I think what it comes down to is leadership from the agriculture minister.

I wonder whether I can get some more comments around the frustration and the urgency to get something in place, because this has been studied, it has been talked about, and I think we need action. We need something. Can I get some more comments around this subject, please?

Mr. Ken Forth: As you know, we've been doing this for more than a decade. This time it was put in RCC, and then it was pulled out of RCC. We thought we had it made when the announcement was made in 2011 that the President and the Prime Minister said they were going to do it.

It's as simple as this: we want our farmers to be paid. Some of us about 10 years ago started this process, long before the RCC, because there were issues within Canada of some unscrupulous people not paying. They paid you for a while and then didn't pay you at all. We wanted legislation in place that would correct this situation.

Additionally, the Americans have been hounding us forever that they need a reciprocal system, because we've been treated like American farmers since they put the PACA trust in place in the U.S. They got a little ornery about this, because we were going down the road of putting a position in place and then we withdrew it.

As you know, a few years ago they therefore took away our preferential treatment in the U.S. To enact PACA now, we're just like any country in the world; you have to put up clear bonds to do it. You can complain to PACA, but to implement the whole PACA within the United States, you have to put some real money up. Most of the time you have to put up real estate or assets that are clear.

When you start thinking about that in any business, nobody is clear; they always have a bank or somebody behind them. They can't do that, so they can't use the PACA trust in the United States right now, truly, or most people can't. Most people don't go that far because they can't make it happen.

It's beyond me why it stopped. This is simple. We're not asking for money from the federal government. We never have.

●(1245)

Ms. Ruth Ellen Brosseau: It doesn't cost money.

Mr. Ken Forth: No, it doesn't cost anything. Just put the process in place. All the government will possess is the legislation, and then we can use the legislation. It's not like we want money from the government. We want enabling legislation for us to go forward and get paid. It's as simple as that.

Ms. Ruth Ellen Brosseau: We haven't had any government legislation before the agriculture committee. I think this would be great. I am not quite sure who would be responsible, the Minister of Agriculture or the Minister of Finance, but maybe the Minister of Agriculture could take a lead on it. It would be nice to have this come through to committee, because we've heard it time and time again. To have it actually realized would be amazing for farmers and for the industry as a whole.

I wonder if we could have some comments on interprovincial trade. I was going through the CHC website. There was mention of a problem with cherries from Ontario going to B.C., some phytosanitary concerns. Could you talk about those issues across Canada, if there are any problems?

Ms. Rebecca Lee: As you said, it's a phytosanitary issue. It's the movement of any cherries from Ontario out of the province. As I understand it, it's not going to affect cherry growers in Ontario very much. There's not much of that happening. What it does mean is that, in order to export to the U.S., any cherry grower in another province, for example B.C., has to make sure that they have it on their labels that the product was produced in that province, just so the U.S. knows that it doesn't have the pest that Ontario has, *Rhagoletis cerasi*.

Ms. Ruth Ellen Brosseau: When we send our negotiators to negotiate trade deals.... Mr. Carey, you said you really liked the agreement that was done in the TPP, about low-level presence. When we head to the table to negotiate trade deals, do you think we should try to deal with these potential non-tariff trade barriers at the outset, instead of trying to deal with them after the fact?

We have multiple problems, again, with CETA, which are hopefully going to be resolved.

The Chair: Ask your question quickly, Ms. Brosseau, if you want an answer. We're out of time.

Ms. Ruth Ellen Brosseau: When we head to the negotiation table, should we try to get these issues resolved, instead of waiting until after the fact? Is it possible?

Mr. Dave Carey: Yes, absolutely.

That's also why we prefer the multilateral, so we can do a one-off. I think the TPP was a big step forward toward addressing non-tariff trade barriers at the outset.

The Chair: Thank you, Mr. Carey.

[Translation]

Thank you, Ms. Brosseau.

[English]

Now we go to Mr. Peschisolido for six minutes.

Mr. Joe Peschisolido (Steveston—Richmond East, Lib.): Thank you, Mr. Chair.

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

If you'd like to follow up on Madame Brosseau's question and answer it, please feel free.

Mr. Dave Carey: I would just say that, for the first time ever, a low-level presence policy mechanism was included in the TPP. There was also a process whereby biotech approvals have to be transparent. They also recommended an agriculture trade committee, so that if there is an issue, there is a process to deal with it. There was also the idea of equivalency. It just shows that, as we progress through time, trade agreements get more sophisticated. I think the TPP, in a multilateral setting, would have solved at the outset a lot of the non-tariff trade barriers that we face with those countries.

I guess CETA is an older agreement, and maybe that speaks to some of the reasons why.

Mr. Joe Peschisolido: One of the most chilling and perhaps insightful comments I've ever heard about was during an international class at the University of Toronto. Henry Kissinger said that if you want to control countries, you control their pipelines; if you want to control people, you control their food supply.

We are discussing here international trade deals. We are dealing with countries—the United States, China, the EU, and the individual countries in the EU, such as Germany and France—that probably deal with their geopolitics in a very important way. That may change now with President Trump. However, when you are dealing with countries like that, does that become a factor? Are these issues where you look at the geopolitics, the relationships among countries on a grander scale?

•(1250)

Mr. Dave Carey: Absolutely.

Dominic Barton's report has been talked about a lot at this committee. He talked about living in China, and he said that there was never a concern unless there were food shortages. That's when there really was concern.

Geopolitically, I think there are a lot of politics around GMO, whether you're for it or against it. There have been a lot of opportunities where member companies of ours internationally have tried to introduce something like a drought-resistant corn crop into sub-Saharan Africa, and then with pressure from some interest groups—I won't name any—they've encouraged the locals to actually burn those crops. We definitely see geopolitics at play.

We've talked about how we have to feed a growing world, 2050, and how we have to produce more food than we ever have. It definitely is, and it's a shame when we have some member companies that just can't afford any longer to try to bring in biotech crops for planting to the EU. Some of the biggest companies in the world are no longer in that playground.

Mr. Joe Peschisolido: There's this great new series called *Incorporated*. I'm not sure if you've seen it, but it's basically the year 2070 with climate change, and the governments have collapsed, and there are these two big corporations. They're seed companies, and they deal with food. There's a red zone and a green zone. What they basically do is try to control the food supply on either side. This popular culture follows up on Mr. Shipley's comments that there is science, and then there is political science. What we discuss here is not really what is out there in popular culture. Even in countries that have regimes that don't have to get re-elected, they still have to be concerned about what their people think.

How do we, as a trading nation—and we do want to get into these other countries—deal with these perceptions, or can we?

Mr. Dave Carey: I think the one advantage that Canada has is that our regulators are respected worldwide. We have some concerns with PMRA, but PMRA is among the other two or three pest management or pesticide regulators in the world that are actually respected for their science as well as our agriculture. I think more Canada abroad is a good thing, and having the financing to make sure folks like PMRA, CFIA, and Agriculture and Agri-Food Canada can be in those markets for the support of our trade missions around the world.

Ms. Rebecca Lee: To add to that, Safe Food for Canadians and the CanadaGAP process that we have also demonstrate the quality and the safety of Canadian food, so that's part of Canada brand. Again, we do need the institutions to support that, and PMRA, CFIA, and Agriculture Canada are critical for that. They need to be strengthened.

Mr. Joe Peschisolido: Mr. Forth, you mentioned in your presentation the role of anti-dumping rules and how they impact our producers and farmers. Can you elaborate a little bit on that?

Mr. Ken Forth: Yes, the biggest concern probably is that there will be low-quality products somewhere, and they can't sell them where they are, so they dump it into Canada, and it just ruins the marketplace. Where we're selling top-quality stuff here and lower quality, lower price product comes in, most of the time it will be sold for the same money or a little bit less as ours, and it will displace ours in the marketplace. That's why it has to be somewhat controlled, otherwise—they call it anti-dumping for a reason—Canada will become a dumping ground.

Mr. Joe Peschisolido: Mr. Carey, you talked about three types of seeds: organic, conventional, and biotech. Can you elaborate a little bit on the ratios and the significance of those?

Mr. Dave Carey: Right now in Canada, the only biotech crops that have really been commercially available are canola, almost all of it; corn, the vast majority; and soybeans. It was higher, but there's actually an increasing market for non-GMO soybeans for Asian markets. The only other GM crop that exists, but it hasn't been fully commercialized yet, is an alfalfa. Conventional would be wheats, oat, and barley. Organic has been a niche, but it is increasing.

The Chair: Thank you.

This concludes our portion of the non-tariff trade barriers as they pertain to trade.

Thank you, Mr. Carey, from the Canadian Seed Trade Association; Ms. Lee, executive director of the Canadian Horticultural

Council; and Mr. Forth, trade and marketing committee. Thank you so much for appearing.

I will ask the members just to sit and look at the motion that's on the table. We'd like to have consensus on that because we have a timeline to respect if we want to table our report. It just basically says that any dissenting report would have to be in by the June 15 at 4:00 in the form that's suggested in the motion. Are we all good with that?

(Motion agreed to)

The Chair: Okay, thank you.

This meeting is adjourned.

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