



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Standing Committee on International Trade

CIIT • NUMBER 029 • 1st SESSION • 42nd PARLIAMENT

EVIDENCE

Thursday, August 18, 2016

—
Chair

The Honourable Mark Eyking

Standing Committee on International Trade

Thursday, August 18, 2016

• (1000)

[English]

The Chair (Hon. Mark Eyking (Sydney—Victoria, Lib.)): Good morning, everyone. Before we move ahead today, if everyone agrees, we will have a minute of silence for the colleague we have lost, Mauril Bélanger.

[A moment of silence observed]

Thank you.

Mr. Hoback.

Mr. Randy Hoback (Prince Albert, CPC): I would like to say something in regards to that, Mr. Chairman.

To my colleagues in the Liberal Party and other members of the House of Commons staff who worked with Mauril, I had a chance to travel with him to Africa once, and I found him to be such an outstanding individual and such a great person.

I want to pass on our condolences to you. I know what it's like to lose a colleague. We had that happen to us and it's not fun; it's a sad event. I think we all can take pride in the work that Mauril has done, and his family should take pride in the person that he was. We want to extend our condolences to you, his family, and everybody affected by his death.

The Chair: Thank you, Mr. Hoback. I guess you're speaking on behalf of the opposition. We appreciate that.

Pursuant to Standing Order 106(4), I had a request from four members of the opposition to have a meeting for an update on the softwood lumber issue. Is everybody in favour of our moving ahead with this right now?

Some hon. members: Agreed.

The Chair: That said, when I was notified of this, I took it upon myself to book this room and translators, and also to peg an hour for today's meeting. We also gave a heads to the officials at the department who are doing the negotiations. So if it's the will of everybody for them to come to the table and give us a briefing, we'll ask questions of them until 11 o'clock. Is that okay with everyone?

Some hon. members: Agreed.

The Chair: I will suspend for just a few minutes for the officials to get seated here.

• (1000)

(Pause)

• (1005)

The Chair: Thank you for coming here and being ready. You're both from Global Affairs. Approximately how much time do you want to take for your presentation?

Mr. Martin Moen (Director, North America Commercial Affairs, Department of Foreign Affairs, Trade and Development): I think about a maximum of 10 minutes.

The Chair: Okay, 10 minutes is fine. However you want to split it, go ahead. The floor is yours, gentlemen. Tell us what you know and the latest date on the softwood lumber issue.

Mr. Martin Moen: Thank you very much.

Good morning, everyone. My name is Martin Moen. I am director general of the North America trade policy and investment bureau at Global Affairs Canada. I am also Canada's chief negotiator in the softwood lumber agreement negotiations. With me from Global Affairs Canada is Robert Brookfield, the is director general of the trade law bureau.

Mr. Chairman, I am very glad to be here today to provide an update to the committee on the ongoing softwood lumber negotiations between Canada and the United States. I will begin my presentation with a brief overview of key developments that have taken place since the expiry of the 2006 softwood lumber agreement in October of 2015. I will then turn to the state of play of the ongoing negotiations and close with a few words on our strategy going forward.

[Translation]

As you know, the 2006 Softwood Lumber Agreement expired on October 12, 2015, despite Canada's efforts to extend the agreement. Following the expiry of the agreement, we entered a 12-month standstill period, during which the U.S. has committed not to initiate any new trade remedy actions against imports of Canadian softwood lumber.

There is a high risk that, if a successor agreement is not concluded, U.S. industry will petition the U.S. Department of Commerce for relief from Canadian softwood imports in the form of high countervailing and anti-dumping duties. In such a case, we expect that U.S. industry would allege that it is facing injury or threat of injury from Canadian lumber producers who are allegedly subsidized in a number of ways, but particularly through how provincial governments set the prices for standing timber and stumpage. U.S. industry would also likely allege that Canadian exporters are dumping products at unfair prices.

Despite repeated investigations and litigation in this sector over the past 35 years, there has never been a countervailing subsidy finding or an adverse impact, injury or threat of injury determination by the U.S. government that has survived legal challenge. Nonetheless, the U.S. government has imposed high countervailing and anti-dumping duties on Canadian lumber in the past, and our successful legal challenges have taken years to yield results.

Against this backdrop, Canada was essentially faced with two options: either seek to negotiate some form of successor agreement with the United States or potentially face countervailing and anti-dumping duties on Canadian lumber exports to the U.S.

In the fall of 2015, at the request of the Minister of International Trade, federal government officials held extensive consultations to seek the views of provinces and territories and a wide range of stakeholders on the course of action that Canada should pursue. Officials met with all provincial governments, numerous industry associations, individual companies, first nations groups, and labour unions representing forestry workers.

● (1010)

These consultations revealed a clear message: Canadian provinces, territories and stakeholders were almost unanimously in favour of Canada negotiating a successor agreement with the United States that would impose export charges or export quotas on Canadian lumber in exchange for the certainty that Canadian exporters would avoid the risk of facing high countervailing and anti-dumping duties.

[English]

However, provinces and industry also made it clear that they are not prepared to accept a deal at any cost. Rather, stakeholders urged the federal government to prepare for U.S. trade remedy action and litigation in parallel with negotiations.

Consistent with the views expressed by Canadian stakeholders and by provincial and territorial governments, the Government of Canada made the negotiation of a new softwood lumber agreement a top priority. Softwood lumber featured prominently during Prime Minister Trudeau's visit to Washington on March 10, when both leaders acknowledged a mutual interest in a new long-term agreement on softwood lumber, and instructed their representatives to report back on key features that could address the issue.

Most recently, the Prime Minister and President Obama reiterated their commitment to achieving a durable and equitable softwood lumber agreement during President Obama's visit to Canada on June 29, and on the margins of the North American leaders' summit. The Minister of International Trade continues to play a leading role, and there is now a very high level of engagement between our two governments.

However, this negotiation is unlike other trade negotiations in one fundamental way, which many people are not necessarily aware of. We are seeking an agreement under which U.S. producers will forgo the rights they have under U.S. law to seek trade action against Canadian lumber and lumber products. In order for the United States government to enter into such an agreement, it needs the majority of its industry to formally support the agreement and formally agree to forgo these rights. Consequently, while goodwill between the

governments of Canada and the United States is essential to concluding a new softwood agreement, it's not enough.

Let me now turn to the negotiations between Canada and the United States.

We have had 12 face-to-face meetings with the U.S. government, and numerous teleconferences. Although discussions have been constructive and have led to a better understanding of each party's position and concerns, Canada and the U.S., I have to be honest, remain far apart on several key issues. There are considerable gaps that will need to be bridged for a new agreement to be concluded.

Negotiations are continuing with the goal of reaching an agreement by the end of the standstill period. The main subjects under negotiation include an appropriate structure—for example, how to use some combination of export charges and export quotas. This structure should, as we've agreed, be designed to maintain Canadian exports at or below an agreed U.S. market share—to be negotiated—but with the stability, consistency, and flexibility necessary to achieve the confidence of both industries.

Another subject that's very important is a meaningful regional-exits provision. As well, we are discussing regional exclusions for the Atlantic provinces and the territories. We are discussing provisions for company exclusions—for example, for mills sourcing inputs from the United States or from private lands. We're discussing the treatment of high-value products, the treatment of remanufacturers, the treatment within the agreement of the anti-circumvention and transparency provisions, and joint market development.

We continue to maintain an intensive pace of engagement with the United States. Moreover, we continue to work very closely with provinces and territories and a wide range of stakeholders to ensure that the positions we take in the negotiations are commercially viable and will be in the best interest of Canada. Canadian stakeholders are in regular communication with U.S. industry as well, in support of reaching an agreement that will also be supported by U.S. industry.

● (1015)

Our next meeting with U.S. officials is scheduled for August 25 next week, and we expect that we will continue to meet with our U.S. counterparts on a regular basis.

That said, Canadians stakeholders continue to tell us very clearly that no deal is better than a bad deal, so we need to be prepared for the possibility that a new agreement may not be concluded and the risk that Canada will potentially be forced back into a trade remedy investigation—and then any litigation that we choose following that. In part, this is in the nature of any negotiation. It is sometimes difficult, but it is also because this negotiation is particularly complex given the role of the U.S. industry.

Nonetheless, as I said before, we are continuing to be intensely engaged in trying to see if a good deal is possible. However, we are preparing for all eventualities and are prepared to vigorously protect and defend the interests of softwood lumber producers if there is a return to trade action, that is, to litigation. Although reaching an agreement by the fall will be challenging, the Minister of International Trade and Global Affairs Canada remain committed to achieving a successful outcome. To this end, we continue to push strongly to maintain the intensity and momentum of the negotiations and are going to explore all possible avenues.

I'll leave it that. Thank you.

I am now glad to take any questions you have.

The Chair: Thank you, sir.

We're going to go right into the questioning.

I want to start with the opposition, the Conservatives first.

We're going to start with Mr. Doherty.

Go ahead, sir. You have five minutes.

Mr. Todd Doherty (Cariboo—Prince George, CPC): Thank you, Mr. Chair.

Mr. Moen, and Mr. Brookfield, thank you very much for being here today.

Thank you to our colleagues across the floor. Our thoughts and prayers are with you for your loss, our loss, and indeed, Canada's loss, yesterday.

Mr. Moen, we understand that meetings were held last week between the CEOs of the four largest producers in Canada and the USTR. Can you tell me what the outcomes of those meetings were?

Mr. Martin Moen: Those were meetings that the U.S. government had requested for an informational basis. They wanted to better understand the positions of some of the larger Canadian companies.

Mr. Todd Doherty: Those companies also have considerable interests south of the border, correct?

Mr. Martin Moen: Some of them do, but not all of them.

Some of the companies in question do have substantial investments in the United States—

Mr. Todd Doherty: Amounting to up to 80% of their operations?

Mr. Martin Moen: I don't know what the percentage is, but it's substantial.

However, one of the companies in question has no operations in the United States, so it was not just companies with U.S. investments.

•(1020)

Mr. Todd Doherty: Out of those four companies that met with the USTR, were they pushing one softwood lumber regime over another?

Mr. Martin Moen: The position taken in the negotiations, reflecting our consultations with these companies, and other companies, and with the provinces, is that there needs to be an

agreement that has optionality. In the previous agreement we had the option to have either quotas or to have export—

Mr. Todd Doherty: I understand, Mr. Moen, the softwood lumber agreement of 2006. The opportunity for optionality is probably something that we need to look at moving forward, but were these four companies explaining their feelings or their preferred softwood lumber regime for the next agreement?

Mr. Martin Moen: I'll give a very broad answer, but I think it would be best for the companies to speak for themselves.

What I can say is that in our consultations with these companies, with many of the organizations in British Columbia, and with the British Columbia government, the position that we have heard from most, but not all, is that a quota-only system, that is, a system that provided for a strict cap, would be unacceptable to them. They have considerable concerns about the impact that kind of a system would have.

Mr. Todd Doherty: Thank you, Mr. Moen. I appreciate that.

Mr. Chair, in B.C. alone there are 150,000 jobs at stake. In Canada, it's 360,000. I can appreciate that there's been a considerable amount of work to this point done by both Global Affairs and the minister. I'm heartened to hear that she has committed to getting a deal done even though softwood lumber is not even mentioned in her mandate letter.

This represents jobs in my riding. Just to the south of us, we have two mills at stake. Mr. Chair, they represent upwards of 400 jobs and one quarter of the tax base of that community is at risk. With that, I would like to put forth a motion:

That the Committee recommend to the Minister of International Trade that a roundtable (to consist of the Minister of International Trade, officials from each province and industry representatives) be struck prior to August 31, 2016, for the development of a national position on a new Softwood Lumber Agreement to ensure the highest opportunity for a balanced agreement to protect Canadian jobs.

It's the right thing to do. It's not a one-size-fits-all approach. I think Mr. Moen has admitted that. We need to get industry and the provinces around the table, in a round table, in an open and transparent way so we can move forward with a national position.

The Chair: You've moved a motion. Thank you for some of your information. I'm sure you're well aware of the study we presented to Parliament.

The motion has been heard. Do we want to bring it to a question, or does anybody else have any comment on the motion?

Mr. Randy Hoback: I have a point of order.

The Chair: Go ahead.

Mr. Randy Hoback: Are you saying you're going to deal with the motion right now?

The Chair: I guess so; it was brought to the floor.

Mr. Randy Hoback: Mr. Chair, maybe I'll speak to the motion.

I look at some of the recommendations we've made, for example recommendation 2, that the Government of Canada ensure that its consultations regarding negotiations for new softwood lumber agreements with the United States include stakeholders who may have been overlooked in the past, especially aboriginal stakeholders and small producers. What we're hearing from the industry is mass confusion. We're hearing that some people have the ability to talk to trade officials, and some people do not. I don't know if that's true or not, so I would like to know what the truth is there.

We're hearing that the U.S. trade officials aren't even coming to the table, that we present a position and they don't even give a counter offer. Again, I don't know if that's true or not. Those are rumours that are circulating around the sector. I would like to get to the bottom of that.

The motion really highlights the fact that 350,000 jobs are at stake here—and they are at risk; don't kid yourself. I come from Prince Albert. I experienced the Weyerhaeuser mill shutdown. I experienced the shutdown of the sawmills in Carrot River, Big River, and Prince Albert because of a bad agreement, or because no agreements were in place, and what can happen to the community. The City of Prince Albert lost \$1 million alone from their tax base because of that. This is a very serious issue. I think we should definitely move forward with this motion, considering what's at stake: \$20 billion to the Canadian economy.

I also want to highlight the fact that Quebec is asking for an exclusion, because they have changed the way they go about doing their stumpage. That's not being talked about by Mr. Moen today.

I think it's very important that we get this confusion out of the industry so that we know exactly where we are. That's why I think the motion is justified in this case.

• (1025)

The Chair: Thanks, Mr. Hoback.

I would like to limit debate on this if we can, because we brought the officials here and have questions for them. If we can't bring it to a vote now, I'll have to put it forward to future business at the end of the meeting. If there are any new points to add to this, bring them now. I would like to bring it to a vote, and then we can move on to questioning of the witnesses.

Mr. Peterson.

Mr. Kyle Peterson (Newmarket—Aurora, Lib.): I think everyone on this side does appreciate the importance of the softwood lumber industry to Canadians and the Canadian economy. However, I think that having a round table may be unnecessary, because these are precisely the steps that the ministry is already taking. They're consulting with the officials from the provinces and industry reps. This work is already being done. We just heard our witness indicate what steps have been taken. I think this would just duplicate the process and would, if anything, slow us down in coming to a reasonable resolution by the deadline.

I do not support this motion.

The Chair: Ms. Ramsey, for the NDP.

Ms. Tracey Ramsey (Essex, NDP): I disagree. We know that the large companies are out there and are engaging with the USTR, but

where are our small producers? Where are the labour unions? Where are the aboriginal people that we discussed in our recommendations? If we have a round table, we'd be ensuring that all of those voices were at the table. I don't know where they're at. It's part of my questioning, actually, to find out where they're at currently in the negotiations. I think having a round table would bring everyone into the room, and at the end of the day we'll have a clearer picture coming out of that.

The Chair: For a final few comments, and then we'll bring it to a vote, go ahead, Mr. Doherty.

Mr. Todd Doherty: Mr. Chairman, with all due respect, these are the small to medium operations that are in your riding, in my riding—the 50-person, 100-person, 200-person mills that are at risk if we don't get this right. There isn't a one size fits all for this. The industry is divided from one end of our country to another, and we're causing nothing but more confusion. By having the meeting we can get industry and the provinces around the table. We can show leadership. It's the right thing to do.

The Chair: Thank you.

All in favour of the motion?

Ms. Tracey Ramsey: Can we have a recorded vote?

The Chair: Yes, if you want to.

(Motion negated: nays 5; yeas 4)

The Chair: The motion's defeated, so we're going to move on.

I think you have just a minute left. Go ahead, Mr. Doherty.

Mr. Todd Doherty: Mr. Chair, it is deeply regrettable that this motion was defeated because, as a result, the message that we're sending from this committee is that Canadian jobs and the confusion being caused don't matter. Regardless of what niceties are being said about the relationship with our U.S. counterparts, when you sit across the table from them, the niceties go out the door. We need to protect Canadian jobs, and that, right now, I'm afraid is not being done.

The Chair: Okay, we're going to move on.

We're going to the Liberals, Mr. Fonseca, for five minutes.

Mr. Peter Fonseca (Mississauga East—Cooksville, Lib.): Thank you, Mr. Chair, and thank you to the witnesses for coming in on such short order.

I understand that Mr. Doherty wasn't here for one of our first meetings, maybe our first meeting, when our Liberal member for Surrey, Sukh Dhaliwal, was the first to put on the table the need to address softwood lumber.

Mr. Doherty, it was Sukh who championed this at committee and made sure that this committee, which was working on the TPP, was open to hearing from stakeholders from coast to coast to coast. We did talk about how important softwood lumber is to Canada and those thousands of jobs that you talk about. We did engage with many from British Columbia, as well as all the other provinces and the territories.

Mr. Moen, from your engagement with Canadian representatives and meetings with all of the various stakeholders, can you highlight some of the provisions they would like to see in a new softwood lumber agreement, and those they would not like to see in such an agreement.

● (1030)

Mr. Martin Moen: We've had a very wide range of meetings, even over the past month, and regular calls with all provinces and a group called the Business Advisory Council, which includes a very broad spectrum of producers from across the country. We have, of course, reached out to first nations and unions as well.

In that context, there are a number of elements that continue to emerge. First of all, there is broad support for the certainty of having an agreement that makes it clear that U.S. producers can't take trade remedy action against Canadian exports, and that this certainty would last for a reasonable period of time. There's no point, we've been told, in negotiating an extremely short agreement. The point is to have certainty for the industry to allow investments to proceed.

We have heard about the issue of optionality; that is, some parts of the country and a large part of industry in those parts of the country believe that quotas can be made to work. In other parts of the country with a similar situation, the concern is that given the particular commercial circumstances it would be very difficult, if not impossible, for a quota to work properly. In that kind of circumstance, we are seeking an agreement that provides for some flexibility in how the fundamental goals of the agreement are met.

There's also concern that the level of market access to the United States be reasonable and reflect our long-standing presence in that market. Certainly, we have heard very loudly and clearly from the Atlantic provinces that because of the particular circumstances in these provinces, the exclusion they had under the previous agreement, and the treatment they've had in previous investigations, should be reflected with an exclusion in the current agreement.

We have also heard from across the country, but particularly from Quebec, a desire to have a provision in the agreement that would provide for the possibility of having an expeditious and impartial review to see if an exclusion for a particular province is warranted in the future because of policy changes or simply because of new information that comes to light.

These are critical elements, but we've also spent significant time talking to smaller producers and have heard from them a particular interest in ensuring that high-value products get special treatment to recognize that they are not central to this dispute. We've also heard from producers that certain very specialized products should be excluded, given that they are very low volume. We have also heard from smaller producers the importance of having special treatment for remanufacturers, that is, companies that take basic lumber materials and make them into something that involves further processing.

These are the sorts of issues that are part of our negotiations.

The Chair: Thank you, sir. Your time is up.

We're going to go to the NDP for five minutes.

Ms. Ramsey.

Ms. Tracey Ramsey: I'd like to echo MP Doherty on the concerns of a lot of Canadians, over 195,000, who work in this sector, and their communities, who are understandably feeling deep worry this summer as this date looms and they see this coming.

Have you reviewed the report and its recommendations that we put forward from this committee?

Mr. Martin Moen: Yes, we have reviewed the report and its recommendations.

Ms. Tracey Ramsey: Okay.

Mr. Martin Moen: We're well advanced in preparing a response.

Ms. Tracey Ramsey: Can I ask you specifically about recommendation number 2. It essentially said that there are many stakeholders who have been overlooked, in particular, aboriginal communities and people, as well as the small producers.

To what extent are aboriginal stakeholders and small producers a part of your negotiations now?

Mr. Martin Moen: I can assure you that aboriginal groups and small producers are consulted as part of the ongoing work of ensuring that we have an approach that will yield a result that's commercially viable and that makes sense for Canada.

For example—

● (1035)

Ms. Tracey Ramsey: Would you be able to give us an idea of the last time they were consulted?

Mr. Martin Moen: Sure.

Ms. Tracey Ramsey: Do you report to them and they report back to you on an ongoing basis?

Mr. Martin Moen: There are ongoing consultations in two ways.

First of all, there are very specific targeted consultations as issues arise. I can give you some examples of these. We also have ongoing consultations with a broad swath of industry through the Business Advisory Council and with the provinces.

In terms of specific outreach, last month we had a discussion with the B.C. government and representatives from the First Nations Summit, the Union of B.C. Indian Chiefs, the B.C. Assembly of First Nations, the B.C. First Nations Forestry Council, and the Carrier Sekani Tribal Council, as examples of consultation with aboriginal groups.

Ms. Tracey Ramsey: And the small producers as well then?

If you could just provide the committee with that list, it would be great. It would be easier than going through it.

Mr. Martin Moen: Sure. We can provide that.

Ms. Tracey Ramsey: Thank you.

You mentioned that at the same time you're pursuing this, you're also looking at a contingency and some measures if we are enter into another harmful round of claims against us with this date looming.

Can you tell us what you have planned to prevent those damage claims from impacting Canadian companies and forestry workers if we fail to reach a new agreement?

Mr. Martin Moen: I think it would be best to turn to the representative from the legal bureau to talk about the kind of preparation we're doing and what we envisage could happen.

Keep in mind that absent an agreement, we don't know exactly what U.S. industry would do and when. Certainly, the risk that they would take a petition is high. They've done that in the past and they've said they would likely do so.

Mr. Robert Brookfield (Deputy Legal Adviser and Director General, Trade Law Bureau, Department of Foreign Affairs, Trade and Development): Let me start by saying that we're not going to be in position to prevent harm. What we can do is try to reduce it.

Let's assume that the scenario is no negotiations are successfully concluded and litigation—let's call it broadly—is initiated in October. There are a lot of steps that we've already been working on for the last year or more. I would group them in three broad categories.

The first is data preparation, if you will. There's a lot of work to make sure that our numbers are in order. That's involved working at the federal government level with provincial governments, with experts, and stakeholders to make sure that we have the best situation, in terms of the numbers, to address potential claims.

Second, there is the legal preparation with our U.S. counsels, not only the Canadian federal government's U.S. counsel, but also the U.S. counsel for the provinces and territories and for industry groups. Essentially, it's U.S. litigation. With a process starting in the U.S., it involves how we could best initially respond to the investigation, how we could put our best case forward, how we could challenge it in the first instance under U.S. law and then further under NAFTA processes, which are essentially an elaboration of U.S. law.

The third element is more strategic, if you will. That would be looking at ways whereby we can challenge elements of the existing U.S. practice and the way this practice might be applied in the future that is inconsistent with international law obligations but consistent with U.S. laws. That concerns primarily the World Trade Organization. We're presently intervening in a number of cases brought against the United States and some others for a variety of reasons. One of the primary reasons is to make sure, or try to do our best to ensure, that the law is more favourable to us on various issues. I can get into the technicalities of that, but there are various practices of the U.S. that we want to reduce.

Ms. Tracey Ramsey: That's okay.

The Chair: I'm sorry, but the time is up.

We'll have to move over to the Liberals.

Madam Lapointe, go ahead for five minutes.

[*Translation*]

Ms. Linda Lapointe (Rivière-des-Mille-Îles, Lib.): Thank you, Mr. Chair.

I want to thank the witnesses for joining us this morning. We really appreciate your being here. We are confident that you are working very hard on the negotiations, that many things need to be done and that a number of them have been done already. We have faith in what you are doing.

Let's come back to the concerns of our colleagues Mr. Doherty and Ms. Ramsey regarding small and medium-sized businesses. They seem to be sure that a number of communities are affected.

If I have understood correctly, you said earlier that one of the main concerns for small and medium-sized companies were value-added products and further processed products.

What kind of consultations have you held with small businesses? I would like you to expand on that, if you can.

Mr. Martin Moen: Thank you for the question.

[*English*]

Ms. Linda Lapointe: You can speak in English if you want to. I like to speak in French, because I'm French.

• (1040)

Mr. Kyle Peterson: Are you?

Ms. Linda Lapointe: Yes, I am.

Mr. Martin Moen: In Canada there are, of course, small businesses engaged in this sector that could be negatively affected by a dispute, and they do a wide variety of things, but most of the smaller businesses tend to be in the value-added sector. The mass production of structural timber tends to be done by larger businesses. But there are single-mill operators or specialized operators who also do structural timber work. We have been working with them as well. Their concerns are similar to the broader group's, but they also have some particular circumstances.

For example, in Quebec, there are some medium-sized producers—I wouldn't characterize them as small—that source primarily from either Maine or from private land. They had an exclusion under the previous agreement, and this is an exclusion that we are seeking in any future agreement. That's an example.

But I would say that across the country in our consultations with the smaller producers we've heard issues related to product coverage. Some of them have said that the products they produce are very high value, or very low volume, and in that regard we have been discussing with the U.S. how we can adjust the product coverage to make it different from the previous agreement, to make it more focused. We're also discussing how to ensure that these higher-value products are appropriately treated even when covered.

That's the kind of situation we're in. I don't have much to add right now, so I'll leave it at that.

Thank you.

[Translation]

Ms. Linda Lapointe: Thank you very much. That somewhat clarifies the issue for us.

I have a comment about today's meeting.

My Liberal colleague Sukh Dhaliwal requested a study on softwood lumber. We have met with people from western Canada, central Ontario and Quebec. We have also produced a report with recommendations, which the department has received.

I have to say that I was upset. Going back to this discussion is a waste of time and money. I see that negotiations are ongoing....

[English]

Mr. Randy Hoback: Wasting time and money? With 350,000 jobs at stake...wasting time and money? Are you serious?

[Translation]

Ms. Linda Lapointe: Let me speak, Mr. Hoback. I'm not done with what I have to say and I have some time left.

I also care about jobs, and these people are working very hard. They must be given the time they need. Recommendations are taken into consideration. I am disappointed with this whole situation. It's not that I did not want to come to Ottawa. I'm very happy to do it. I am privileged. But I do want you to know that these are things we have done already.

Thank you.

[English]

The Chair: Madam Lapointe, you have 45 seconds. I would recommend that we keep the questioning to the officials. I know it gets a little testy back and forth here, and we're still in the middle of summer, but let's keep the questions to the officials for the rest of the meeting.

You have half a minute left.

[Translation]

Ms. Linda Lapointe: No, it's okay. I'm done.

[English]

The Chair: Okay, we're going to move to Mr. Peterson for the second round.

Mr. Kyle Peterson: Thank you, gentlemen, for both being here today.

Mr. Moen, you mentioned in your opening remarks that we're still far apart on several issues. Can you elaborate on what those issues are, obviously without necessarily prejudicing our negotiating position? Is there an overview you can give us, and steps we can take to close that gap?

Mr. Martin Moen: We're still, of course, in the middle of a negotiation. One of the difficult things when you have a negotiation like this is that there are many interrelated pieces. It's often the case that we're apart in some areas and together in others, but they all interrelate. Even though something may appear to be settled, that

may not be the case if something else turns out to be different, so there are some complexities involved there.

Nonetheless, given that, we still have not reached agreement on the details of the structure that we're going to use or details of market share. That's still under discussion. We do agree, as was outlined in the leaders' statement in June, that we are developing an agreement that is focused on market share. Obviously, in how you manage towards that market share, it's going to be very important for Canadian producers to ensure that they have the flexibility, but also the predictability, they need. Also, of course, the market share itself is something that will be very important. These are issues that are still very much under negotiation.

• (1045)

Mr. Kyle Peterson: I picked up on your comment that this is a negotiation unlike others, in the sense that the two parties aren't necessarily going to be the American government and the Canadian government. You indicated that the U.S. industry has a tremendous amount of weight in these negotiations.

First of all, technically, how will this agreement come to be if we're successful in coming to an agreement? Does the U.S. industry need to sign on? How does that work from a technical standpoint?

Mr. Martin Moen: What happened the last time, and what we've been advised by the U.S. government would happen this time, is that the agreement would proceed as a sole executive agreement. That is, it's an agreement that would be entered into by the U.S. side under the president's authority. There would be no legislative changes made and there would also be no role for Congress to approve the agreement. In order to do that, they have to work within existing U.S. law. U.S. law provides certain rights to producers of the products covered: a right to petition for countervailing duties, and a right to petition for anti-dumping duties.

In the previous agreement, what happened was that the companies in question representing, I think at the time, well over 60% of U.S. production—but the bar was 50% at least—signed what they called “letters of no injury”, in which they effectively stated that the agreement provided the necessary protection and, therefore, that they were willing to waive their rights. That's the same sort of thing we'd require this time. We've been advised by the U.S. government that they would require similar assurances, similar letters, from companies or unions representing at least 50% of U.S. production. Obviously, some of the finer details of how that would be characterized would have to be worked out, but that conceptually is what we're talking about.

Mr. Kyle Peterson: Thank you for clarifying that.

Mr. Brookfield, I have a quick question regarding any potential litigation in the absence of an agreement by the end of the standstill period.

Have you or your department taken steps to quantify that and to put a number on what the potential exposure might be and what steps can be taken to mitigate any exposure?

Mr. Robert Brookfield: Do you mean exposure to the Canadian economy?

Mr. Kyle Peterson: Yes.

Mr. Robert Brookfield: Honestly, it's essentially a mathematical question: what percentage would be found to be countervailing subsidies or anti-dumping, and what the volume of trade is. That's something we can't necessarily quantify. We're taking steps to reduce that as much as possible. There are various techniques to try to make sure that certain numbers aren't used to add...

If you look at the past history, 20% or 30% has been the first finding, and so that's been the rate that's been charged. Through litigation at NAFTA and the WTO, we've managed to bring that down. The last time it went from about 20% on countervail down to de minimis. In other words, it's gone by the end of five years.

Mr. Kyle Peterson: Thank you for that.

The Chair: The time is up, sir.

Thank you, Mr. Peterson.

We're going to move over to the Conservatives. They have five minutes.

My understanding is that you're going to split your time, Mr. Hoback.

Mr. Randy Hoback: Yes, thank you. I'll split the last minute.

First, very quickly, can I ask you to table the list of consultations you've had, with whom, and how many times you've met or talked to those individuals or groups. Perhaps you can tally that list and table it with the committee.

I have a second question. How are you working with companies such as Interfor that have 80% of their operations in the U.S.? How can they not be in a conflict of interest when they're advising you on how to move forward? How do you ensure that they're not doing what's best for them, which one would expect them to do, and not what's best for all Canadian producers? How do you take those big four companies that have these huge investments in the U.S. into consideration as you're seeking advice from them on how to move forward?

Mr. Martin Moen: There are two important elements to the answer. First of all, we're consulting with a broad range of companies. So, yes, of course, we do meet with companies like Interfor, Canfor, and West Fraser, which have—

Mr. Randy Hoback: These four companies were part of a special meeting at the USTR, and all the rest weren't included. Can you explain that?

• (1050)

Mr. Martin Moen: First of all, one of the companies in this meeting with USTR, Tolko, is a major producer in B.C. and has no production in the United States.

Second, the meeting was at the request of the U.S.; it wasn't a meeting that we set up.

Mr. Randy Hoback: So is it fair to say they're lobbying both sides of the border then, not only here in Canada, but also offering advice in the U.S.?

Mr. Martin Moen: I don't know what advice they may be offering in the U.S. What I do know is that the U.S. government requested this meeting with these companies.

Mr. Randy Hoback: Were you part of those meetings?

Mr. Martin Moen: I was there as an observer, yes.

Mr. Randy Hoback: So you were included, representing Canada.

Mr. Martin Moen: As an observer.

Mr. Randy Hoback: All right.

I'm just looking at consensus across Canada. You have to present a Canadian perspective, including big producers, intermediate and small producers, and aboriginal groups.

Do you have consensus across Canada? Have you sought consensus? Is there a position made on whether we should go with quotas or duties, or what they should look like? Where are we at on that?

Mr. Martin Moen: First of all, there are some big regional differences. For example, it would be fair to say that in the Atlantic provinces, producers large and small believe that their system justifies an exclusion.

Mr. Randy Hoback: Correct me if I'm wrong. If they don't have an agreement, they are now under tariffs, are they not?

Mr. Martin Moen: Whether or not the Atlantic provinces would face duties in the future would depend on the nature of the investigation. Right now there are no duties being charged on lumber products.

Mr. Randy Hoback: Again, that was because of negotiations; we negotiated them out. Now if we don't have a deal, one would assume they're going to treat Canada as a whole. That means they will now be facing tariffs; that industry will be hit.

Quebec, for example, has changed their policy on how they collect stumpage. How is that being impacted? That was one of our recommendations, that it should be one of the considerations. How is that being considered, and how do you negotiate with no consensus? How do you move forward when you don't even have consensus within the industry? It must be tough.

Mr. Martin Moen: As I was explaining, there are different regional perspectives, but it is possible to have those reflected in the agreement, and that's an approach we're taking. In terms of consensus, I think there are some exceptions, but there is very broad support for a negotiated outcome. The question of the finer details of what should be included—

Mr. Randy Hoback: The devil's in the details.

The Chair: If you're going to give Mr. Lauzon some time—

Mr. Randy Hoback: Mr. Lauzon has a very personal...aspect of what can happen to a community when they don't have agreements in place.

Mr. Lauzon, I'll give you the floor.

[Translation]

Mr. Guy Lauzon (Stormont—Dundas—South Glengarry, CPC): Thank you, Mr. Chair.

Like Ms. Lapointe, I am a francophone, but thanks to assimilation, I am more comfortable in English.

[English]

That said, I would like to give you a personal experience. I understand why my colleagues are so passionate and so emotional about this issue, because I lived the results of a closure of a plant—Domtar in Cornwall. I represent the city of Cornwall. I was a member of Parliament in 2006, when I had to go down to the local college where principals of Domtar conducted a special meeting with 600 employees and told them their jobs, paying approximately \$60,000 a year, were coming to an end. I can tell you what happened to our city, what happened to those people.

Folks, I'm not intimately aware of all the implications of the softwood agreement, but I can tell you that we're dealing with people's lives here—350,000. I've seen the ramifications. If you don't get this right, folks, there's going to be a lot of pain in this country. I saw it in a small community of 45,000 people. I urge you to please do what's necessary to get this softwood agreement.

The Chair: Thank you, sir. I know how you feel. We closed the coal mines in Cape Breton, and they were the biggest employer. It's a hard thing, especially when you're an elected representative.

We have time for one more question. I hear the Liberals are going to split it.

Mr. MacKinnon, and Mr. Arya.

Go ahead, sir.

[Translation]

Mr. Steven MacKinnon (Gatineau, Lib.): Thank you, Mr. Chair.

I represent a riding in the Quebec part of the Outaouais region. The forestry industry is the region's backbone and its foundation. As my colleague Mr. Lauzon and other colleagues said, the forestry industry is likely experiencing a crisis.

However, I find it ironic that we have gathered here to discuss a potential agreement or negotiations, given that those negotiations were not concluded before the agreement expired, last October. That forces us to negotiate under the gun during a U.S. election year. I can only express my sincere disappointment over the fact that no agreement was concluded with the United States before the previous agreement expired.

That said, I would like to start discussing matters with our witnesses, whom I thank for joining us today. I would like them to tell us, if they can, about the particular situation of the Outaouais, but to first comment on Quebec's situation. That province has taken measures to make its industry more compliant with the requirements of international trade standards and, of course, the standards related to trade within North America and the United States.

Could you talk to us about Quebec's position and any developments related to that province?

•(1055)

[English]

Mr. Martin Moen: We've worked very closely with the provincial government in Quebec and Quebec industry. In November, when we did our initial consultations, we heard very clearly that there was support for a negotiated settlement, a

negotiation of an agreement. We heard very clearly from the Quebec government and producers that they wanted to ensure that in the agreement there was a provision for exits. They believe very strongly that the reforms they've taken, if properly reviewed, would lead to an exit; but at the time the view was very clear that it was important to get an agreement for certainty, and there was a willingness to use the exit provision later.

Some in the Quebec industry have since said that they want an exclusion now, but the view that we continue to hear very clearly from many producers in Quebec and from the Quebec government is that we should pursue an agreement so long as it has this exit provision. We have made that a priority in our discussions. For example, in the joint statement of leaders from June, there was reference to such an exit provision as being a critical element of the deal.

There are other issues, of course, that are important for Quebec, such as the border mills that I've already mentioned, and we continue to work on that.

The Chair: Thank you.

Mr. MacKinnon, you're splitting your time with Mr. Arya.

Mr. Chandra Arya (Nepean, Lib.): I'm very glad there's ongoing consultation, in addition to the provinces, with the Business Advisory Council and the aboriginal stakeholders. My understanding is that the Business Advisory Council consists of small, medium, and large producers. In particular, I'm interested in the small producers, because I've always championed the cause of small business, especially the small manufacturing companies and their focus on high-value products, specialized products, the remanufacturing. You said this is all being considered.

I missed the last two portions of the four main points in the negotiations. First is the appropriate structure; second is the meaningful, reasonable exit position. The other two I missed, so can you kindly highlight them, please.

The Chair: You just have a minute, so it will have to be a short answer.

Mr. Martin Moen: There's structure, an exit provision, and of course appropriate exclusions, including for the Atlantic provinces and for companies that source from the United States or from private lands. Then, of course, there's the treatment of high-value products, remanufacturing, and that whole issue. I also mentioned, of course, that the U.S. will want to see anti-circumvention provisions, which would be reasonable to have in the agreement. I also mentioned joint market development.

The Chair: Thank you, sir.

That ends the questioning. I'm glad everybody got a chance to ask a question here today. Welcome to any new committee members who took the time to join our committee today.

That concludes our meeting.

Thank you, gentlemen, for coming in and giving us as much as you know.

The meeting is adjourned.

Published under the authority of the Speaker of
the House of Commons

SPEAKER'S PERMISSION

Reproduction of the proceedings of the House of Commons and its Committees, in whole or in part and in any medium, is hereby permitted provided that the reproduction is accurate and is not presented as official. This permission does not extend to reproduction, distribution or use for commercial purpose of financial gain. Reproduction or use outside this permission or without authorization may be treated as copyright infringement in accordance with the *Copyright Act*. Authorization may be obtained on written application to the Office of the Speaker of the House of Commons.

Reproduction in accordance with this permission does not constitute publication under the authority of the House of Commons. The absolute privilege that applies to the proceedings of the House of Commons does not extend to these permitted reproductions. Where a reproduction includes briefs to a Committee of the House of Commons, authorization for reproduction may be required from the authors in accordance with the *Copyright Act*.

Nothing in this permission abrogates or derogates from the privileges, powers, immunities and rights of the House of Commons and its Committees. For greater certainty, this permission does not affect the prohibition against impeaching or questioning the proceedings of the House of Commons in courts or otherwise. The House of Commons retains the right and privilege to find users in contempt of Parliament if a reproduction or use is not in accordance with this permission.

Also available on the Parliament of Canada Web Site at the following address: <http://www.parl.gc.ca>

Publié en conformité de l'autorité
du Président de la Chambre des communes

PERMISSION DU PRÉSIDENT

Il est permis de reproduire les délibérations de la Chambre et de ses comités, en tout ou en partie, sur n'importe quel support, pourvu que la reproduction soit exacte et qu'elle ne soit pas présentée comme version officielle. Il n'est toutefois pas permis de reproduire, de distribuer ou d'utiliser les délibérations à des fins commerciales visant la réalisation d'un profit financier. Toute reproduction ou utilisation non permise ou non formellement autorisée peut être considérée comme une violation du droit d'auteur aux termes de la *Loi sur le droit d'auteur*. Une autorisation formelle peut être obtenue sur présentation d'une demande écrite au Bureau du Président de la Chambre.

La reproduction conforme à la présente permission ne constitue pas une publication sous l'autorité de la Chambre. Le privilège absolu qui s'applique aux délibérations de la Chambre ne s'étend pas aux reproductions permises. Lorsqu'une reproduction comprend des mémoires présentés à un comité de la Chambre, il peut être nécessaire d'obtenir de leurs auteurs l'autorisation de les reproduire, conformément à la *Loi sur le droit d'auteur*.

La présente permission ne porte pas atteinte aux privilèges, pouvoirs, immunités et droits de la Chambre et de ses comités. Il est entendu que cette permission ne touche pas l'interdiction de contester ou de mettre en cause les délibérations de la Chambre devant les tribunaux ou autrement. La Chambre conserve le droit et le privilège de déclarer l'utilisateur coupable d'outrage au Parlement lorsque la reproduction ou l'utilisation n'est pas conforme à la présente permission.

Aussi disponible sur le site Web du Parlement du Canada à l'adresse suivante : <http://www.parl.gc.ca>