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Chair: The Honourable Judy A. Sgro





## Standing Committee on International Trade

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• (1540)

[English]

**The Chair (Hon. Judy A. Sgro (Humber River—Black Creek, Lib.)):** I call the meeting to order. Pursuant to the order of reference for Thursday, February 6, 2020, we are studying Bill C-4, an act to implement the agreement between Canada, the United States of America and the United Mexican States.

Welcome to our witnesses who are here by teleconference and those with us in the meeting room. By video conference from Niagara Falls, we have CanadaBW Logistics, Kevin Jacobi, executive director; and from Tanzania, Eddy Pérez, international policy analyst with Climate Action Network Canada.

Here with us in Ottawa, from DECAST, we have Jim Tully, executive vice-president. We are expecting Bob Benner, from Hamill Agricultural Processing Solutions, shortly.

We will go with the video conference. Mr. Pérez, you are in Tanzania and I understand that you don't have the best connection in the world, so we will open with your comments, sir.

Please go ahead.

**Mr. Eddy Pérez (International Policy Analyst, Climate Action Network Canada):** Thank you very much.

My apologies for the quality of the video. I am in Tanzania, in the traditional land of the Wa-arusha.

On behalf of Client Action Network Canada, we thank you for the invitation to address the Standing Committee on International Trade.

Climate Action Network Canada is the country's largest network of organizations working on climate policy, and the sister organization of the world's largest network of environmental organizations, regrouping more than 1,300 groups around the world.

I'd like to begin these remarks by standing in solidarity with, and highlight and support the work throughout 2018 and 2019, and the comments by member organizations like the Canadian Labour Congress, Unifor, the Assembly of First Nations, the steelworkers, and many other members who participated in the consultations and worked closely on NAFTA 2.0. I also support comments by our allies such as the Council of Canadians.

For over 25 years, NAFTA has contributed to climate change, toxic pollution, economic insecurity, and social inequality and environmental deregulation. This is a result of a trade system that Canada has prioritized in favour of corporations over people.

In the current climate crisis, we can't continue to promote trade models that lock ourselves into multi-decade trade deals that add fuel to a house on fire.

The questions that we have for you are as follows. Is the current CUSMA on the right side of history? Can we seriously use this trade deal to tackle climate change and toxic pollution? How is the new version of NAFTA different from the last one? Will it reassure those who are working inside and outside of this Parliament to ensure Canada upholds its climate obligations and responsibilities?

We therefore recognize, however, that the absence of any energy proportionality provision in NAFTA 2.0 is a clear win in environmental terms. The same applies to the deletion of ISDS. But is this enough?

Democrats in the United States voted against the ratification of the agreement because it does not address climate change, the greatest threat facing our planet.

Now that Canada is contemplating its ratification, we should focus on how to create domestic safeguards to ensure that while Canada implements this agreement, it does so while upholding its environmental and climate obligations.

Let me just remind the committee of the current state of play.

CUSMA fails to address, acknowledge or even mention the climate crisis. Most of the provisions in the environmental chapter are vague and remain largely unenforceable. Chapter 28 provides new avenues for corporations to influence regulation.

Considerable attention was given to fishing subsidies. However, that is clearly not the case for fossil fuel subsidies, which are similarly destructive and tell a sad story of North American's ongoing support for the high-carbon-intensive economy.

CUSMA shows again the deep deprioritization of the environmental chapter to a point where specific wins, like the elimination of ISDS, are undermined by the complete lack of reference to environmental governance; and there is no mention of UNDRIP.

This deal hardly mentions pollution, and it does not include specific and binding terms to address documented pollution dumping. There are no independent and binding enforcement systems for environmental terms and it does not create an independent body to investigate and initiate cases against environmental abuses.

How do we move forward?

These are quick recommendations from Climate Action Network.

For us, climate action alone won't stand if it does not ensure that trade deals protect the rights of workers and also recognize the rights of indigenous peoples.

Acknowledging that because of the current political context, Canada was not able to ensure meaningful progress to include climate in the current text is not enough. Canada must ensure that this trade deal does not block our ability to respect our climate obligations and commitments.

How do we move forward?

Canada has committed to increase its climate targets and to reach net-zero emissions by 2050. Canada has committed to provide new nationally determined contributions, and those new NDCs rely heavily on expanding renewable energy, so there may be more disputes to come and we need to be prepared.

Here is what we encourage you to do.

Parliament should request an analysis on how this trade deal can support further climate policy, particularly in three key areas. The first is how CUSMA facilitates, or not, the trade of climate friendly goods and services and further strengthens the promotion of Canada's climate objectives. The second is how trade rules, at the very least, are not a barrier to climate policy goals. The third is how trade deals impact the international transfer of mitigation outcomes under article 6 of the Paris Agreement, particularly in the context of the Quebec-California cap and trade system.

• (1545)

Finally, we are way behind where we need to be. In this climate crisis, achieving climate objectives should be considered to be a legitimate reason for departing from trade rules. Such considerations are being considered in the EU. Weak clauses, even when enforceable, are not a guarantee that a trade deal can be seen as a tool for climate action.

Thank you very much.

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

On to Mr. Jacobi.

**Mr. Kevin Jacobi (Executive Director, CanadaBW Logistics Inc.):** Thank you very much. I appreciate being asked to be part of this conversation.

My name is Kevin Jacobi. I'm executive director for CanadaBW Logistics, located in Niagara Falls, Ontario.

To put it in context, my company is an import-export development company. We help local businesses support expansion of their exporting needs, as well as international companies find a home

here in Niagara, for them to be part of our community and develop their businesses within the Canadian infrastructure.

I'm here to speak in support of the USMCA and the ratifications that are being done, in the hopes that it's going to give stability to our companies here.

We have a number of companies whose opportunities have been greatly impacted by changes in tariffs subjugating such things as steel and aluminum. Our client base here develop contracts between their suppliers and the people they're selling to that can last more over two to three years. When tariffs come in the middle of a contract, we don't have the opportunity to adapt or to evolve what we're trying to do as businesses. It impacts our margins or it dissolves our company.

Working with our chambers of commerce here, as well as being the executive director for both the Niagara Industrial Association and the World Trade Center Buffalo Niagara chapter, we see there being dramatic impacts from this uncertainty without this deal being ratified.

What we're hoping to see through ratification is stability in the market. We understand that there are going to be pluses and minuses, depending on the sector of business that our companies are in. However, we'll have the rules in place to allow us to make decisions that we can impact and can forecast beyond just the short term. We're firmly in the process of having.... I think we have a very small window for us to ratify, based on the political climate in the United States. If we don't take action soon, we may lose that window of opportunity.

Niagara—and Niagara is one of the largest trade networks across Canada, being a border community—has the busiest border crossing for people coming back and forth from Canada and the U.S., but it is also the second most important border crossing when it comes to total value of freight. We are one of the few areas in Ontario with a trade surplus.

The ratification of the NAFTA 2.0 or USMCA will solidify our ability to impact Canada's economy, as well as attract businesses and investment into our Canadian business cycle. One thing we do with my company—what we try to accomplish here—is to develop a landing point for international companies to develop manufacturing and marketing opportunities within our region to better impact their ability to do business with both Canada and the U.S.

We understand that Canada is a very small market compared to the U.S.. However, we are seen across the world as a stable market, a place of doing business in an environment that respects fair trade and other cultures. We give a landing point that allows them to have fair access to both Canada and the U.S. and, of course, Mexico, to a limited extent. We don't really have as much going here for Niagara in that respect.

We hope that the committee will take the advice of the people who are presenting to move forward with ratification and give Canadian businesses a stable platform for us to grow our communities.

Thank you.

• (1550)

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

On to Mr. Tully, for Decast.

**Mr. Jim Tully (Executive Vice-President, DECAST):** Good afternoon. Thank you for allowing me to present before this committee.

My name is Jim Tully. I'm the executive vice-president of DECAST Limited.

DECAST is a manufacturer of precast concrete infrastructure products and is located just outside of Toronto. We directly employ over 500 people, and our supply chain affects another 3,000 people.

While NAFTA and now CUSMA should provide open markets to both sides of the border, history has shown us that this is not the case. There are several existing U.S. policies that have affected small to mid-sized companies like DECAST: buy America; buy American; the American Recovery and Reinvestment Act; and President Trump's executive orders on U.S. content. We've been affected over the last few years in the following ways.

Under buy American, for construction projects, contractors must use construction materials that are 100% manufactured in the U.S., with greater than 50% of materials coming from the U.S. Canada is exempt for contracts greater than \$10 million; however, most of the projects that we bid on fall under this amount. Many states and municipalities also use similar geographic production requirements.

Under President Trump's executive orders, President Trump has clearly stated that he wants to buy American first and has incorporated this concept into three executive orders affecting buy America and buy American policies. These executive orders create more uncertainty for companies like DECAST.

The direct result of these policies has been that the Canadian market for infrastructure products is wide open to U.S. companies, allowing for predatory pricing and dumping. In 2018, DECAST lost the equivalent of 41 full-time jobs on projects lost to imports of U.S. steel pipe. Our understanding of the pricing by U.S. manufacturers is that it was at or below the cost to manufacture. Just last week in Winnipeg, a U.S. pipe manufacturer from Texas undercut local pipe producers. Given the distance they had to ship, they are selling at or below their cost.

In conclusion, to help manufacturers like DECAST Limited, Canada should impose domestic content preference on its infrastructure funding to provinces and municipalities, as recommended by the Canadian Manufacturers & Exporters. This type of domestic content preference could be implemented under the concept of reciprocity to account for true and open free trade.

Thank you for your time.

• (1555)

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

We'll go on to our members with Mr. Dowdall.

**Mr. Terry Dowdall (Simcoe—Grey, CPC):** Thank you, Madam Chair, and I thank my colleague Chris Lewis for allowing me this time today.

As a former mayor and a deputy warden and warden of the County of Simcoe, I've had the opportunity through the years to work with the organization that is here to present today.

I want to thank you, Mr. Tully, for being here. I know you're a very busy man.

As you said at the beginning, yours is a company that's grown quite a bit through the years. We had expansions in 2011, 2012 and 2016, and in 2019, I believe it was a \$12-million expansion and 35,000 square feet as well. It is a growing company.

It has done very well and in fact celebrated its 35th anniversary. It is incredible in today's economy to have that length of time. It's a large employer and, as well, during its 30-year anniversary, presented cheques of \$15,000 to two local charities, the Women's and Children's Shelter of Barrie and, in Alliston, My Sister's Place. Through the years, this organization has donated much time and energy and is one of the key cogs, quite frankly, in Simcoe—Grey.

I had the opportunity through the Federation of Canadian Municipalities to help with that growth you were having in the industry to build upon what you have, and I know that through the years there sometimes has been a lot of red tape from organization. As well, we had the steel policy for a while and, at the end, the buy American policy.

Certainly our party believes in free trade, and ideally with less government involvement. I just wondered if you could speak a little more on how free trade affects you and, if we could make the playing field even, how that would work.

I have another question. I know that there's a \$186-billion rollout for municipalities for infrastructure projects that, from what I gather, aren't getting out there in time. Could you speak also to the amount of business you get through the cities and the municipalities, how important this is for the municipalities that need that infrastructure and how important it is for you and for your organization to grow and expand once again?

**Mr. Jim Tully:** From our perspective, the real effect on us has been that we have no ability to bid on U.S. jobs. We have no ability because of the uncertainty that's caused by buy America and buy American policies and by these executive orders that have come out. By the time the local proponent who's asked us to give them a price figures out whether they can use us as a supplier, the bids are closed. It's too late. So, we're blocked on bidding on pretty well any project.

How this affects us is that our U.S. competition—and I'm all for open and free competition when it's equal—has the ability to come into Canada to bid on jobs, and they use predatory pricing when they come up here. They use pricing that covers maybe their overheads, and they don't look at profit. They're just dumping. If I told you the prices that went in to Winnipeg last week, it's ridiculous. They're coming out of Texas, and they're 25% below the local guy. It's unacceptable.

They do this freely, knowing that we have no ability to retaliate. That's our real problem. Like I said, from my perspective, reciprocity is the answer: If you put this kind of policy on us, we do the same back. That's the only clear answer.

It worked about a decade ago when the FCM canvassed the federal government and was able to put a reciprocity clause into force. Right away, the U.S. took off the limitations on Canada. If we can do that again, especially in this climate that we're sitting in today, that would have a great effect and help companies like ours.

• (1600)

**Mr. Terry Dowdall:** Just to follow up on the importance of infrastructure to the City of Toronto, as an example, our large cities that need it as well, and the type of work that you're doing and how it could have an effect, the American part of it, if you're not bidding on those contracts, how it will hurt you.... All of those expansions were pretty much in line with tender contracts at the time. You do the major subway. You do the major girders that people see when they're driving in Ontario here on the 401. I don't know if you can give an update on the importance of that as well.

**Mr. Jim Tully:** It's hugely important to us. The infrastructure is a massive part of what we produce for. I'll give you some examples. In the Ottawa area, we're working with the two LRT proponents. We're supplying all of the girders that will be used in those elevated sections of those LRT lines that are being built in Ottawa. Any delay in infrastructure projects that come out is a delay of work for us. We're always pushing to see that funding flows freely and flows in a proper amount of time.

**The Chair:** Thank you very much.

Mr. Dhaliwal.

**Mr. Sukh Dhaliwal (Surrey—Newton, Lib.):** Thank you, Madam Chair.

My first question is for Mr. Eddy Pérez.

Can you hear me?

**Mr. Eddy Pérez:** Yes.

**Mr. Sukh Dhaliwal:** Okay.

First of all, I want to thank you for your advocacy on the environment. That's great.

As you very well know, we believe in the environment. You mentioned already that by 2050 we will have zero net emissions. We believe that the commitments to high levels of environmental protection are an important part of the trade agreements as well, as they protect our workers and our planet, particularly when we talk about CUSMA. This is the first-ever trade agreement with an en-

forceable environment chapter. This replaces the separate agreements that we had in the previous agreements.

As I come from British Columbia, marine environment is very important to me—Randeep comes from there as well. It upholds air quality and fights marine pollution. Wouldn't you agree that these are the positive steps moving forward?

**Mr. Eddy Pérez:** It's fair to say, as I mentioned in my statement, first of all, the approach of Canada and the U.S. on trade does require some type of enforceability—for example, for the environment chapter and other chapters. That said, enforceability does not mean that the clauses that countries agree to respect are ambitious enough to ensure that trade between two or three partners continues to negatively impact climate change.

Let me just give you a couple of examples of things that are not in CUSMA, and while this deal in some ways brings some key, important elements of progress, it does not allow for greater climate protection.

First, there are no binding climate standards within the text. Key Democratic leaders, such as the head of the Senate for the Democrats, voted against this deal. He said it did not address or mention the climate crisis.

The current NAFTA 2.0, far from including any climate standards, fails to even mention climate change. It is a glaring omission, with in fact NAFTA's incentive for corporations to dodge the hard-fought clean energy policies of the U.S. by moving to Mexico, for example, and eliminating jobs and perpetrating climate pollution.

You mentioned marine protection, and that is great. As I said in my statement, the three countries that are partners for the CUSMA actually address subsidies for fisheries, but there is no mention, for example, of how fossil fuel subsidies are going to be tackled by countries and reduced in order to encourage, and actually stop distortion in, the markets on renewables.

On clean air, water and land standards, the deal barely mentions pollution and it fails to include specific and binding terms to actually address documented dumping of pollutants.

For example, the text recognizes that air pollution is a serious threat to public health, and in that sense, you and I agree. However, it fails to include a single binding rule to reduce the air pollution that NAFTA has exacerbated.

From the 2018 version of the text to the 2019 revision, this revision actually repeats these failures and omits essential limits on air, water or land pollution. These are just some examples for you.

• (1605)

**Mr. Sukh Dhaliwal:** Mr. Jacobi, yours is a border town. So is Surrey, British Columbia, and we have a lot of logistics companies as well. I appreciate you supporting CUSMA.

Could you tell logistics companies in my part of the world how this will benefit them when they trade or move goods across the borders?

**Mr. Kevin Jacobi:** I'd be happy to.

We have to look at the idea of the ratification of this NAFTA 2.0 as being greater than just our trade between Canada, the U.S. and Mexico. I'm very proud of what this government and past governments have done to create free trade agreements across the world.

What we allow through our participation in the North American free trade agreements is access for our partners in other countries to develop their presence within our communities using logistics companies such as mine, in my area, and the logistics companies in your area as well, to be able to attract these other countries to develop partnerships for existing manufacturing and develop products that are syntheses of ideas and of working components between multiple countries to become products of Canada that would then have greater access to the Canada-U.S.-Mexico ability of a supply chain.

That's how we direct ourselves—

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

Mr. Dhaliwal, you're out of time.

We'll go on to Mr. Savard-Tremblay.

[*Translation*]

**Mr. Simon-Pierre Savard-Tremblay (Saint-Hyacinthe—Bagot, BQ):** I thank all presenters and witnesses today.

I wanted to direct my questions to Mr. Pérez, but the screen seems to be frozen. I don't know if we still have a connection.

**Mr. Eddy Pérez:** I'm here.

**Mr. Simon-Pierre Savard-Tremblay:** Hello, Mr. Pérez.

Thank you for your presentation, which was very informative.

Correct me if I am wrong as I do not want to misquote you. To summarize, you stated that, with respect to the former NAFTA, some progress has been made but it is far from what it should be in the current era of climate change.

**Mr. Eddy Pérez:** That's exactly right. That was a very good summary.

I believe that there are two main points to make.

First, despite some progress having been made, such as investor arbitration and other small improvements in environmental protection, when we look at the agreement as a whole, this treaty does not do nearly enough for Canada to meet its climate commitments. In my view, this is a major weakness of this agreement.

Second, there is absolutely no guarantee that certain provisions of the current treaty will not be strengthened once the current U.S. president is no longer in power. At present, there is no process for

reviewing, for example, the co-operation of the three parties. There is also no mention of the climate crisis.

Generally speaking, these are major weaknesses.

• (1610)

**Mr. Simon-Pierre Savard-Tremblay:** There is no mention of the climate crisis or any reference to global environmental agreements.

**Mr. Eddy Pérez:** Seven multilateral environmental agreements are mentioned, but they are the very same ones mentioned in the former agreement. There have not really been any changes or updates despite the fact that Canada's position on these issues has changed significantly in the past 25 years.

The commitments Canada made in 2019 demonstrate a willingness to make more ambitious commitments. Unfortunately, they are not reflected in the agreement with the country's largest economic partner.

**Mr. Simon-Pierre Savard-Tremblay:** You say that the agreement does not contain firm climate commitments, but does it set out some standards on related elements, for example air, water and land quality?

**Mr. Eddy Pérez:** Yes, it does. There is a desire to reduce air pollution. As I mentioned earlier, there are different provisions with respect to fishing subsidies, but no specific provision forces states to meet specific commitments for air pollution. With the exception of the proportionality provision, there are no provisions that tackle the issue of oil subsidies.

**Mr. Simon-Pierre Savard-Tremblay:** All right.

With respect to disputes or problems, you seem to be pleased that Chapter 11 on investor-state dispute resolution has been removed.

**Mr. Eddy Pérez:** Of course I am pleased, and for two reasons.

Chapter 11 fostered a serious lack of transparency. Since you studied it, you know that this chapter made it possible for companies to abuse in the extreme their rights vis-a-vis governments. Its elimination is a win that I am very happy about. We worked on this with unions and other groups.

However, it is not enough. I know that the NDP member has already asked for greater transparency when negotiating future agreements. I am pleased about that, but it shows that other issues need to be resolved in connection with how Canada engages in, signs and ratifies other trade agreements.

On the issue of the arbitration system, I would say that there is cognitive dissonance on the part of the Government of Canada, which chose to withdraw this mechanism when dealing with the United States, but continues to value and promote it when negotiating trade agreements with other partners.

**Mr. Simon-Pierre Savard-Tremblay:** Thank you very much.

[English]

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

Your time is up.

We'll go on to Mr. Blaikie.

**Mr. Daniel Blaikie (Elmwood—Transcona, NDP):** Thank you.

First of all, thanks to all of our witnesses for appearing here at committee today.

I want to continue with Mr. Pérez for a moment.

I think you alluded to some examples, so I'm wondering what some of the kinds of mechanisms are that Canada might look at advocating for in trade agreements that might be able to deliver a concrete impact on the environment. In particular, we know that the United States is not a signatory to the Paris Agreement, and that's something we would like to see in the agreement. What are the kinds of mechanisms that we ought to be pitching to our international partners to try to tie environmental goals to economic goals? I think that's crucial to success on the environmental front.

**Mr. Eddy Pérez:** Thank you, Monsieur Blaikie, for the question.

I think a lot of the context for the lack of climate provisions within CUSMA relates to the [Technical difficulty—Editor]. We need to be aware of that. That said, there are ways for Canada to address this question at the domestic level.

I know that members have been asking for information on the economic impacts of CUSMA and how CUSMA impacts specific industries, and the same applies to climate.

As I mentioned at the beginning of my comments, it might be important to specify how CUSMA ends up favouring or maybe not favouring climate friendly groups if CUSMA is able to encourage the exchange of goods that help to reduce carbon emissions over time. This is something that Canada could engage in at the domestic level. That is just for the context of CUSMA.

Internationally speaking, the inclusion of binding commitments in trade agreements is the first step for Canada and partners who sign trade agreements with Canada to respect their commitments under the Paris Agreement. Why is this necessary? Because all partners that signed the Paris Agreement do this at the domestic level. Nationally determined contributions are domestically decided and agreed on. There's no issue of sovereignty in the kinds of things that Canada could be wary of because other countries might be pushing these to us because Canada's climate commitments are domestically based. Including these binding commitments so that both Canada and the other partners respect their nationally determined contribution could be a first step.

• (1615)

**Mr. Daniel Blaikie:** Being mindful of the cost of paperwork and all that, I couldn't help but listen to one of our other witnesses who was here at committee talking about products coming up from Texas being sold at prices that undercut ours—but, of course, the other cost to something like that is the environmental cost of shipping pipe from Texas instead of buying locally.

It seems to me that, when we talk about environmental provisions and having some kind of carbon budgeting or a way of trying to account for that environmental cost, there are real issues about not having reciprocity on the pricing side, but it seems to me that there is also the issue that we don't want to be incentivizing people to get products from farther away when there are good local alternatives. There are environmental costs, and trying to work with countries to have some way of assessing those—at least for certain kinds of products or above a certain threshold—might be the kind of mechanism that we're talking about when we're talking about trying to incorporate environmental measures into a trade agreement.

I don't know what you think about that, or if you have some other concrete proposals, but I'd be glad to hear them.

**Mr. Eddy Pérez:** What you mentioned is a first step. You might remember, for example, that when Ontario wanted to prioritize its own renewable energy products, Ontario got sued. I think one key element that we need to understand is that if we don't address this properly—the way you explained it is very clear—as we continue to commit to climate targets and to reduce our emissions, we're going to be forced to buy goods that allow us to reduce those emissions. If that is not properly addressed in trade agreements, we're already allowing for future disputes to take place, because we don't have the necessary mechanisms to let these products come to the country or, for example, as you said, encourage local renewable energy products.

The current CUSMA continues to give corporations handouts and the ability, for example, to modify laws and regulation, and that could have an important impact on the evolution of the renewable energy industry in Canada, the United States and Mexico.

**The Chair:** Thank you very much.

Thank you, Mr. Pérez.

We'll go on to Mr. Kram.

**Mr. Michael Kram (Regina—Wascana, CPC):** Thank you very much, Madam Chair.

Thank you to all the witnesses for joining us today to share your perspectives.

Mr. Tully, I'm particularly interested in your experiences in bidding on U.S. government contracts. Could you walk us through the process that your company goes through when you're bidding on a U.S. government contract as opposed to a Canadian one?

• (1620)

**Mr. Jim Tully:** Typically, we get approached by a constructor or a large engineering firm asking us if we would provide a quotation into a particular job. I would say, for 99% of the jobs we've been asked to quote in the U.S., at the end of the day our bid wasn't taken, simply because they couldn't verify whether they could accept the product because of the uncertainty put out there by these policies that exist in the U.S. It's a real, real struggle for us.



Where we have been successful is when we partnered with local U.S. producers and kind of subsidized what they were producing into a project. Other than that, we really have not been successful.

**Mr. Michael Kram:** Which policies of the U.S. in particular are the most problematic for you?

**Mr. Jim Tully:** Buy America. Buy American.

**Mr. Michael Kram:** Okay. Are you experiencing this at the state level too or just the federal government level?

**Mr. Jim Tully:** It's right down to the municipal level—

**Mr. Michael Kram:** Okay.

**Mr. Jim Tully:** —because when you go to the municipal level, a lot of the time you end up dealing with people who believe that buy America has to mean built in America, sourced in America. They don't really understand the fine mechanics of it, that it's the raw materials that are used within the product that have to be sourced from the U.S.; for example, the steel that's used in the product.

We could theoretically meet the requirements, but by the time everyone figures that out and you file all the necessary paperwork, and you're sitting in a three- to four-week bid process, it's not going to happen.

**Mr. Michael Kram:** All right. You've talked about your idea of reciprocity with domestic content preference. Were you planning that on both the federal and provincial levels in Canada? Could you explain what you had in mind for how that would work?

**Mr. Jim Tully:** A lot of what we've done in the past is that we've been focusing on the FCM and trying to deal at that level and saying push for reciprocity as you did a decade ago when you were able to get around these policies and Canadian products were accepted.

We're not a massive exporter. We make concrete. Concrete's big and heavy. It's a tough thing to export, so our focus would be in the northeastern U.S. when we would sell stuff. We've gone as far south as Myrtle Beach.

When we talk about reciprocity, we just want to have the ability to go if we can. Right now we don't. Our market's being taken away from us in Canada by predatory pricing because it's open. I'm a strong believer in free trade. I've worked in 50 different countries in the world in my career, and I'm a strong, strong believer in it, but if you want to put some caveats on what you're considering as free trade, as the U.S. often does, then we should reciprocate and say that as soon as they drop theirs, ours are dropped. To me, it's a simple and effective way of ensuring that free trade is free trade.

I sat in front of Peel Regional Council back a number of years ago, and Hazel McCallion got up and she said, you know, there is no such thing as free trade and there never has been. That happens a lot of times because of these little side agreements that pop up, and they affect different businesses in Canada.

If there's any way within the new Canada-U.S.-Mexico agreement that some kind of understanding could be put in that, if you start putting these side agreements in, then we're going to reciprocate....

**Mr. Michael Kram:** Okay.

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

We'll go on to Ms. Bendayan.

**Ms. Rachel Bendayan (Outremont, Lib.):** Thank you very much, Madam Chair.

Just quickly, and with the greatest respect I have for the witnesses who have come before the committee this afternoon, I would like to make sure that the record is clear on the point that an overwhelming majority of Democrats in the United States—193 Democrats—voted in favour of this deal, and only 38 did not.

My question is for Mr. Jacobi of CanadaBW Logistics. Thank you very much for joining us today. If I understand correctly the nature of your business, you help local Canadian businesses expand their export operations. Is that right?

• (1625)

**Mr. Kevin Jacobi:** One of the challenges we have, being a border community, is that we rely heavily on interaction between Canada and the U.S. That has been our ideal place to export, because it's fast and it's easy. We can literally see the other country across the river in the Niagara region.

In these past few years, there's been a lot of uncertainty for us being able to ship goods or get contracts in the U.S. Through the Canadian consulates around the world, we've been helped to find other opportunities in other countries to export our products—those longer supply chains. We've relied too heavily on a specific path. We have to start building these other chains so that if something goes wrong, we still have other opportunities. It's the diversification that is necessary.

Furthermore, if this is ratified, the resulting diversification will allow us to develop partnerships and build bridges between the other trade agreements for us to have better access into the U.S. market with trade partnerships from our other pacts, such as CETA and the like.

**Ms. Rachel Bendayan:** Approximately how many of your clients—Canadian businesses that you help export—are exporting to the United States and/or Mexico?

**Mr. Kevin Jacobi:** Our client base is a little over 70 clients whom we work directly with here, who actually touch ground in Niagara itself. I would say roughly about 60% of those would go into the U.S.

Into Mexico.... We don't have very many who go that far down the pathway, but we do have clients developing their pathways into Brazil and into Britain. Through the free trade agreement with Ukraine, we have that pathway developed, as well as China and other Asian countries that we're working with.

**Ms. Rachel Bendayan:** You mentioned that you're located in the Niagara region. I saw that your location is about one hour away from three different border crossings with the United States. Was that location strategically chosen to be close to our largest trading partner?

**Mr. Kevin Jacobi:** It was, very much so. I was born and raised in Niagara, so I'm very lucky to have that option here. Within a ten-hour drive—basically a truck's drive away from Niagara—we have over 140 million people from the North American consumer market available to us. That's a significant portion. Not only does it help our local businesses develop those trade routes into the U.S., which we've relied on, it also allows us to build those partnerships and manufacturing opportunities with international companies to grow our community here as well.

**Ms. Rachel Bendayan:** You touched on an earlier question on the need for stability and certainty. Does the existence of a certain agreement, like the one negotiated now—the CUSMA agreement—help businesses such as yours? Would you say that there was concern or anxiety around the situation in which we found ourselves when the United States indicated it did not want to continue with NAFTA?

**Mr. Kevin Jacobi:** Very much so. Basically, business went into a holding pattern. We weren't sure what the climate was or how things were going to be moving forward. Is it going to be ripped up and not ratified? Are we going back to basically the default of the World Trade Organization, which has lost a lot of its teeth in its ability to actually enforce any of its rules and regulations?

We had a lot of people sitting on their projects and sitting on their money. International investment was reduced because international companies never saw the advantage of investing in infrastructure or manufacturing in our region, because they never knew if they would have access to the market they were attracted to.

This uncertainty just puts us in that pattern. We need to know. We understand it's not going to be perfect for every sector. It's going to be a living document that's will need to be ratified, developed and evolved, but at least it gives us a pathway and a firm base to help build those conversations.

**Ms. Rachel Bendayan:** Thank you very much.

**The Chair:** Thank you.

We'll go on to Mr. Carrie.

**Mr. Colin Carrie (Oshawa, CPC):** Madam Chair, I'll be splitting my time with Mr. Lewis.

I want to put something on the record as well. The parliamentary secretary continues to put on the record that the Democrats and the Republicans voted for this deal in the United States and, of course, they would. When the United States did their economic impact study, CUSMA was a net positive for the United States, a \$68 billion net improvement.

The last time I checked, we're Canadian MPs whose job it is to analyze this agreement for Canada, and I don't know if the witnesses watched earlier, but we just got the economic impact study today from the government

The C.D. Howe organization last week was quite clear that this deal, compared to the deal we already have, is a net negative of \$10 billion U.S., which is \$14 billion Canadian. What we're trying to do on this side.... Mr. Jacobi, I want you to know that the deal will pass. It's going to pass this week and move into the Senate, so we are going to be moving this along, but unfortunately we have to...

Well, I'm not saying “unfortunately”, but fortunately we are going to do our due diligence and make sure that for the families and businesses negatively affected by the deal, at least we'll hold the government's feet to the fire in making sure that programs and supports are there for them.

As far as Mr. Tully is concerned, you are right. Ten years ago Mr. Harper did negotiate an exemption for Canadian companies from buy American, and there was an opportunity in this agreement to do the same and, unfortunately, because of the weak leadership of our Prime Minister, he didn't do that.

I want to make that clear because I hear over and over that the Democrats and the Republicans supported this and that's why we should do. No. We're Canadian MPs. We're here to do the job for Canadians, to make sure Canadians' interests are looked after in this agreement.

Mr. Lewis.

• (1630)

**Mr. Chris Lewis (Essex, CPC):** Thank you, Madam Chair.

Thank you to my colleague, Mr. Carrie. I echo his words.

Mr. Perez, again, this morning we finally did get an economic analysis study from the government. The interesting thing was that they did not compare it to anything. They didn't compare it to NAFTA or to the low, or how.... They didn't compare it to anything.

It might seem a bit odd, but specifically with regard climate change, the way it's written in CUSMA, we don't know if it's going to meet the targets or what it's going to do, because it wasn't compared to anything.

What would you like to see it compared to? Would you like to see it compared to NAFTA? Do you have thoughts on that front?

**Mr. Eddy Pérez:** There's no climate reference in the current text, so at this moment we can't have any kind of analysis on how this trade deal impacts climate and Canada's objectives related to the Paris Agreement, for example, or other multilateral environmental agreements that are not mentioned in the revised text.

We can compare it to many things, not necessarily in relation to NAFTA, but for the past two years, the Liberal government and Mr. Trudeau have been travelling around the world to sign new trade deals that are called progressive by including some kinds of provisions, for example, on the environment, labour rights, gender, indigenous rights and so on. If you do that kind of comparison between how Canada signs these trade deals, there is a great discrepancy between what Canada negotiates with the United States and what it does with Mercosur and what it does with the EU, particularly when it comes to the investor-state dispute settlement mechanism.

So at this moment, I think Climate Action Network is asking for a domestic clause so that Canada will have an assessment on how CUSMA either helps renewable energy companies invest in the U.S., or, if there are goods that come from the U.S. to Canada or from Mexico to Canada, that help Canada reduce greenhouse gas emissions. When you start doing that kind of analysis, you already get information that frankly hasn't been there in the past.

And the other element that I would bring to the table is that within the Paris Agreement, Canada has developed a nationally determined contribution, which is the pan-Canadian framework on climate change and the way Canada brings this pan-Canadian framework into force, compared with how other countries implement their climate targets.

So there are many opportunities for Canada to explore and compare how the trade deals it signs with the EU, Mercosur and the U.S. are impacting Canada's objective when it comes to climate change.

• (1635)

**Mr. Chris Lewis:** Thank you very much.

I'm sure that's time.

**The Chair:** It is. I always manage to give you a little bit of extra time.

Mr. Dhaliwal.

**Mr. Sukh Dhaliwal:** Thank you, Madam Chair.

My question goes to Executive Vice-president Tully.

It's my understanding that you provide engineering services as well. Do you?

**Mr. Jim Tully:** That's correct.

**Mr. Sukh Dhaliwal:** When we have had previous agreements, anyone we heard from, such as the architects who came here as witnesses here, said that agreements like this will help engineering companies to do better. Would you agree with that?

**Mr. Jim Tully:** I probably would agree with that, but unfortunately the engineering that we provide we restrict to our own products, so we're not exporting engineering services. Our services are internal. We are a registered consulting engineering firm, but we limit it to our own products.

**Mr. Sukh Dhaliwal:** That is good to hear.

Mr. Carrie was saying that we should be helping companies like yours. Our government put \$125 billion in funding into infrastructure. How does that help companies like yours?

**Mr. Jim Tully:** Well, the funding is fantastic. I'm going to make a protectionist kind of statement now. It's Canadian tax dollars that are paying for Canadian infrastructure. It would be nice to see Canadian companies have a fair shake at obtaining that work.

When Canadian companies are kind of handcuffed to go to other countries, and those countries are allowed to come in and take those infrastructure dollars, which I am happy to say that I participate in supplying through the taxes that I pay, I get a little upset.

I'm very happy that the government puts all that money into infrastructure funding. I'd like them to protect the Canadian businesses to ensure that they get their fair shake at that.

**Mr. Sukh Dhaliwal:** You said that you employ 500 people directly and 300 indirectly.

**Mr. Jim Tully:** It's 3,000 indirectly.

**Mr. Sukh Dhaliwal:** For those 500, once CUSMA is ratified, do you think your company will face layoffs, or do you think you will be able to survive?

**Mr. Jim Tully:** My issues with the free trade agreement are really with the side things that happen. If it were purely free trade, we would probably benefit. We would benefit if you could say that our doors are open to the U.S. participation and the U.S. is wide open to Canadian participation. If that were truly the case, then we would probably benefit because we have a state-of-the-art facility and we consider ourselves one of the best producers in the world and we think we can be cost-competitive and certainly competitive in our marketplaces.

However, as I said, we don't have that even playing field right now, and if there is any way the federal government can ensure that we have that even playing ground, then that's going to be a benefit to all Canadian companies.

Free trade, if it's truly free trade, is fantastic. If there are allowances within an agreement to have these subagreements, as we've seen happen in the past, then that's not really free trade, and we get handcuffed by that.

**Mr. Sukh Dhaliwal:** Okay.

My question is for CanadaBW Logistics.

Mr. Jacobi, you were talking but your time was up when they asked you the question about companies that can take advantage. Is there anything you think you would have said that you couldn't say?

• (1640)

**Mr. Kevin Jacobi:** Certainly.

I think the main thing is to look outside. We have great opportunities through our consulates around the world to make connections with entrepreneurs and people who see Canada as a positive place to land. That's not just to land their goods in to sell in the market but actually to make this a second home or to set up a factory.

My company has been growing the ability to show these companies that Niagara is a very positive place to do business, to raise a family and to have a successful manufacturing centre for them to access a very large consumer market.

We're very lucky in Niagara that we have a trade surplus. We export more than we import into our region. We're a pathway for many of those spaces. There is value to that, and I would say there is value to many of our core communities in looking at these other countries and developing those relationships to build their community and bring in new resources and new pathways to help further the other companies around them.

**The Chair:** Thank you very much, sir.

On to Mr. Savard-Tremblay.

[Translation]

**Mr. Simon-Pierre Savard-Tremblay:** I'd like to continue my conversation with Mr. Pérez about the environmental aspect.

As everyone knows, and as someone pointed out earlier, the United States did not sign the Paris agreement. You said that the environmental agreements mentioned in the chapter on the environment date back to NAFTA.

As the standing committee that will be studying future agreements, we need to think about that. When we sign an agreement with a country that is a signatory to the Paris agreement, must the new agreement explicitly state that all of the provisions have to comply with the Paris agreement?

**Mr. Eddy Pérez:** Yes, that's exactly right.

**Mr. Simon-Pierre Savard-Tremblay:** Perfect.

**Mr. Eddy Pérez:** Actually, I think it should go a bit further than that.

**Mr. Simon-Pierre Savard-Tremblay:** Go ahead.

**Mr. Eddy Pérez:** As I said in my opening remarks, we need to think carefully, just as we do when we sign free trade agreements. A free trade agreement can be suspended if parties don't abide by the provisions.

This aspect needs to be added when we're talking about how states that sign free trade agreements respect their environmental and climate-related commitments in the Paris agreement. I would say yes to your first point, but I would take it further and look at how suspension can be used to strengthen these measures.

**Mr. Simon-Pierre Savard-Tremblay:** Let me make sure I understand. You're saying that, if a trade situation fails to comply with environmental standards, free trade in that sector would be suspended?

**Mr. Eddy Pérez:** The EU is a perfect example. A significant number of EU countries have proposed that a free trade agreement with a third party be suspended. A state can suspend the entire agreement, not just the environmental chapter, when the other party fails to uphold its obligations under the nationally determined contributions in the Paris agreement.

Those discussions are already under way. I think suspension would be a last resort, but many other measures ranging from the option you proposed to suspension can be taken to ensure that both parties commit to honouring their commitments and to making their targets under the agreement much more ambitious.

• (1645)

[English]

**The Chair:** Thank you very much, Mr. Pérez. I'm sorry I have to interrupt. My apologies.

On to Mr. Blaikie.

**Mr. Daniel Blaikie:** Thank you very much.

Mr. Tully, I want to engage you a little bit more on the subject of reciprocity. I think that's maybe a more comfortable notion for New Democrats. In a lot of cases, we have tended to be critical of free trade.

I don't think your story is unique. We have heard from cattle producers, for instance, under CETA, who thought they were going to have unfettered market access. Indeed, dairy farmers were asked to make sacrifices in order to open that market access. Now we find out there are objections to some of the sanitizing practices here in North America, so they don't actually get that market access to Europe.

Do you think it's fair to say that governments of different stripes have been overly enthusiastic about the idea of free trade and have let that sometimes blind them to the realities of what our trading partners are doing?

**Mr. Jim Tully:** From my perspective, from what's happened in the past, free trade agreements struck between different countries have always left openings, and those openings are taken advantage of time and time again to—as in the case of the dairy farmers—hit different sectors with some little clause that makes it difficult for them to truly have free trade.

**Mr. Daniel Blaikie:** Maybe I'm wrong about this, but Canada seems unique in offering pretty much unfettered market access under the auspices of a trade agreement, and in not really responding when trading partners don't provide that same access. Domestically, we're told as a political argument that “Oh well, these sacrifices are justified because we're getting equal market access”, and then in fact we hear....

Are there a lot of people in the United States saying that they can't get access to the Canadian market, that those tricky Canadians are blocking them, and likewise with Europe? I'm interested to know who your counterparts are across international borders who would be feeling the same way about Canada that Canadian businesses are feeling about some of our trading partners.

**Mr. Jim Tully:** I agree with your first statement when you say that we Canadians tend to be too nice and we open our doors so that everything can come in. I sit as the chairman of the American Concrete Pressure Pipe Association, and I'm also the chairman of the Canadian Concrete Pipe & Precast Association.

From the American Concrete Pressure Pipe Association, I'll give you a bit of the feedback I get from my counterparts who are the presidents or senior vice-presidents of our competitors from the U.S. They laugh at us. They know that they can come here openly, and they know that we don't have a hope in hell of going down there. That's my struggle.

**Mr. Daniel Blaikie:** Canada needs to get a bit more hard-nosed.

**Mr. Jim Tully:** You can hear my frustration a bit because of that.

**Mr. Daniel Blaikie:** Yes.

**Mr. Jim Tully:** I've talked myself hoarse at the municipal level. I've gone in front of numerous councils and said, "Just give us fairness." That's all we're asking for. We're not asking to be protectionist. We're asking them to react and to react quickly when things are put in place that restrict our trade.

Just be equal—

**Mr. Daniel Blaikie:** Fair enough.

**Mr. Jim Tully:** —that's it.

**The Chair:** Thank you very much. This completes that round.

Are there any other questions?

Mr. Fast.

**Mr. Daniel Blaikie:** Thank you.

**Hon. Ed Fast (Abbotsford, CPC):** Thank you, Madam Chair, and thank you for the opportunity to ask a few questions.

First of all, I have a clarification for the record.

Mr. Dhaliwal suggested that about \$125-billion worth of infrastructure investment has gone into our economy. In fact, the most recent report from the PBO, the Parliamentary Budget Officer, says it's less than \$14-billion worth. This is a 2018 report, and only \$14 billion worth of infrastructure investment had actually gone into our economy. Quite frankly, I don't think the figure is that much higher since then; we would have seen a much more significant economic boost.

I have a question for you, Mr. Tully. Thank you for appearing.

The North American Free Trade Agreement could have addressed buy America provisions. This has been an ongoing problem and friction between our two countries, with the United States imposing restrictions on the opportunity for Canadian companies to participate in large infrastructure projects, while we as Canadians don't reciprocate with those kinds of restrictions on American companies doing business up here. The North American Free Trade Agreement was the perfect opportunity to fix this problem.

Are you disappointed that the agreement didn't address this issue?

• (1650)

**Mr. Jim Tully:** Absolutely, and like I said, there are these windows of opportunity to come in and make some little side agreements or agreements that affect it.

Buy America goes back decades, but to not address that and to say that Mexico and Canada are exempt from any of these clauses, that to me seems.... Maybe I'm naive, but when I originally got into this business and got involved with that, I thought, "Oh, free trade, everything is open." Then you start seeing these little side agreements that are out there and you go, "Well, maybe it's not quite so free." That's a huge struggle. If it could have been agreed, or if were simple to do that, it would be fantastic.

**Hon. Ed Fast:** When the Prime Minister spread his arms wide open and said, "Donald Trump, I'd be glad to renegotiate NAFTA",

I took him at his word when he said he was going to bring back a better deal than we had before. Sadly, the economic impact statement that was just released doesn't compare what Canada will be getting under the new agreement with what we had under the current NAFTA. It says it's the difference between what Canada would get under the new agreement and what we would have if there were no NAFTA at all, which is not the standard that was set when the TPP was negotiated. It's not the standard set for economic impact assessments when the CPTPP was negotiated. In fact, in my time as trade minister, I don't believe we ever used that as the benchmark. We always compared the new agreement to what it was like before that agreement was signed.

It's very disappointing to me that in this agreement that was supposed to be a win-win-win—those are the Prime Minister's words—we have an agreement that by any measure is actually less favourable to Canada. When the American officials talk about it, they say they finally got a much better deal out of this, implying that Canada is the loser. We lost an opportunity to address buy American provisions that continue to plague our bilateral relationship.

I have a question for Mr. Jacobi. Thank you for being so patient in waiting for this.

**The Chair:** Make it a short question.

**Hon. Ed Fast:** You had talked about the value of NAFTA as being a global platform for Canada to access global markets, especially in light of CETA, especially in light of the CPTPP. Could you expand on that a little bit more?

**Mr. Kevin Jacobi:** Sure.

Maybe I'll start with an example. We have an American company that moved up here in the beginning of 2019. They made a proprietary fabric that was antimicrobial, anti-inflammatory, so it doesn't burn very easily. They had developed these threads and they were doing it in the U.S. They were a U.S. company, but most of it was going to Europe. Because of some of the challenges with trade between the U.S. and Europe, they found that a lot of their contracts were being stalled or stopped. They found out that they could produce in Montreal and move up to Canada and, through CETA, have better access to that market again.

This is what we're seeing. It's a challenge. I wish we had more in NAFTA. I do agree with that. I am proud of what past governments have done. I'm also proud of what they tried to do with this here as well, because I think we're in an undocumented time with regard to how the U.S. negotiates based on their president.

**The Chair:** Mr. Jacobi, I'm sorry but I have to interrupt you.

We'll go on to Mr. Sheehan.

**Mr. Terry Sheehan (Sault Ste. Marie, Lib.):** Thank you very much.

It's a great discussion. We've been talking about American politics, Canadian politics and other comparisons. I've been 23 years in politics, with a majority of that time spent at the municipal level, so I understand when Mr. Tully or my friend from Niagara is talking about bidding on contracts and municipal processes and whatnot. One thing that's important to clarify is that a lot of the difference between the American and Canadian systems is when you talk about a buy local program—let's call it a buy local program, namely, buy America versus buy Canada—the vast majority of infrastructure programs are actually under the purview of the provincial and territorial governments where they exist.

In our federated system—I also studied political science at university in Michigan—it's quite different. Our federal government, through our historic infrastructure funding programs, transfers said dollars to the provinces and territories. The provinces then reach agreements with municipalities, etc., and it is implemented locally.

The reason I know this, too, is that I come from Sault Ste. Marie, where we make a whole bunch of steel. I'm always very interested to see the maximum amount of steel in the infrastructure program. In fact, I had a private member's motion I put forward on the floor to do this, and in doing so, I learned a whole bunch more. In fact, a vast majority of infrastructure programs are under provincial or territorial jurisdiction, so we need to work closely with our Ontario or Alberta or Northwest Territories counterparts to enact those provisions to see those local benefits. You would need to see a buy Ontario campaign for Ontario infrastructure programming. I know the previous Liberal government had put forward such a program, but it was undone by this current Ford government.

That is one of the issues at hand here. This is an important discussion to have, but this is a big difference between our governments. Sure, there is still federal programming, including around defence. In fact, Algoma Steel was successful in garnering a federal contract—a buy Canada program, if you will. Around things related to security, certain provisions can be instructed by the minister to said businesses involved in the contract process. They can't influence and say that Algoma Steel or Stelco or this engineering firm gets it, but they can say that special provisions, under national security advice, will be garnered towards a Canadian company.

Algoma Steel was...not lucky, but successful. The definition of luck is when planning meets opportunity. I remember hearing that once. They were successful in garnering the royal shipbuilding program for the current program. That's going to mean jobs. That's going to mean a whole bunch of engineers. Canadian engineers in Sault Ste. Marie are hard at work figuring out the—

• (1655)

**Mr. Sukh Dhaliwal:** They could be from British Columbia.

**Mr. Terry Sheehan:** Yes, British Columbia could bid on it, too.

That's what I think we need to underline and highlight. We don't want to leave this on the table. If we go forward—and I'm going to present the question to Mr. Tully—perhaps we could also put forward a recommendation, through to our analysts and to our clerk, to suggest that this committee recommend that provinces and territories instruct to have a buy Ontario or a buy Alberta program with this historic infrastructure funding that we're announcing.

Do you think that would be a worthwhile recommendation, Mr. Tully?

**Mr. Jim Tully:** Absolutely. I'm going to answer two different things. You talked about how a lot of the funding comes out of the provinces and the territories. The buy America ties back to federal funding, whether it flows through a state or through the municipal level. They put in that overriding thing. That would be the buy Canadian option.

You're absolutely right that there's also funding that comes out of Ontario or comes at a municipal level on certain projects. That's why we've spent so much time—and I've spend so much time—over the last few years with the FCM and at the municipal level, canvassing them to do that.

To Daniel's point earlier, as Canadians, we're too nice. We are. We roll over and we say that we have a free trade agreement and we shouldn't do anything about it. That's why my big push was reciprocity. Don't do it unless they're doing it to you. I agree with that, but do it if they're not.

• (1700)

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

Mr. Tully, and the others, thank you all. It's very informative. We appreciate your taking the time and effort to share your thoughts with us today.

We will suspend for a few minutes while the other panel comes to the table.

Thank you all very much.

**Mr. Jim Tully:** Thank you.

**The Chair:** We are suspended.

• (1700)

(Pause)

• (1705)

**The Chair:** I will call the meeting to order. Pursuant to the order of reference from Thursday, February 6, 2020, we are here to study Bill C-4, an act to implement the agreement between Canada, the United States of America and the United Mexican States.

Thank you to the witnesses for coming today.

We have Brian P. McGuire, president and chief executive officer of Associated Equipment Distributors, by video conference from Illinois; and from Toronto, we have Greg Johnston, President of the Songwriters Association of Canada, by video conference as well.

Here with us at the committee are Garry Neil, cultural policy consultant from Neil Craig Associates, and from the Canadian Union of Public Employees, we have Angella MacEwen, senior economist, national services.

We will start with Mr. McGuire via video conference.

The floor is yours, sir. Go ahead, please.

**Mr. Brian P. McGuire (President and Chief Executive Officer, Associated Equipment Distributors):** Good evening, Madam Chair, members of the committee and fellow panellists.

I am honoured to bring remarks on behalf of the Associated Equipment Distributors, AED, to the committee this evening.

Madam Chair, I also want to publicly recognize your work on construction and infrastructure policy issues over many years and to, of course, thank you for taking the time to address our association's membership during their visit to Ottawa in the last Parliament. Your leadership is very appreciated by our members on both sides of the border.

AED is the international trade association representing companies that sell, rent, service and manufacture equipment used in construction, mining, forestry, power generation, agriculture and industrial applications—products essential to building and maintaining critical infrastructure, including roads, bridges, pipes and waterways. Additionally, we provide equipment vital to natural resources and agricultural sectors across Canada.

Our member companies operate and have locations in Canada, the United States and Mexico. In Canada, our members have more than 420 locations that employ 27,000 hard-working men and women in rewarding careers. In North America, every year these predominantly small and medium-sized, family-owned businesses generate over \$60 billion U.S. in revenue. While based in the United States, AED is truly an international trade association. In fact, in 2021, AED's board chair will be an executive from a Canadian-based company.

AED has been a leading advocate for modernizing a trilateral North American trade agreement both in Canada and the United States. As a pro-free trade organization, we made the accord's ratification a top policy priority in Washington. AED worked closely with congressional leaders in a bipartisan manner, and I was honoured to be present last month at the White House when the President signed the agreement into law.

I'd like to congratulate all parties for their efforts to deliver a trilateral trade agreement that will continue to align Canadian, American and Mexican interests. However, it's now time for Canada to join its partners in the United States and Mexico to complete ratification of the Canada-United States-Mexico agreement by swiftly approving the enabling legislation in the House of Commons, and ultimately the Senate of Canada, to provide much-needed trade certainty for the Canadian equipment sector.

The Canadian equipment sector, which relies on cross-border trade between the United States and Mexico, is particularly susceptible to economic uncertainty because essential goods and commerce flow across the southern Canadian border every day. This makes quick approval vital to our industry's prosperity. Efficient

delivery of heavy equipment, machinery parts and services helps keep costs low for our customers—the farmers, the road builders, the contractors—and provincial and local governments across the country. Rising costs result in less capital to invest in businesses, employees and job creation. Delays in product delivery create inefficiencies and postpone major infrastructure projects that benefit Canadian citizens and commerce.

Ratification of CUSMA would be a win for all Canadians, and its prompt ratification is essential to the prosperity of the equipment sector. AED believes that CUSMA strikes the right balance between protecting Canada's interests and ensuring the free flow of commerce and goods in North America.

We have advocated for a quick resolution of these negotiations both in Ottawa and in Washington, D.C., and have promoted the benefits of reaching a deal quickly in both countries to deliver business confidence, which is a key driver of new investment in the construction, energy and agricultural sectors. We have made every effort to ensure that both Canada and the U.S. are aware of the difficulties that would come from a bad deal or a long, drawn-out process.

I am appearing before you today to appeal to your sense of urgency and to underscore the point that we need a resolution quickly. Mexico and the United States have ratified this agreement and are ready to proceed. AED is calling on parliamentarians to ratify the agreement promptly.

If amendments are suggested, the deal will have to be reopened. Businesses operating in natural resources, construction and agricultural sectors will be facing delays.

Stakeholders from across industries have been broadly supportive of concessions made in Canada and the U.S. to arrive at this agreement. It is time to move forward.

● (1710)

In closing, I wish to commend the efforts of Canada's negotiating team for its approach to working with its counterparts in the United States and Mexico. I also wish to express thanks to the members of this committee from all parties who are working to ensure that the agreement receives a comprehensive hearing while also taking measures to ensure that it can come into force quickly. By modernizing and strengthening the trade ties among the three countries, CUSMA will help restore predictability and trade certainty to North American equipment markets, creating an environment for greater investment, well-paying jobs and sustained growth.

I thank the committee for its time.

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

We go now to Mr. Johnston from the Songwriters Association of Canada.

Please go ahead, sir.

**Mr. Greg Johnston (President, Songwriters Association of Canada):** Thank you, Madam Chair and honourable members. Apologies for not appearing in person today, but Mother Nature obviously had different plans for us. It is a privilege to speak with you this afternoon, and, as always, I congratulate the committee for allowing and welcoming input from creators directly.

I would like to focus my remarks today specifically on copyright term extension and the benefits that immediate and unencumbered ratification would have for the creative community.

It is important to note that term extension is widely supported by the creative community in both French and English Canada, in North America through Music Creators North America, and globally by CIAM—the International Council of Music Creators based in Paris, France, which represents some 500,000 professional music creators globally. Beyond the creator community, ratification is supported by the Canadian collectives SOCAN and CMRRA, and also by our publishing partners Music Publishers Canada in English Canada and APEM in Quebec. This is significant in and of itself, and I urge the committee to recognize this unanimity throughout the remainder of its deliberations.

The importance of copyright: Copyright is not an abstraction for us. It is not merely the work product of policy experts or the musings of law professors. It is also not a mechanism to punish consumers. Copyright is quite simply our currency, our lifeblood, our ability to feed our families and to pay our taxes. It is our survival.

The reality: If I may be direct, Canadian creators are under threat. Digital disruption, safe harbours, and overreaching exemptions have all contributed to an environment that can be described only as precarious. In an increasingly global marketplace, the dominance of American-owned streaming companies further exacerbates the problem due to lack of Canadian discoverability and the absence of investment towards the creation of domestic content. The government's recent Yale report, in addition to the EU copyright directive, provides solutions critical to creator sustainability and a much needed return to a more balanced digital marketplace, one that is sustainable for creators in Canada and globally.

Why term extension? Term extension is only one of many problems creators face, but it is one of vital importance. Over 60 nations, including France and the EU, the U.S., Australia and the U.K., have adopted the “life plus seventy” model. Harmonization with our trading partners eliminates market confusion, promotes international investment, and provides critical leadership on the importance of IP protection. Many creators struggle to achieve long-term financial stability. RRSPs and many other financial mechanisms are simply not possible for some members of our community. Term extension increases the worth of our copyrights, as their valuation is often calculated on the amount of time a catalogue may be monetized into the future, therefore increasing our ability to leave meaningful financial legacies to our heirs. One can simply look to the tragic and premature death of Stan Rogers, who left behind a

widow in her twenties and a small child, to grasp the very human and moral implications term extension can have for our music community.

Our publishing partners: For many Canadian creators, music publishers provide important partnerships and sources of career investment. Term extension increases the window of monetization for publishers. This long-term financial predictability for our partners will provide critical support to invest in the careers of creators. This committee has heard arguments that term extension is of benefit to only publishers. This is a serious distortion. It is critical to remember that every dollar a publisher makes is directly tied to a creator's work. We are also beneficiaries. In most cases we music creators receive from 50% to 75% of the revenue generated from the uses of our works. Independent self-published Canadian music creators will often receive 100% of revenues. To omit the creator's involvement from the equation dehumanizes the process, excludes us from the discussion, and minimizes our already undervalued involvement in the value chain.

● (1715)

I'll turn to the burdens of registration. Through our collection societies, our works are already registered accurately and robustly. To add another level of bureaucracy is not only inefficient and wasteful but also onerous and prohibitive to our heirs and publishing partners. Extra layers of registration can only lead to confusion, redundancy and potential abuse.

In conclusion, progressive IP protection is a cornerstone to innovation and creativity. Healthy and fair copyright law promotes stable, sustainable and democratic ecosystems for creators. Currently, Canadian creators are better treated in many other territories than here in our own. Countries that have adopted the life plus 70 standard enable dynamic, cultural communities that benefit consumers and creators alike—without the dire and hyperbolic negative consequences some would mistakenly predict. I urge this committee to recognize the economic, cultural and moral benefits that unencumbered ratification would bring to our community and to the countless many who enjoy and are inspired by our works.

I'd like to thank you, Madam Chair, and the honourable members again for the opportunity to speak directly to creator concerns. I'd be happy to answer any questions.

Thank you.

● (1720)

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

We'll go on to Angella MacEwen, senior economist, national services, the Canadian Union of Public Employees. Welcome to the committee.



**Ms. Angella MacEwen (Senior Economist, National Services, Canadian Union of Public Employees):** Thank you very much.

Thank you for inviting me here to speak on behalf of the Canadian Union of Public Employees, or CUPE. CUPE is the largest union in Canada. We represent over 700,000 workers across the country in about 2,000 different local unions working in diverse sectors for both public and private sector employers.

CUPE welcomes the improvements to the updated NAFTA, but we believe that some flaws remain, ones that create barriers, for example, to effective climate action and for protection of public services. Furthermore, one that we don't think there's enough information about is the language on regulatory co-operation.

In our view, the agreement falls short of a progressive deal. Instead, it could be better thought of as moderate improvements to an outdated and ineffective model of trade and investment treaties.

We do applaud the changes to the intellectual property chapter that House Democrats in the United States were able to negotiate in December. That will avoid projected cost increases to medicines. Under the initial text, we would have been required to extend data protection periods on biologic medicines from the current eight years to 10 years. Those longer data periods extend the time it takes for cheaper generic versions of biologics to be available. That will be helpful when we introduce a universal national pharmacare program, making it more affordable to do that. The IP chapter also allows for domestic regulation of evergreening now, which was a practice where drug companies made small and medically inconsequential changes to medicines to obtain a new patent. The previous version had not allowed regulations to prevent that, but now we will be able to regulate against that practice, which inflates drug prices at no benefit to patients. We're really glad to see those particular changes, as we think that a national pharmacare program is really important.

Labour rights have been strengthened through the new rapid-response mechanism between Canada and Mexico. As you know, if a specific workplace is suspected of violating freedom of association or collective bargaining rights, which are constitutional labour rights in Canada, an independent panel of labour experts can investigate. One gap in this mechanism is that it's restricted in terms of what work it covers. The facilities that are covered don't include agriculture, forestry and fisheries, which are where a lot of labour rights violations involving migrant workers would occur. This rapid-response mechanism basically leaves out migrant workers, even though migrant workers rights are in the full chapter on labour rights.

We're encouraged that the burden of proof for labour and environmental violations has shifted; all violations are now assumed to impact trade and investment unless proven otherwise. What had been shown in United States history is that in including that little clause, you had to prove it was connected to trade violations. That made it virtually impossible to ever meet that burden of proof. Removing that gives the potential for the labour chapter to be enforceable. We'll have to see how that plays out, but it's definitely encouraging. It's a significant improvement over the original NAFTA labour side deal. It includes clear language that commits each country to implement policies that protect workers against wage and em-

ployment discrimination on the basis of sex, including with regard to pregnancy, sexual harassment, sexual orientation, gender identity and caregiving responsibilities, which is really important. This mainstreams a gender lens into the labour chapter.

We're encouraged that the environmental chapter now recognizes the obligations that nations may have from some international environment treaties. We think that what often tends to happen is that we sign these international treaties, but we can't be held to them; they're not as binding as a trade treaty and so a trade treaty always trumps the environmental treaty. If we can include references in our trade treaties to the importance of these environmental treaties or labour treaties that we've signed onto, that would help balance the playing field. It's problematic that the Paris climate agreement is not one of the recognized treaties. That means that NAFTA continues to ignore the threat of climate change and limits government responses to deal with the crisis.

We know that Canada has to act quickly to respond to the climate crisis and that transitioning the economy in a fair and rapid manner will require expanded public services, increased public ownership and revitalized not-for-profit sectors. There would also be benefits to a much stronger role in government regulating the economy and providing direction through green industrial strategies, for example, as Ontario tried to do but was not able to because of trade deal restrictions in procurement.

● (1725)

We definitely think that, for a new generation of trade to transition quickly, we need to look at how trade agreements are putting barriers in place.

The regulatory co-operation chapter locks in Canada's current approach to regulating. It gives multinational industrial interests several entry points into Canada's regulatory system. One of the key issues is the focus on regulating based on scientific evidence. This sounds like it's good but limits your ability to use the precautionary principle, which is what Europe uses in order to regulate health and safety. If you can imagine, make a case for why something could possibly cause harm if you can't regulate it until you've let it out into the marketplace and it has actually caused harm. We think that's problematic.

We think that, overall, our approach toward trade and investment should be to view it as means to enhance our financial and social well-being, not as an end in its own right. We think that proposals for a progressive trade agenda, as we're going forward, should be judged against principles such as human rights—including social, cultural and environmental human rights—and that people's rights and their environmental rights should have primacy over corporate and investor rights. There need to be legally binding obligations on transnational corporations. These treaties should not just be about the rights of transnational corporations; they should also enforce their responsibilities.

Democratic governments need to maintain their policy space to pursue and prioritize acting in the public interest. We're often told that we're able to, but again and again we come up against governments that say they cannot do something because they've signed a trade deal and are restricted. When that is the case, there's a conflict there. A climate friendly approach should be adopted whenever we're pursuing trade and investment. That's absolutely unquestionable from this point forward.

We're also disappointed that there will not be a full and transparent public process of consultations prior to the federal government's ratifying the deal. We recommend that, in the future, the committee's deliberations should be informed by an independent analysis of the deal's impact on our economy. The analysis should look at the critiques of the current CGE model for economic assessment, and it should look at, as was pointed out in the previous section of the panel, what you are comparing it to. Are you comparing it to no NAFTA or to what we had before?

Thank you very much.

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

We will now hear from Mr. Neil from Neil Craig Associates.

**Mr. Garry Neil (Cultural Policy Consultant, Neil Craig Associates):** Thank you very much, Madam Chair. Thank you, honourable members of the committee.

This is at least the fourth time I've had the pleasure of appearing before this committee, following appearances in April 1999, December 2002 and May 2018. I think I appeared a couple of other times earlier in the 1990s, but I can't find a record. Each time I've been here to talk about the cultural exemption, *l'exception culturelle*, to discuss why it is essential to preserve Canada's sovereignty to implement the public policies we need to support Canadian artists; film, television and record producers; publishers of books and magazines; musicians; actors; visual artists; and others who are so vital to nation building.

I want to note that each political party that's with us today has played an important role in ensuring that our cultural policies are more or less exempt from the provisions of our international trade obligations. The original exemption in the Canada-U.S. Free Trade Agreement was negotiated by Brian Mulroney's Conservative government. I served on the arts and culture SAGIT when John Crosbie was trade minister and the FTA became NAFTA.

Successive Liberal governments have continued the exemption and supported Canada's lead role in negotiating the 2005 UNESCO

Convention on the Protection and Promotion of the Diversity of Cultural Expressions.

Quebec played a critical role in negotiating the UNESCO convention, and the Bloc Québécois has been an outspoken advocate of *l'exception culturelle*. The NDP has been a strong supporter of Canadian arts and culture, and the cultural exemption. I also want to note that in the room today is the Honourable Ed Fast. When he was trade minister, the Canada-Korea Free Trade Agreement was negotiated, and it includes the a cultural exemption.

I want to leave the committee with three key messages today. One, the committee should endorse the earliest possible ratification of CUSMA. CUSMA's cultural exemption is far stronger than the original NAFTA and, given the weakness of the cultural provisions in the CPTPP, it's critical for Canada to have an exemption in its most contemporary trade agreement.

Two, please understand the limitations of CUSMA's cultural exemption. It's not perfect. It has an antiquated and problematic definition. It comes with obligations to change policies, and it has other limitations.

Three, this committee needs to address the link between CUSMA and other trade agreements, particularly as we continue to deal with our powerful southern neighbour on cultural matters.

Why is it important to ratify CUSMA? While it surprises many people, the reality is there is no cultural exemption in the original NAFTA. Instead, it incorporates the cultural provisions of the Canada-U.S. FTA by reference. Since CUSFTA was a bottom-up agreement, its scope was narrow. NAFTA is a top-down agreement, meaning it covers every economic sector, including those that develop in the future.

Arguably, the cultural exemption, then, related only to the limited number of economic sectors in CUSFTA, putting at risk more contemporary policies related, for example, to online, on-demand services like Netflix. This significant problem is solved in CUSMA, and I congratulate Steve Verheul and his team for understanding this, because the cultural exemption is direct and comprehensive. Measures adopted or maintained by Canada with respect to a cultural industry are exempt. This includes the chapter on digital trade.

While it's important to ratify CUSMA, please do so fully understanding the limitations of its cultural exemption. In all of our important trade agreements concluded since 1987, we've done the same thing. In theory we have a cultural exemption. In practice we trade away some cultural policies and limit our capacity to implement new ones. This is the case with CUSMA.

The definition of "cultural industries" is unchanged from the original NAFTA. This is a 1987 definition that does not cover visual arts, performing arts and crafts. Most of you around the table are too young to even know what the antiquated term "machine readable form" is, but you'll find it in the definition. Such a definition is unlikely to sustain policies and programs Canadians will need for a medium future artists will use to create their works.

- (1730)

The notwithstanding clause is continued. This is a clause authorizing retaliation of equivalent commercial effect against any measure supporting the cultural industries that Canada should implement in future.

There's a new dispute settlement provision. While it's good that Canada could now challenge a retaliatory measure, the powers of the arbitrator include determining if Canada's measure properly falls under the cultural exemption in the first place.

There is incredibly convoluted and obtuse language in article 32.6.3 that would seem to permit the U.S. to retaliate against Canadian cultural industry firms in a greater amount than the standard of equivalent commercial effect.

CUSMA contains a number of specific broadcasting policy changes. These include a requirement to overturn the CRTC's Super Bowl simultaneous substitution decision. I'd love it if somebody asked me about that, because I could tell you the secret story of the simsub ruling. This is a good thing, by the way. It includes expansion of the rights of U.S. border stations under our retransmission rules, and it guarantees U.S. home shopping services will be carried by Canadian cable, satellite and Internet protocol television distributors.

CUSMA also requires Canada to make changes to the Copyright Act, as you've already heard. Some of these are very positive, as my colleague Greg Johnston has pointed out about the increase in the term of copyright protection, but some of them are a little bit more problematic. For example, while the changes respecting technological protection measures and rights management information are minor, the detailed rules concerning civil and criminal remedies for tampering with digital locks and watermarks are likely to put pressure on Canada's system to implement stronger penalties.

The agreement also allows us to maintain our notice and notice system of liability when an Internet service provider is advised of a copyright infringement, but it establishes the U.S. notice and take-down system as the standard. This too will limit Canada's ability to evolve its own laws.

Finally—and I'd urge my colleague Greg to take a look at this one—there is a new provision in the agreement that requires national treatment, a national treatment obligation for all copyright measures. This will overturn our existing ability to distribute royalties

only to Canadians unless there is a reciprocal right in the partner country, and this will erode payments to Canadian artists. Although it's not a huge amount of money, it will erode some payments.

Given all of these issues and challenges with CUSMA, why am I still recommending urgent ratification? The answer, quite simply, is CPTPP. Put bluntly, that agreement is by far the worst trade deal for culture that Canada has ever negotiated. CPTPP, of course, started life as the trans-Pacific partnership and most TPP terms are included in CPTPP by reference.

TPP's treatment of culture is atrocious. There is no cultural exemption, and the preamble provision recognizing the importance of cultural diversity is simply factually incorrect when it says "that trade and investment can expand opportunities to enrich cultural identity and diversity at home and abroad". I tell you that, left unregulated, trade and cross-border investment bring cultural homogenization and not cultural diversity.

Canada tried weakly to protect cultural policy-making space by taking a reservation against commitments in a number of TPP chapters, but it's critical to understand that a reservation is not an exemption. It's one-way. It's not mutual, and in international trade law it's subject to the principles of standstill and rollback. If you change a policy reserved in an agreement, you cannot make it stronger, only weaker, and it is assumed by all parties that the reservation will eventually be eliminated.

- (1735)

**The Chair:** Could you please close your comments, Mr. Neil?

**Mr. Garry Neil:** Okay.

The reason I'm raising CPTPP as an important issue here is that it's related to CUSMA. We all know it's inevitable that the United States will seek to rejoin CPTPP, and there is another principle in international trade law that Canada must enforce against what will be tremendous pressure from our allies. It says that the latest agreement reached by two parties on any particular topic prevails when there are contradictory rules, because that is their most contemporary understanding of the relevant issues.

With respect to Canadian cultural issues—

**The Chair:** Mr. Neil, I have to cut you off.

**Mr. Garry Neil:** One sentence.

**The Chair:** Go right ahead.

**Mr. Garry Neil:** With respect to Canadian culture, that would be the CPTPP, if we fail to ratify CUSMA. If we move expeditiously to ratify CUSMA, the far stronger culture provisions of CUSMA would prevail.

Thank you.

**The Chair:** Thank you very much, Mr. Neil. I'm sure there will be a lot of questions.

Mr. Carrie.

**Mr. Colin Carrie:** Thank you very much, Madam Chair.

I want to thank all of the witnesses for being here.

I'd like to start today with Mr. McGuire. First of all, I want to thank you, sir, for all of your work and support in making sure that there is an agreement. We on this committee travelled down to the United States a few times, and it was really nice to see the support in the American business community for making sure that we got a deal done.

You made a couple of comments—I want to correct the record a bit—that there may be a delay in passing this. There was a bit of a whisper campaign in Washington that the Conservatives were trying to slow this down. If you're talking to any of your friends down there, just so you know, the Conservatives moved this through the House in six sitting days. That's compared with 16 days for the original implementation legislation, which was our Bill C-100. The Conservatives offered to do a prestudy back in the spring, but the Liberal government declined to do that before the election. We also offered to come back in early in December to deal with it, and the Liberal government declined that offer as well. I just want that to be clear. This will eventually pass, but it's not because of anybody on this side of the table slowing things down.

I want your comment on the buy American clause. Our former prime minister, Mr. Harper, was able to get a Canadian exemption from that. My understanding is that with this agreement, Mexico has an exemption and Canada doesn't.

What are your thoughts on that and what do your members think, given that many of them who buy your equipment build infrastructure, bid on infrastructure? Do you have comments on this buy American clause? We had an opportunity to negotiate it out—this is supposed to be a free trade agreement—but unfortunately we weren't successful.

• (1740)

**Mr. Brian P. McGuire:** Thank you for the opportunity to comment.

AED has traditionally opposed such provisions, whether they arise as part of proposals in the U.S. Congress or as part of trade deals. Our stance on those types of provisions is that we have not been supportive of them, and we continue that opposition. Most of our equipment is multi-sourced, as you might imagine, so such provisions don't foster good business practices in the equipment sector.

**Mr. Colin Carrie:** It was extremely disappointing to many of our stakeholders.

On the panel just before you, we had a gentleman involved in building infrastructure. He was very concerned that because the

government was unable to negotiate it out of this agreement, it could be problematic for him.

Thank you for your comments on that. It's nice to see there are similar thoughts on both sides of the border. We can maybe do something to move that forward.

Mr. Neil, I want to talk to you. First of all, thank you for coming in.

We had another witness—I think you know Professor Michael Geist—who is a leading expert in the world. He's done work not only in Canada, but in the United States and the U.K. He mentioned challenges with CUSMA as well. He had a more, let's just say, grave comment. He said that we have this cultural exemption, but the cost is that we open ourselves to retaliatory tariffs. I believe he cited CUSMA article 32.6.4, which I think you mentioned in your opening remarks. There are some wording issues in 32.6.3 as well. There is a big concern that it would limit our policy options as the digital field evolves.

I am wondering if you could comment on that. I realize that you want this passed, and I understand the rationale for it. From our standpoint on this side, we are certainly not going to do anything to slow it down, but we want to do our due diligence.

In your opinion, sir, is there a fix to this glaring, I would say, failure in this agreement? Opening ourselves up to these retaliatory tariffs or limiting our policy options in the digital field and how it's evolving so quickly are problematic. Do you have a [*Technical difficulty—Editor*]?

**Mr. Garry Neil:** Thank you.

It's interesting, because I know Michael Geist very well. He and I have been on the opposite side of many issues, but I don't really disagree with him on this one.

The question you have to consider is the degree of threat that any retaliation clause represents. NAFTA had a retaliation clause. There was only one case in our history when the U.S. even threatened to retaliate. They didn't retaliate, but the threat was put on the table. That's the only case.

Yes, if they are still able to retaliate, I'm worried about that. I think we should all be worried about that. I would have felt far, far better had it been removed from the agreement, but it wasn't. I think on balance, when you have the strength of the cultural exemption versus the theoretical risk of additional retaliation, which we have never experienced in our history, I think it's work pursuing.

My greater concern is the limitations we've already agreed to and impose. We're kind of narrowing our cultural policy scope as we go through each of these trade agreements.

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

I'm sorry, Mr. Carrie, but your time is up.

Mr. Sarai.

**Mr. Randeep Sarai (Surrey Centre, Lib.):** Thank you, Madam Chair.

I want to thank all of you, obviously. You all come from a range of different fields and have analyzed this.

My first question is for Ms. MacEwen. I want to say that you're very well-informed on this. On behalf of your membership, you made a very broad analysis in a very concise period of time for us.

You've stated that it helps labour rights much more than ever before. I think on biologic drugs it's much better, as you have stated, which will help with future plans for pharmacare. There was some other stuff, I think. I can't quote you on that exactly, but, in terms of pharmacare, it would help, from what you stated.

Have you, your union or other unions like yours been consulted in this much detail with other trade agreements or is this a first? Has it been ongoing?

• (1745)

**Ms. Angella MacEwen:** Before being the economist at CUPE, I was the economist at the Canadian Labour Congress. I definitely was involved in consultations around previous trade agreements under Stephen Harper's government. Those consultations were very much one-way. It would be a webinar. You would try to ask questions, and they would just ignore your questions.

Definitely, during the process for NAFTA, we were able to come to negotiating rounds. We could ask the negotiators questions. The staff took lots of time with us and were willing to meet with us regularly. I just want to say that the labour folks were amazing. They took a lot of time with us and really were great, but so were other people. They were happy to have us challenge their perspective on the trade deal and engage with us in a really productive way, which was valuable. I would definitely hope to see that continue, because there's nothing that mandates it. The political will of the current government allowed it to happen.

**Mr. Randeep Sarai:** I'm glad to hear that. I'm hopeful that all future governments, whether this government or any other future government, always consider labour as an important and integral factor.

Were you able to do, or did you do, an economic analysis for your membership or the Canadian public sector on the ramifications of having a deal, not having a deal, this current deal, etc.? Would you be able to elaborate on that? Would the deal protect the current jobs that are here or perhaps enhance more?

Have you done that sort of analysis?

**Ms. Angella MacEwen:** That's one of the problems with the way that we negotiate trade deals, because you don't know what the changes are going to be until it's kind of.... We didn't know the whole deal until December because the United States made changes to it. It's very difficult to do any kind of economic impact assessment until you have the deal finalized, so we haven't had an opportunity to do that.

What we have had is some projections around the cost of medicines. We know that this will improve, especially compared to what was in the TPP. That's fantastic.

Apparently during the first NAFTA negotiations under Brian Mulroney's government, there was a lot of data that was available to people and shared with the public around modelling and what type of industrial impact that would have. Maybe talk to people who were in government at that time and knew what was very open in terms of the public modelling and allowed that to happen as negotiations were going forward.

We didn't have access to that type of data, but we definitely did our best.

**Mr. Randeep Sarai:** Thank you.

To Mr. Johnston from the Songwriters Association, I understand that your concern is over copyright—namely, copyright life plus 70 years versus copyright life plus 50 years. If I'm right about what I've been hearing, not just in the cultural world but also in other copyright sectors that have come here, it's more of a fear that if ever we were to change it, the Americans may retaliate. However, am I correct in saying that the U.S. has a copyright of life plus 70 years and that, if we were to match them, it would not be of any detriment or threat to them?

**Mr. Greg Johnston:** In fact, us ratifying our copyright term extensions to theirs creates investment opportunities for Canadian publishers to administer the rights on American copyrights for the full term allowed, whereas, as it stands now, you could have a work approaching public domain, which would happen sooner in Canada than in the U.S., and that would be a disadvantage for a Canadian publisher. They would not be able to collect and administer the rights for the same amount of time that a publisher in the U.S. would be able to.

**Mr. Randeep Sarai:** This is something that you could probably have ongoing.... I guess it would fall under ISED. I haven't really delved into this for too long, but it would be something that, even post-ratification of CUSMA, we could continue to do. I don't think the copyright provisions per se are negotiated in this.

• (1750)

**Mr. Greg Johnston:** I'm not a policy expert or a lawyer. I'll defer to Mr. Neil's more precise understanding. In general terms, though, we're looking for ratification, and we're looking for an unencumbered ratification. We don't want there to be a re-registration process after the 50 years. We would simply like to harmonize it with the majority of our trading partners.

**The Chair:** Thank you very much.

Mr. Savard-Tremblay.

[Translation]

**Mr. Simon-Pierre Savard-Tremblay:** I want to thank all the witnesses for their presentations.

I would like to ask Mr. Neil about the cultural exemption. As you said, my party was an outspoken advocate on this front, as was Quebec, because we wanted it recognized by UNESCO and included in the convention.

You said CUSMA is a step forward compared to NAFTA because it mentions the cultural exemption, but there are different ways of including exemptions in agreements. In some cases, such as the Canada-European Union Comprehensive Economic and Trade Agreement, CETA, it was chapter by chapter. That means the cultural exemption applies not to the whole agreement, but only where it is mentioned.

What kind of exemption is in CUSMA?

[English]

**Mr. Garry Neil:** It is a universal exemption. It's an exemption from all of the provisions.

Let me briefly compare it with CETA. The difference with CETA, the difference between CETA and the CPTPP, is that the chapter-by-chapter cultural exemptions were mutual. Both Canada and Europe agreed that cultural industries would be exempt from those obligations. There is an asymmetrical definition—for us it's cultural industries and for Europe it's audiovisual services—but it's a mutual understanding. Those chapter-by-chapter mutual exemptions are underpinned by a strong recognition of our mutual support for the UNESCO convention. It's a very, very powerful way to exempt, but it's unique because it's basing it, in some ways, on the UNESCO convention.

In my opinion, a future progressive trade strategy for culture would be to base it on the UNESCO convention, where both parties are signatories to the convention, as the fundamental underpinning.

[Translation]

**Mr. Simon-Pierre Savard-Tremblay:** Perfect.

Generally speaking, you seem fairly satisfied with the provisions governing culture in the agreement. Is that right?

[English]

**Mr. Garry Neil:** Yes.

[Translation]

**Mr. Simon-Pierre Savard-Tremblay:** Okay.

My next question is for Ms. MacEwen, national services senior economist at the Canadian Union of Public Employees.

You seem equally satisfied with the labour-related parts.

Last week, witnesses told us that most of the labour-related provisions with actual teeth affect only the auto industry and that the rest is merely intention. Do you agree with that criticism?

[English]

**Ms. Angella MacEwen:** Definitely there are parts of the labour chapter that are aspirational, but there are also requirements, especially concerning Mexico and the right to collective bargaining.

Right now, only about 1% of trade unions in Mexico are democratic, independent trade unions. The current government had wanted to make some change on that front, and the labour chapter and

the side agreement with Mexico and the rapid-response mechanism all give them a forum and will help them get that done domestically.

It will make a big difference in terms of bringing democratic trade unions to workers in Mexico, but it also sets a floor and it gives us somewhere to bring complaints about labour violations and hopefully get some changes to happen.

There is more enforcement than there has ever been in a trade agreement.

• (1755)

[Translation]

**Mr. Simon-Pierre Savard-Tremblay:** Those mechanisms apply only to Mexico. You only mentioned Mexico.

Does that apply only to Mexico?

[English]

**Ms. Angella MacEwen:** There is a unique side agreement with Mexico that deals with the what they call “yellow unions”. The rapid response mechanism is between Canada and Mexico, and between the United States and Mexico; it doesn't apply between Canada and the United States. So there are those two parts, where, in terms of Canada's concern, it's just with Mexico.

The labour chapter is trilateral; it's between all three countries. We can bring complaints of labour violations through the labour chapter and we'll have a much better chance of those being successful. The way the burden proof had been, it was impossible to ever win a labour dispute settlement, but we now have the hope that it's possible.

**The Chair:** Thank you very much.

We'll go on to Mr. Blaikie.

**Mr. Daniel Blaikie:** Thank you, Chair; and thank you very much to all the witnesses for appearing here today.

Ms. MacEwen, I want to go back to some of your comments about consultation. Granted, we have heard that a number of organizations typically are not satisfied with the level of consultation, more than those that feel they were more included. However, as you say, that depends upon the political culture of the day and the whims of government. It's always nice when winds tend in the right direction, but it's not the same as a guarantee.

It's something that we, in the NDP, have tried to make part of this process of talking about trade. We're happy to get some commitments from the government on making at least their initial negotiating objectives public before entering into negotiation, and having to provide an economic impact assessment—which seems like an odd victory, because you'd think it was common sense. Certainly, in a lot of other jurisdictions with which we trade, it is part of their process. We have that coming now in Canada. It's a good first step.

Could you speak a bit more about the importance of civic engagement and what it means to have, as matter of policy or law, clear expectations about what type of information Canadians can expect to get from their government with respect to trade agreement negotiation, and the difference that can make?

**Ms. Angella MacEwen:** This is a difficult issue. The United States has a much more transparent process that includes legislators. Canada doesn't have that. There's also a process in the United States whereby lobbyists, or people who want to be included in the consultation process, can get clearance to have information that the negotiators have but that isn't public. They can sign for it and then provide advice on how that might impact their particular area of expertise. Those are useful things that we might draw from the United States. I think it's an excellent move on the part of progressive trade to have more transparency, especially to include legislators early on. I think more transparency is useful.

We found that people who have the resources and the knowledge to be able to attend these meetings were able to go, and so you're less likely to hear from, say, anti-poverty groups than you are from the Cattlemen's Association. You often have negotiators surrounded by the more powerful interests and they're less likely to hear from less powerful interests. It's unbalanced in that sense. Canada and the United States especially have such an integrated economy that the dividing line isn't always on national grounds. The industry on both sides of the border can be on the same side.

It's between the public interest and corporate interest, and so the way the consultations are structured doesn't provide a balance to that effectively, as does not having an independent economic analysis. An economic analysis is useful. An independent one would be better because they would be using better choices. Right now you can make a lot of assumptions in a CGE model. If you make a few different assumptions, you'll end up with 3% growth instead of 2% growth. You want those choices to be made based on the best information available, not your political outcomes. You may want the Parliamentary Budget Officer making those assumptions.

I think that's useful for transparency and for the public debate because often people cater to the top line, so it's going to affect dairy farmers or trade across the border, slowing down lines at customs. It will have a significant impact on their lives, but we won't know until after it's been signed and is already affecting us.

• (1800)

**Mr. Daniel Blaikie:** Right on. Thank you very much.

Do I have a little more time left?

**The Chair:** Yes, you still have a minute and a half.

**Mr. Daniel Blaikie:** We had another witness—I think it might have been the CCPA—who said that if we wanted to leverage the most possible out of the state-to-state dispute resolution mechanism, it was important to have a domestic process that essentially allows intervenors to make a case there's a good reason to pursue one of our trading partners under CUSMA. That would be an independent process and if there were a finding that there was cause to pursue this, then there would be an obligation or resources to be able to do that so that it's not just up to government or to the people with the resources to pressure government to take on their cause.

Do you have an opinion on that kind of mechanism and would other aspects of the deal be assisted by having that kind of domestic process?

**Ms. Angella MacEwen:** Yes, that domestic process definitely needs to be strengthened. In many trade deals or under the OECD rules, we have a national contact point where they can offer good offices. If there's a disagreement, they can say they'll provide a neutral place to meet. However, there's no power of investigation; there's no mandate for them to take it on. When I was at the CLC, we brought forward a complaint under the labour chapter between Canada and Colombia. The labour department investigated. They took it on and produced a fantastic report, but nothing mandated them to do that.

**The Chair:** Thank you very much.

**Ms. Angella MacEwen:** Because of the goodwill, it happened, but....

**The Chair:** Thank you.

We'll move on to Mr. Fast.

**Hon. Ed Fast:** Thank you, Madam Chair.

I want to follow up on Mr. Blaikie's question about process.

Mr. McGuire, do you recall when United States legislators, members of the House, received the economic impact assessment that was done with respect to this agreement?

**Mr. Brian P. McGuire:** No, I do not. I wouldn't be able to comment on that. I'd have to get back to you.

**Hon. Ed Fast:** If I said that it was in April 2019 and that it was actually published publicly online in April of 2019, would that sound right?

**Mr. Brian P. McGuire:** I would trust your statement on that.

**Hon. Ed Fast:** That's where the process question comes in. The impact assessment was done for American legislators many, many months ago, before the House of Representatives actually had to vote. In fact, the House of Representatives demanded changes to the agreement, got changes to the agreement—presumably based on their reading of not only of the agreement but also the economic impact assessment—and then the matter was in Canada's hands to ratify.

Are you aware that this is our last meeting to discuss this agreement here at committee before we go to clause by clause?

**Mr. Brian P. McGuire:** That is my understanding.

**Hon. Ed Fast:** Are you aware that the department's economic impact assessment was table-dropped today for parliamentarians to review?

**Mr. Brian P. McGuire:** Again, I would trust your statement on that.

**Hon. Ed Fast:** Well, you understand that the process on the two sides of the border is quite different. The one on the American side clearly provided decision-makers in the United States with an opportunity to look at the agreement, look at the impact assessment, suggest additional amendments, and then ratify it. Now it's placed in our care, and we have no opportunity, quite frankly, to make further amendments. You yourself said that you're encouraging urgency; you're encouraging us to act promptly.

Now, as my colleague, Mr. Carrie, said, we want to deal with this in a respectful but deliberate way, and do our due diligence to make sure that this agreement is actually in Canada's interest. I think your organization straddles the border. It has members on both sides of the border, correct?

• (1805)

**Mr. Brian P. McGuire:** That is correct.

**Hon. Ed Fast:** I want to assure you that we are not in any way attempting to delay this agreement, but we are going to do our due diligence to the degree we're able to, based on our process here in Canada. I will tell you that, quite frankly, I'm very disappointed that it is only now, just before midnight, that we actually get the economic impact assessment from the federal government. It's shameful.

I'd like to now go to a question for Mr. Johnston, and perhaps Mr. Neil.

Michael Geist's name was mentioned, and Mr. Johnston, you have praised the extension of the copyright term from life plus 50 to life plus 70. As you probably know, Michael Geist might have a little different opinion from yours. He has said that this will be costly for Canadians, with little discernible benefit. I believe there was a Department of Industry report done a number of years ago to the same effect. The conclusion was that, ultimately, this will cost consumers more, as additional royalties are mostly sent out of country.

I'd love to have a fairly quick response from both of you, if you would.

**Mr. Garry Neil:** I will go first.

I want to underline that copyright is about the rights of artists. It's about the rights of the individuals who create the works that are then exploited economically by others. Any increased protection of the rights of those who create those works is positive.

There is an economic imbalance between artists on the one hand and cultural producers on the other hand. There's a solution to that, too, which would be to limit the ability of artists to sign away their copyright, but at the moment we don't have such a mechanism, and because of that economic imbalance, sometimes artists are forced to do it. Still, our copyright is fundamentally about the rights of artists, and additional royalties are fundamentally flowing to the creators of the artistic works.

**The Chair:** Mr. Johnston, please give a short response, if possible.

**Mr. Greg Johnston:** I would agree with the statements of Mr. Neil. Sometimes I feel, when Dr. Geist says it's a cost to consumers, that somehow creators are supposed to bear all of the costs

for consumers and are responsible for making sure that consumers don't spend more. That seems a little bit out of our wheelhouse. It is our right, and we deserve to be remunerated for it under copyright law.

**The Chair:** Okay, thank you very much Mr. Johnston.

We will move on to Mr. Dhaliwal.

**Mr. Sukh Dhaliwal:** Thank you, Madam Chair.

I thank the presenters for their input on this.

My question is for Ms. MacEwen.

When Mr. Harper was in the House, I noticed that the approach was always either Mr. Harper's way or the highway.

I would like to get a little more clarity. What you saw previously under Mr. Harper when all of these agreements were negotiated was that there was zero input from your fellows, that they didn't include you at all.

**Ms. Angella MacEwen:** They would have calls, but there would be very little information in the call. It would be after the round, and there really would be no opportunity to give input until after the parliamentary process had happened.

The process still hasn't changed to allow input earlier on.

**Mr. Sukh Dhaliwal:** When you were dealing with this CUSMA situation particularly, how did you feel? Were you included? Was the government proactive, or did you have to call for it? That's what I want to know.

**Ms. Angella MacEwen:** Absolutely, the government—the public servants who were responsible for setting negotiating priorities and doing negotiations—reached out and met with labour as a group. They met with civil society as a group. Then they said that if you wanted to reach out with regard to a particular topic, if you have questions about the services chapter or the regulatory co-operation chapter, you could ask to meet with specific negotiators. They were very generous with their time.

**Mr. Sukh Dhaliwal:** So, you met with any of the negotiators.

• (1810)

**Ms. Angella MacEwen:** Whomever we wanted to meet with—

**Mr. Sukh Dhaliwal:** You got your....

**Ms. Angella MacEwen:** —we got to meet.

**Mr. Sukh Dhaliwal:** So, you were happy. Do you think more progress can be made in the future?

**Ms. Angella MacEwen:** Absolutely. There can be more progress in terms of making that process mandatory so that it's not a one-off, including legislators, and making the impact assessment earlier on.



As for the United States, it's actually in their fast-track legislation; there are timelines for when the impact assessment has to be delivered to Congress. As it is now, we were included in the discussion, so that ended up getting us a better deal than we could have gotten otherwise. The labour chapter in particular was much improved by discussions with labour groups. However, we can't make any changes now. It's too late.

**Mr. Sukh Dhaliwal:** It's done now. The CUSMA—

**Ms. Angella MacEwen:** But there was no opportunity between the signing of the deal and its ratification to give any more feedback, as happened in the U.S.

**Mr. Sukh Dhaliwal:** Okay.

**Ms. Angella MacEwen:** That's just the difference in our process.

**Mr. Sukh Dhaliwal:** Overall, do you think it's a win-win situation for workers and not just, as it's always been, for businesses?

**Ms. Angella MacEwen:** No. I think it's still a failed trade model that doesn't benefit workers. It benefits the most powerful and hurts the least powerful. There is no distributional impact here on how this trade deal will affect people who have a lot of money and power versus people who don't.

However, as trade deals go, we were met with and listened to, and there were changes made based on our input, which was nice.

**Mr. Sukh Dhaliwal:** I'm glad to hear that.

Do I still have time? Okay.

My next question is for the Associated Equipment Distributors.

Mr. McGuire, is this agreement only going to help the equipment manufacturers in the U.S., or is it equally going to help the equipment manufacturers in Canada?

**Mr. Brian P. McGuire:** We believe that the agreement helps both distributors and manufacturers in both countries.

**Mr. Sukh Dhaliwal:** Yesterday, there were equipment manufacturers from Saskatchewan who came in. They were saying that there are certain new requirements that the U.S. brought forward that are going to negatively affect their manufacturing. Are you aware of situations like that?

**Mr. Brian P. McGuire:** I'm not personally aware of a situation like that. I'd have to research that.

I can tell you that our members have not indicated that, from the equipment standpoint on the manufacturing or the distribution side.

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

We'll go on to Mr. Kram.

**Mr. Michael Kram:** Thank you, Madam Chair.

Ms. MacEwen, you spoke of the importance of an independent analysis of trade agreements. I very much agree with that statement. There was an independent analysis by the C.D. Howe Institute that was released last week. They had a few conclusions in that analysis. They said that, as a result of the new NAFTA agreement, Canada's GDP would go down by \$14.2 billion. Exports to the United States from Canada would go down by \$3.2 billion, and imports to Canada from the United States will go up by \$8.6 billion. When we got the economic impact assessment from the govern-

ment earlier today, it said that the agreement was fantastic, because all the numbers were going up. The reason for that is the businesses' usual case in the government's assessment was not the old NAFTA agreement, but having no free trade agreement at all with the United States or Mexico.

Given the importance of this information, I'm wondering what can be done to ensure that CUPE members and civil servants in general can always provide important, accurate, honest information to both politicians and to the public as a whole?

**Ms. Angella MacEwen:** That's a very good question.

I think it's good that there is the C.D. Howe estimate so that we can compare that with the government estimate and show what the different assumptions were. Often, whenever you're doing economic analysis, it really depends what your assumptions were. You're going to get very different answers. Just having one headline is often not useful to having an honest understanding of what the impact of the deal would be. Making the data available and transparent as to how they arrived at their decision—making the model they used publicly available and allowing others to run the model—might be something to do.

I think moving it to the parliamentary budget office or something like that would also be helpful in improving that transparency. I don't think we want to rely on the C.D. Howe Institute or other groups to have to do that every time. I do think it's useful that they did. I'm glad they did, because it highlights that the choices you make in your modelling really matter.

• (1815)

**Mr. Michael Kram:** We also heard earlier today that the high-level economic analyses of this new NAFTA have been going on since at least September 2017. What can be done to ensure that even this high-level analysis can be released to the public and to politicians earlier than it has been? Preferably it would be earlier than today, as was the case.

**Ms. Angella MacEwen:** Absolutely. In the U.S., it was released over a year ago, I think. Having that information available to the public and allowing people to make that... I understand that is what happened under the original NAFTA. Information was made public and people understood and had the data available that they needed to be able to model differences. For example, if we did what we did on autos, which made a big difference, and you could model how that's going to play out, it really matters what behavioural assumptions you've made in something like that.

I understand that with trade deals there is often secrecy, but having the models out there in the public domain and having the data you need to run your own simulations of it would be quite useful.

**Mr. Michael Kram:** Okay. Thank you so much.

That's all, Madam Chair.

**The Chair:** You have 40 seconds, Mr. Kram.

**Mr. Michael Kram:** Okay, I can't resist. Mr. Neil, could you tell us the story of the Super Bowl commercials?

**Mr. Garry Neil:** Thank you.

CTV paid a lot of money for the rights to broadcast the Super Bowl. They did so on the basis of the policy that said they could substitute.... Any Canadian watching it would have to see their commercials. The economic value to CTV was quite high. Some Canadians have complained about that, but the reality today is that you can watch all of the Super Bowl commercials online before the Super Bowl happens. CTV has to spend 30% of the money it earns from those commercials on Canadian programs. That's a lot of money. Ten percent of that money.... If they make \$100 million, they have to spend \$10 million on drama and scripted comedy.

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

**Mr. Garry Neil:** A good portion of the money goes to Canadian programming.

Thank you.

**The Chair:** Thank you.

On to Ms. Bendayan.

**Ms. Rachel Bendayan:** Thank you.

My questions will start with Ms. MacEwen.

I heard you mention earlier in your testimony that you were with the Canadian Labour Congress. What position did you hold with the Canadian Labour Congress?

**Ms. Angella MacEwen:** I was the senior economist there as well.

**Ms. Rachel Bendayan:** You were the senior economist.

How long have you been an economist?

**Ms. Angella MacEwen:** I graduated in 2007.

**Ms. Rachel Bendayan:** As senior economist at the Canadian Labour Congress, you also had experience with other trade deals.

**Ms. Angella MacEwen:** Yes.

**Ms. Rachel Bendayan:** Currently you are chief economist for the Canadian Union of Public Employees, is that right?

**Ms. Angella MacEwen:** Yes.

**Ms. Rachel Bendayan:** How many people, or how many employees, do you have?

**Ms. Angella MacEwen:** CUPE represents 700,000 workers across Canada. I work for the national office here in Ottawa. I think the national office includes about 600 people who work for the national union.

**Ms. Rachel Bendayan:** You mentioned early on, in answer to a previous question, that it is very difficult to make an economic assessment until the deal is done.

Can you explain that further?

**Ms. Angella MacEwen:** There are regulatory changes around intellectual property, cultural protection, or extension of copyright that will have an economic impact.

The past three deals were mostly about tariffs, so you could model what a 1% change to different tariffs would mean, and that was more straightforward. Now, however, we've mostly eliminated tariffs, and our trade and investment treaties are about more abstract things. The specific wording in the deal really affects what its impact will be.

You have to analyze that specific wording and then interpret it to set the assumptions that you're making in your model.

• (1820)

**Ms. Rachel Bendayan:** In your opinion, you would have to wait until after, for example in the case of CUSMA, the changes made at the end of December....

**Ms. Angella MacEwen:** What you could have done with CUSMA is have an internal economic analysis of what you're negotiating priorities were. This could help to form your negotiating priorities. What do we want to get out this? Then, once you have your initial drafts, you would run the numbers again. At that point, you would use that information to determine if you wanted to make any further changes, or if you needed to. If you were to see that this was actually having an unexpected negative impact on the cultural industries in Quebec, for example, and it was a bigger driver than you had thought when you were negotiating, then you would put a bigger priority on making sure that you changed that language.

**Ms. Rachel Bendayan:** Absolutely. I agree with you on the negotiating position and your objective, but when you're dealing with a trade agreement as complex as CUSMA in a political context where you don't know where those negotiations might take you, you agree that, as you said, you would wait until the deal was done to perform any economic assessment.

**Ms. Angella MacEwen:** To do any economic assessment, no; but to have the final economic assessment, yes.

**Ms. Rachel Bendayan:** Thank you.

My next question is for Mr. Neil.

Mr. Neil, you did mention that the cultural exemption in CUSMA is a lot stronger than that found under the original NAFTA. I wonder if you could expand on that a little bit in the short time we have left.

**Mr. Garry Neil:** The problem with the cultural exemption in the original NAFTA was that it was simply incorporating into the terms of NAFTA the cultural exemption from the Canada-U.S. Free Trade Agreement.

The scope of that exemption was taken from the Canada-U.S. Free Trade Agreement and it was narrow. It was limited to those elements that the FTA covered. There was a giant hole that could easily have been exploited. There were a couple of cases over the years where that became evident. This cultural exemption is clear, direct, and comprehensive. It says cultural industries are exempt from the terms of this agreement, period.

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

A sincere thank you to all of our witnesses; again, always very informative.

I will suspend for a few moments until the next panel can set up.

• (1820)

(Pause)

• (1835)

**The Chair:** I call the meeting to order. Pursuant to order of reference of Thursday, February 6, 2020, we are studying Bill C-4, an act to implement the agreement between Canada, the United States of America and the United Mexican States.

To our panel of witnesses, welcome to all of you this evening. Thank you for coming. I guess I could ask what the weather's like outside because most of us have been inside, but at least you managed to make it, no matter how much snow is out there. We appreciate your being here.

From the Centre for International Governance Innovation, we have Bob Fay, director, global economy; from Kalesnikoff Lumber Co. Ltd., Ken Kalesnikoff, chief executive officer; from Woodtone Industries, Kevin Young, chief executive officer, and Francis Schiller, adviser.

By video conference from Guelph, Ontario, we have Linda Hasenfratz, chief executive officer for Linamar Corporation, and from Vancouver, British Columbia, via video conference, Andy Rielly from Rielly Lumber Inc.

Welcome to all of you. We appreciate your being here.

Mr. Fay, I will turn it over to you for five minutes of comments.

**Mr. Bob Fay (Director, Global Economy Research and Policy, Centre for International Governance Innovation):** Thank you very much.

Good evening, and thank you, Madam Chair and committee members, for the opportunity to present the views of the Centre for International Governance Innovation.

By way of introduction, we go by "CIGI". We're an independent, non-partisan global governance think tank based in Waterloo, Ontario, and we conduct policy-relevant research exploring global economics, security, politics and international law, with a focus on digital economy issues. Given this background, my comments will relate to Bill C-4 and data and intellectual property.

Canada has focused substantial resources and effort on new trade deals to reinforce the rules of the game in international trade, and rightly so. Trade is at the heart of our prosperity. New trade agreements are necessary to open up new markets and preserve old ones, and revised rules are necessary as economies change and to minimize trade frictions.

We fully understand that trade-offs were necessary in negotiations of CUSMA and that hard choices had to be made. We believe that the ratification of this agreement will remove some of the trade uncertainty that has dampened economic growth, and my remarks are not designed to hold up ratification.

Rather, my objective tonight is to highlight how commitments made in CUSMA related to data and intellectual property may in-

hibit Canada's ability both to innovate and to develop our own domestic policies. Then I'll offer some suggestions on the way forward.

In particular, CUSMA fails to consider the implications of how the nature of trade is changing, moving away from scale and cost efficiencies to, first, intellectual property creation; second, the rise of big data as an economic and social asset; and, third, the resulting imperative of asset protection.

What Canada agrees to in these areas has very wide-ranging repercussions for Canada in many forward-looking areas, including our ability to harness data in new technologies such as artificial intelligence, as well as fundamental domestic policies related to privacy, security, intellectual property, foreign direct investment, competition and innovation.

Yes, that list is long, and it touches upon all aspects of our economy, and indeed our daily lives, yet we are dealing with these issues currently largely through a trade lens, via a trade agreement that is dominated by U.S. interests. I would also note that the recent mandate letters charge the ministers for ISED, Heritage and Justice with the main task of coordinating new digital and data rights, which recognizes that there are substantial societal issues related to the use and monetization of personal data.

Indeed, data is an extremely valuable resource. Statistics Canada—and very good for them—has placed the value of Canadian data at over \$200 billion, which is about two-thirds of the value of our oil assets. This number is extremely large, but it pales in comparison with other countries, namely, the United States. For example, the market cap of U.S.-based Facebook, Amazon, Netflix and Google is about \$4 trillion U.S., and that high valuation results from their monopoly positions and huge data stores.

Further, these companies are cementing their market positions each and every minute with their continued acquisition of all varieties of data through user engagement with their platforms and fierce protection of their assets by a combination of the de facto rule-setting in the absence of national regulations; trade deals that enshrine open data flows; strong intellectual property protection of their data and AI assets; takeovers of innovative firms through their vast reserves of cash; the acquisition of top talent; and, the powerful information asymmetries that they gain with their data and their technologies.

The bottom line is that the data is their intellectual property, and their interests are behind the digital chapter in CUSMA.

We have three examples of some of the commitments in that trade agreement that favour them.

The first is the treatment of data localization. This part of the agreement is short and not so sweet. It says, “No Party shall require a covered person to use or locate computing facilities in that Party's territory as a condition for conducting business in that territory.” From a commercial perspective, that makes a lot of sense, but this is problematic for many non-economic dimensions. For example, if we took the smart city partnership in Toronto that's proceeding right now with Sidewalk Labs, which is a subsidiary of Alphabet, Canadians may well desire that their detailed data that will result from that city remain in Canada and not be transferred to the U.S., but Canada may be limited in its ability to do so.

• (1840)

Second, under CUSMA, localization is permitted if organizations collect, hold or process that information when those activities are undertaken for or on behalf of a government. However, for national security reasons, if the data were held by a private organization, then CUSMA would technically require the government to allow those data to be released to the other two partner countries.

Third, CUSMA contains a safe harbour provision to liberate digital platforms from responsibility for the content that they carry. On the one hand, free speech advocates see this as desirable. On the other, some see the weaponization of platforms like Facebook and YouTube during recent votes such as the 2016 U.S. presidential election as indications of the unwillingness and/or the inability of the digital platforms or governments to regulate content. This is a trade issue because the platforms' business model is supported via massive cross-border data flows.

In summary, it is not clear how much policy flexibility CUSMA will ultimately allow the federal or provincial governments in adopting new laws and regulations to achieve objectives like those to protect people's privacy, prevent algorithmic bias, protect critical infrastructure, ensure national security or promote domestic innovation.

Let me now conclude with three recommendations on the way forward. First, trade negotiators need to be more fully briefed on the wide-ranging implications of the data-driven economy and the implications arising from existing digital measures in CUSMA and those that could arise going forward with the negotiations that are about to begin at the WTO on e-commerce. We need to be mindful that there are vested interests pervasive in the digital realm and that regional trade agreements are an entry point to manage policy space for areas that go well beyond digital trade.

Second, we need new international rules of the game for trade, for foreign direct investment and for intellectual property. As part of this, what Canada could do is push for the creation of a new global organization to set international governance in these areas. Drawing on the experience of the Financial Stability Board that was created in the aftermath of the financial crisis, we have put out a proposal to create a digital stability board. Such an organization would develop standards, regulations and policies across the many realms that digital platforms touch; advise on policy actions needed to address vulnerabilities in a timely manner; and ensure that this work feeds into other international organizations such as the WTO.

Finally, we should use the six-year review built into CUSMA to rectify some of these issues that I have outlined.

Thank you for your time and attention, and I look forward to any questions you may have.

• (1845)

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

Now we'll go on to Mr. Kalesnikoff, chief executive officer. Please go ahead, sir.

**Mr. Ken Kalesnikoff (Chief Executive Officer, Kalesnikoff Lumber Co. Ltd.):** Thank you very much.

Wow. My presentation is going to be a little simpler, and I think my friend Andy Rielly made a good choice of staying at home in B.C., because I'm probably going to be trapped here until spring by the sounds of what's going on outside. Anyway, thank you for your time.

I was asked to present here from a common sense point of view as somebody who is on the ground and experiences the softwood lumber agreement. I will tell you now that I am not a NAFTA expert or a USMCA expert—which is apparently what we're going to be calling it.

Kalesnikoff Lumber started in 1939 with three brothers: my uncle Koozma—CUSMA, so you confused me right out of the gate—Sam and Pete.

We grew from a horse logging operation of about eight people to 150 people currently, and are heading for 200. I'm the third generation in our business. My two children are very engaged, which is very unusual—they're really keeping the old man in line—and they are our fourth generation. We're located in Thrums, B.C., between Castlegar and Nelson in the West Kootenays; and we're about an hour from the U.S. border.

Who are we? Through our innovation, we care for the environment, the communities, our employees, and that is a focus for us in everything we do. We are always looking for the next opportunity. Our experience in the forest industry and our ability to be nimble and continue to uphold our positive reputation as wood experts have allowed us not only to survive, but also thrive and grow through industry changes and to be where we are today.

Value added is a big piece for me. That's always been important. We've always been about adding as much value as we can to every log that comes into our hands. We make decisions based on maximizing the value from that log depending on its best end-use in the particular wood, our customers, our employees and even our communities. I believe that adding value also creates a diverse, much-needed forest industry.

We reinvest. In 1987, we started by spending \$5 million on a small log line, and in 2000 spent \$3 million on our remanufacturing facility called Kootenay Innovative Wood. In 2005, we put an end matcher in that cost us \$800,000. We upgraded the sawmill in 2012 to the tune of \$20 million. In 2014, we upgraded the planer for \$6 million, and we have just recently announced our adventure into the mass timber industry—\$35-million greenfield project is happening now in the Castlegar area.

We have been successfully growing our business from a horse logging operation and, as I said, we're now investing into that \$35-million dollar world-class mass timber facility. We did this with only 15% to 20% of our timber under tenure. We buy over 80% of our logs on the open market.

A big advantage for our getting into mass timber is just our experience with value-added specialty manufacturing, our pre-existing relationships, and our understanding of what it takes to go up the value chain.

There are drawbacks to the softwood lumber agreement. Over the years, the softwood lumber agreements have unfairly penalized the value-added specialty manufacturing sector. I'll give you an example. There was an opportunity for us in 2006, I believe. It was when Mr. Emerson was negotiating the deal. We had just spent \$800,000 on an end-matching system—that was the upgrade to enable us to do end-matched softwood flooring, which would then go into panelling and siding as far as end matching was concerned. There was a rule that if the product was end-matched all the way around the piece—in other words, both sides and the end—that it would be exempt. Well, that got negotiated away, and I don't even know that he realized what he had done in the stroke of a pen.

But that affected us. We didn't even turn that machine on and we lost that advantage. It affected Huscroft in Creston, Wynndel Box in Creston and Gorman Bros. in Westbank. We all had those types of machines being installed.

Earlier this year, because of the softwood lumber agreement and the 20-point-whatever per cent duty, we had to make a really difficult decision and shut the remanufacturing plant down because we couldn't afford to make products that were going into the U.S. with a 20%-plus duty on them. Now, our people, because of our moving into the mass timber side, have all been utilized. So, nobody lost a job, but it's causing us a major amount of grief. We also have had customers for 20, 30 or 50 years that we are not able to do business with because of that hurdle.

● (1850)

Because we're a smaller operator, we're more nimble and are able to develop niche products, especially products for customers' needs. That's what we focus on, and the softwood lumber agreement is getting in the way of that all the time.

What's next? To be successful in business, we need a predictable and supportive environment. This is an area where I really believe government can help. We also need open and free access to the markets. Companies such as ours have a track record of being committed to their people and community and don't shut down when things get tough, never mind shutting down permanently. Small, independent companies such as ours are much more nimble and we create more value, far beyond the two-by-four. We just need the right log to make the right product, and access to an open market. In our case, that means taking a high-value log and creating more jobs per cubic metre and more economic payback per cubic metre, instead of focusing on volume. However, again, the softwood lumber agreement does get in the way.

I do not know whether there's an opportunity to have the softwood lumber agreement encapsulated in the NAFTA agreement. It's probably much too late. However, it would have been very beneficial to have something such as that happen to stabilize the industry, especially for the smaller, independent manufacturers, because we are the ones that are getting hit really hard by this type of penalty.

Thank you very much.

**The Chair:** Thank you, sir.

We'll go on to Linda Hasenfratz, from Guelph, Ontario. Welcome.

**Ms. Linda Hasenfratz (Chief Executive Officer, Linamar Corporation):** Good evening, and thank you very much for the invitation to take part in your consultations.

I'll say a few words about Linamar. Linamar is a diversified advanced manufacturing company of about 70% in auto parts, and 30% in a variety of industrial products such as access equipment, harvesting equipment, commercial vehicle parts and energy components. Our sales are around \$7.5 billion. In nine of the last 10 years, we have grown the top and bottom line at Linamar in double digits. We have—

● (1855)

**The Chair:** Just hold on a second. We've lost our audio. Our technicians will work it out between them.

I will go on to Mr. Rielly.

**Mr. Andy Rielly (President and Owner, Rielly Lumber Inc.):** Thank you very much for the opportunity to address this committee.

My name is Andy Rielly. I am the president and owner of Rielly Lumber. We're located in West Vancouver, B.C. Our manufacturing plant is in Chilliwack, B.C. In the interest of contributing to an informed discussion about the USMCA, I will give you a quick overview of our company and the nature of our company's business, the effects of the current trade dispute with the United States over softwood lumber, and why the USMCA is important to our company and the future of our sector.

First, Rielly Lumber was founded in 1995 as a manufacturer of western red cedar components and finished products. Our early mission was to make the products that the big sawmills did not want to make or could not make. We do not harvest logs, we do not cut logs and we do not hold Crown tenure. We buy western red cedar lumber and then manufacture finished products.

The U.S. is the biggest market, by far, for our products. In 1996 until 2001, the U.S. and Canada entered a softwood lumber agreement that was based on a quota system, which meant that Canadian companies were awarded quota to ship to the U.S. market based on their previous five-year shipping volumes. Having started just one year earlier, Rielly Lumber did not get any quota to ship into the United States, so we did not have access to our main market. Over the next five years, we figured out how to get quota so that we could ship to the U.S. We continued to grow our business, all the time dedicated to manufacturing and to employing people in British Columbia.

From 2001 to 2006, like all Canadian companies we paid punitive duties on our finished products shipping into the U.S. in the next lumber dispute, which we called "Lumber IV". That lumber dispute was solved only after many WTO, and particularly many NAFTA, legal victories by Canada. In late 2006 the new softwood lumber agreement brought a 10-year period that was pretty much duty-free for high-value products. There was no major prohibition to shipping into the United States. As well, in that agreement every Canadian company had a return of over 90% of the duty deposits they'd made for the previous five years. At that time, Rielly Lumber decided to invest the duty deposits returned to us into manufacturing facilities, equipment and creating jobs in British Columbia.

The next 10 years were pretty good. We grew our business. Things were going along well until the current trade dispute, which we called "Lumber V", occurred in April 2007. Again, punitive 27% duties were levied on the selling price of our products. There was the threat of retroactive duties against products that we had shipped previously to when the actual duties came in, with an increased scope of the products. We all thought to ourselves, "Here we go again." This time, however, the lumber dispute was different, as in worse than Lumber IV. Adding 27% duty to an all-time high price of cedar products resulted in our customers substituting with other products and other species at an astounding rate. New bonding requirements, which were required by U.S. Customs, required large cash deposits by small and medium-sized companies. This was in addition to remitting, every Friday, the duties they had incurred the previous week. Most small and medium-sized companies in Canada cannot continue to post both the deposits on a regular basis and the bond cash requirement.

Another aspect of this dispute is that many major companies in Canada have made huge investments in the United States, trans-

planting a lot of Canadian investments and jobs to the U.S. side of the duty wall. As Ken Kalesnikoff just said, in order to get behind the duty wall, many value-added companies are relocating to the U.S. side of the border to do their manufacturing. I'll give you an idea of the effect on our company. Rielly Lumber sales in 2019 were roughly 62% of what they were in 2016. Employment in our plant went from 41 to 23. This is an alarming trend for secondary value-added companies across British Columbia and Canada.

I'll turn now to why the USMCA is important to our company. As you know, most softwood lumber in the first NAFTA agreement was not covered by that. It is not covered in the new USMCA. The most important part of the new USMCA, which is vital to us, is the dispute resolution mechanism, previously known as chapter 19.

• (1900)

In this more challenging diplomatic environment, small independent companies need enforceable rules to protect their interests. Short of reciprocal duties on goods entering our country, which are not likely, Canada will only get negotiating leverage in Lumber V from continued [*Technical difficulty—Editor*] NAFTA and USMCA legal victories. We have to remember that large companies have made huge investments in the United States, and they're not in any hurry to pressure our provincial governments to solve the current dispute. Hundreds of small and medium-sized Canadian companies are in danger of failing unless we have this dispute resolution system and can manage to make it work faster.

New jobs in the forest industry are not going to come from the primary sector. They're only going to come from doing more work in it and adding more value to the resources that we have here.

I can state that my main reason for supporting the USMCA is that Rielly Lumber is a Canadian company. We want to continue to manufacture in Canada, and we have no intention of relocating to the far side of the border [*Technical difficulty—Editor*]. The dispute resolution system is vital to our company, but if we can get another softwood lumber agreement going forward, that would protect the independent companies.

In closing, I would say that the value-added sector is something that I've been involved in and where I've worked for the last 35 years. It's been good to me and it's been good to our family. I think it's worth fighting for and I hope you agree.

Thank you for listening.

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

We'll go back to Ms. Hasenfratz to see if we have the system working.

Okay, Ms. Hasenfratz, go ahead.

**Ms. Linda Hasenfratz:** Good evening, and thank you.

First, I'll say a few words about Linamar.

Linamar is a diverse advanced manufacturing company. We are about 70% in auto parts, and about 30% in a variety of industrial equipment, such as access equipment and harvesting equipment, as well as commercial vehicle parts and energy components. We have \$7.5 billion in sales. We have 27,000 employees globally. We manufacture in 61 facilities in 11 countries. About 40% of our plants and about 11,000 of our employees are in Canada.

Turning to trade, I believe that an area that is critically important to our prosperity and global competitiveness as a country is free trade agreements. I think it is absolutely critical for us not to lose momentum in this key area, because free trade agreements allow us to have bigger markets to buy from and sell to. They create more opportunities, and more opportunities mean more chances to grow or to cut costs. Free trade agreements have been a key factor in several decisions, as an example, for automotive OEMs to locate in Mexico because of their access to world markets.

In my mind, ratifying the new NAFTA deal here in Canada is absolutely critical to Canada's continued economic success. The U.S. has long been Canada's most important trading partner, and vice versa. As I'm sure you know, trade with the U.S. represents more than 75% of our exports, which is 64% of our GDP. We really can't afford to put that at risk and create the enormous costs that added duties would add to those transactions.

NAFTA was a deal that created enormous prosperity for all three countries since its inception in 1994. The United States' GDP increased by \$12 trillion, reaching 2.8 times the 1994 level. Canadian GDP was up by \$1 trillion, reaching, very similarly, 2.7 times its 1994 level. Mexican GDP increased half a trillion dollars to almost twice what it was before the agreement.

Importantly, NAFTA also created deep and intricate supply chain optimizations across all three countries. It would be quite disastrous financially to try to unravel those. You can't unscramble the eggs. In the auto sector alone, there are on average seven border crossings between Canada, the U.S. and Mexico for every vehicle that is built. Adding duty to each of these border crossings would add enormous costs to North American-built vehicles, and decrease our competitiveness.

We have a great case study right here at Linamar that illustrates that deep integration. We have a program for a cylinder block that we make that is cast in Mexico, comes to Canada for premachining, goes back to the U.S. for additional processing, and comes back to us again in Canada for final machining. Then we ship it to our customer down in the U.S. to be assembled into an engine. Some of those engines come back to Canada to be assembled into vehicles, and then those vehicles are sold in both Canada and the U.S.

Why is it so complicated? We are tapping into the great strengths and technologies that have been developed and honed in each of those countries. Instead of each country having to develop the technologies and make the investments to do all that processing in each country for its individual needs, we are pooling our needs and focusing on different parts of the supply chain, and in the end we have a great, highly competitive product that we can sell in many countries, not just North America.

The new NAFTA deal has modernized important elements of our trade deal to reflect technologies and realities that didn't exist 25 years ago, but at the same time, from our perspective, will keep consistent core elements of the deal. That means we will see minimal disruption of existing supply chains, which is really key. From an automotive perspective we see only upsides, no downsides for Canadian companies to the changes that were implemented. Higher regional value content means opportunity for work, potentially, as automakers who maybe are not meeting the new standard. Maybe some of the German manufacturers, for instance, will decide to on-shore some product. High labour value content may also result in some opportunities for Canadian suppliers to help increase this measure of content in the vehicle.

● (1905)

It is important to remember that we don't win business by being protectionist. We win business based on innovation and efficiency. That's where we should all try to focus and try to eliminate barriers to growth.

At Linamar, our Canadian plants are our most productive globally of all of our 61 plants. We have the deepest bench here, we have the best increases in productivity here, which, by the way, has increased by 34% in the last six years, and we have the strongest commitment here to continuous improvement in our facilities every single day.

We can compete with any country with our product and our process innovation and efficiency, and we do so. We've invested billions of dollars in our Canadian plants in recent years to launch billions of dollars of new business, almost all of which, by the way, ships to the U.S. We critically need the new NAFTA agreement to be ratified to bring certainty to our ability to continue to compete in this manner.

Last, I wanted to comment on timing. The U.S. and Mexico have already moved to ratify the agreement in their respective legislatures. While of course it's important to fully understand and to vet the deal—I appreciate that this has happened, and I encourage that to happen—I do caution against excessive or unnecessary delays or attempts to rewrite something that frankly I think has gone as far as we could get it to go.

Business leaders across North America are supporting swift ratification of the agreement—many I speak to—to keep North America tariff free, make the economy even more vibrant and competitive, drive investment and, of course, support the creation of jobs.

Thank you very much for the opportunity to address your committee. I look forward to your questions.

● (1910)

**The Chair:** Thank you very much.

Mr. Young, please, from Woodtone Industries.

**Mr. Kevin Young (Chief Executive Officer, Woodtone Industries):** Madam Chair, committee members and staff, thank you for the opportunity to talk with you about Bill C-4, softwood lumber, and Woodtone. I think there are some commonalities in some of the presentations here this evening.

I am Kevin Young, and I serve as chief executive officer of Woodtone Industries, a family-run company with facilities in Chilliwack, B.C.; Armstrong, B.C.; and Everett, Washington. We employ over 300 people across our operations, which are built on a 40-year legacy of excellence and integrity.

At Woodtone our overarching belief is that everybody should live in a great-looking home that lasts a lifetime and doesn't sacrifice the environment to achieve this goal. Our teams design, manufacture and market Woodtone's finished building products for home interiors and exteriors. Our family at Woodtone is proud to offer some of the finest finished building products available anywhere in the world.

We don't cut down trees, and we don't make commodity two-by-fours, but we respect and appreciate the primary producers that do. Our specialty at Woodtone is high-value finished wood products. Our products are unique in that they have no grade stamps and are not intended for structural construction purposes. All of our products are prefinished—either pre-stained or pre-painted—and are ready for installation in new home construction.

Although our products can be found around the world, the United States and Canada remain our key markets. We welcome and embrace future efforts by governments to address the softwood lumber dispute in earnest after CUSMA is concluded.

The asymmetrical impact of the softwood dispute has been uniquely devastating for Canada's value-added sector and workers. At Woodtone we've had to make tough choices, like many others, including relocating technology, processing knowledge, and moving jobs south. In January 2018, we announced the move of 20 direct jobs and over \$1 million in technology from our Canadian operation to our facility in Everett, Washington.

While primary producers have enjoyed sustained demand and record prices during the dispute, processors down the value chain have not. We've lost exports and we've lost jobs. This dynamic still exists. We believe that, when you consider spinoffs including transportation and other suppliers, up to 120 direct and indirect jobs are in play in our operations. We want to recalibrate before it is too late. That is why we are here today.

We don't want to lose the opportunity to repatriate some of this work for finished products not at the core of the softwood dispute. Our products fall outside the intended scope of the softwood lumber dispute. They can be readily differentiated at the border at the time of export. At the border we need a solution that works for authorities; a solution that is feasible, administrable and enforceable well into the future.

This brings us to Bill C-4. We support members of the committee amending Bill C-4 to provide for an independent study mechanism on finished exports outside the dispute. Specifically, we seek a review by a panel of experts for finished wood products that is consistent with past Canada-U.S. trade precedents. This, we believe, could be done by amending the reference to softwood in Bill C-4. This will provide reassurance to U.S. authorities that the scope language is enforceable, administrable, and will reduce circumvention.

Possible positive outcomes here include hyphenating the product codes 4407 and 4409, which can be done to assist local border agents in processing our exports with confidence. This is similar to efforts to accommodate U.S. plywood manufacturers back in the Canada-U.S. Free Trade Agreement.

With a simple majority vote at clause-by-clause, committee members can make an independent review happen by amendment. I'm not here to ask members of the committee to renegotiate NAFTA or the new CUSMA. It would not be wise to reopen negotiations with either Mexico or the United States. Enhancing Bill C-4 as it relates to softwood lumber is not changing the trade deal. You can take or leave the deal, but the legislation can be improved in this one area.

● (1915)

We want to work with committee members on appropriate language for an amendment. We encourage the members of the committee to act with confidence, supported by past precedent and sound public policy in the public interest. Our approach is collaborative and is achievable. Not only will it benefit Woodtone, but other operations in B.C., Quebec and the Maritimes will also benefit.

The Woodtone approach is not a cure or a solution to the softwood lumber dispute, but it is an effort to help a volume of exports that should not otherwise be in the dispute. We want to take the steps necessary to address the concerns. What we are talking about does not impact Mexico. It is specific to local border entry points to help local officials process our finished products.

We commend the co-operation of members on the committee and the positive initiatives to use Bill C-4 to improve Canada's future trade deals and arrangements.



We thank our local MPs and all members of the committee for this chance to be heard. By working together now, we can improve Bill C-4 moving forward and improve cross-border trade in finished wood products not in dispute.

Thank you, and I welcome questions and comments and wish the committee good luck and wisdom in your continued work.

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

We'll go on to Michael Beck, operational manager from the Capacity Forest Management.

**Mr. Mike Beck (Operations Manager, Capacity Forest Management):** Thank you.

I'm Mike Beck with Capacity Forest Management. I'm their operational planner. We have managed over 20 first nation clients in B.C. We help gather tenure through government to government as well as licensee negotiations. We've also been instrumental in two foundation agreements that have taken place in B.C. with the shishálh Indian band as well as Lake Babine Nation.

I've been invited to discuss the impacts of the softwood lumber dispute and how it is creating issues with first nations businesses and collaborations with forestry licensees, businesses and lumber mills in B.C.

As you know, a few people have already noted that the softwood lumber agreement has basically been a long outstanding issue between Canada and the United States. Basically, this agreement that we've been sitting on has been expired since 2015. The current government hasn't seemed to place the softwood lumber agreement as a top priority to settle during the negotiation processes and ratification of NAFTA between Canada, the U.S. and Mexico. The softwood lumber issues around the competition between Canada and the United States lumber companies are a major problem resulting from differences in their respective forest management principles.

The dispute is based on the U.S. lumber industry opposing the low Canadian stumpage rates and transportation costs, perceived by the U.S. as an unfair advantage that subsidizes our lumber industry. The U.S. has been imposing duties and tariffs on Canada since the early 1900s, and the softwood lumber dispute is not going away any time soon.

Canadian forest management principles are vastly different, and to compare one against the other is very onerous and well documented. A healthy Canadian log and lumber business requires certainty and fair market pricing. In order to achieve this, the Canadian government needs to bring the softwood lumber agreement to the forefront and finalize a long-term deal that avoids protectionist measures on both sides of the border.

Canadian logs and lumber require unencumbered access to world markets in order to return the highest possible pricing. Protectionist measures in this case create an unnecessary cost to Canadian sawmillers, and these costs are passed on to the log sellers, which pushes log prices down domestically. Recent court decisions and reconciliation agreements for first nations are providing control of their timber resources within their unceded territory. The federal government needs to create forestry policies that will ensure suc-

cess, sustainability and create long-term, meaningful jobs in the industry as well as first nations businesses and ventures.

Imposed U.S. countervailing duties and tariffs have denied the maximum price on logs, which has impacted profit margins for first nations businesses that sell to Canadian mills. There's a requirement for major reforms and policy to remove restrictions on log exports in order to eliminate uncertainty in the Canadian forest industry and allow the highest return and highest prices for our renewable resource.

Duties and tariffs need to be eliminated and a long-term softwood lumber agreement needs to be ratified to ensure a healthy, sustainable and stable forest industry in Canada. The impacts for first nations forestry businesses are, again, another vital component. It's impacting negatively with our first nations businesses, agreements and collaborations with Canadian forest industry partners.

Canada is required to challenge and amend the Export and Import Permits Act that would ratify the softwood lumber agreement, as there are significant impacts. The current U.S. countervailing duties and tariffs are affecting the economic success of the Canadian forest industry, including first nations businesses that are selling their logs to local Canadian lumber mills.

Some Canadian first nations bands, as part of the ongoing reconciliation process such as foundation agreements, are receiving timber rights to harvest Crown timber within their unceded territories. These first nations forestry opportunities, timber tenures and licences provide economic benefit and stability, long-term employment and training opportunities for first nations communities and future first nations business investment opportunities. The impacts of the current softwood duties and tariffs on the Canadian first nations forestry business is that Canadian local sawmills are basing their log purchase pricing on current log markets but factor in the percentage of the tariffs and duties so that the mills pay to reduce the log prices, which impacts first nations businesses and projects negatively.

As well, the U.S. countervailing duties and tariffs impact the bottom line for first nations businesses and ventures. They're looking for the highest economic benefit for their timber resources within their unceded territory.

● (1920)

Currently, with the economies of scale of first nation forestry businesses being upstream log sellers, they are additionally impacted financially as their businesses will not see any reimbursement of duty deposits from the United States once a dispute is settled, as these costs are typically factored into the local mill log purchase pricing agreements at the beginning of the projects.

Ultimately, I'm drawn back to the current government mandate, in which one of their top priorities is reconciliation with Canadian indigenous people, as well as wanting to implement the United Nations Declaration on the Rights of Indigenous Peoples to allow government to bring federal laws and policies for Canadian first nations to pursue economic, social and cultural development needs. Based on the government non-action to settle the long-standing softwood lumber agreement, it is not placed in value for Canadian first nation forestry businesses and the Canadian forest industry. Again, there is a requirement to ratify in NAFTA, Bill C-4, regarding the long-standing softwood lumber agreement, to remove the tariffs and duties. If that is not in place and there's no agreement, this will create considerable adverse effects and restrictions for the first nation forestry businesses.

As for some of the impacts that we're currently seeing with the softwood lumber agreement, some first nations forestry businesses are having a hard time being successful and sustainable. As well, first nation business-to-business agreements and collaborations with other Canadian forest industry partners, ultimately impacting forest economic earnings to the nations and bands, are also creating some issues. Lower lumber market pricing and duties and tariffs, creating mill closures or curtailments, are creating some issues as well around the nations and territories. We're also seeing major licensees establish more mills in the United States than Canada due to the additional duties and taxes, to ensure market competitiveness and balance their dependence on local Canadian log supply. These moves create fewer good-paying jobs for Canadians, as well as first nation band members, and limit log-pricing competition to sell logs at lower market pricing, or better, with these mill closures.

In closing, I want to ensure that the softwood lumber agreement stays at the Canadian government's top priority for settlement and is ratified in some way that will make first nation businesses stay competitive and not be penalized any longer by the unfair and unjust United States' lumber tariffs and duties.

We need our Canadian government to defend our forest management systems and challenge the subsidy, to remove the tariffs and countervailing duties, since wood is used in a wide range of industries and doesn't qualify as a subsidy under U.S. law. As well, the actions of the U.S. are driven by protectionism rather than unfair management practices and stumpage rate determination.

Again, it will be vital to have collaborative discussions and engagement between government, first nation forestry businesses, and the Canadian forest industry to ensure a fair ratification of the softwood lumber agreement to make certain first nation businesses and ventures, and the Canadian forestry industry, economically successful and sustainable in Canada.

That is all I have to say. If you have any questions, I'll look forward to responding.

• (1925)

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

We'll go on to Mr. Waugh.

**Mr. William Waugh (President, WWW Timber Products Ltd.):** We're together.

**The Chair:** Are you okay, then?

Mr. Leblond is here as an individual.

Do you have some opening comments you'd like to make, sir?

**Mr. Patrick Leblond (As an Individual):** Yes. Thank you, Madam Chair.

I'll make my remarks in French, but I'm happy to take questions in English.

[*Translation*]

Madam Chair, members of the committee, thank you for inviting me to appear here this evening. I would like to note that I'm here as an individual, so my comments and answers are in no way binding on the organizations I'm associated with.

I believe the agreement must come into force as soon as possible, as other witnesses have stated, not because it's better than NAFTA—it's not, and for more on that, see the analysis by Dan Ciuriak for the C.D. Howe Institute—but because we must avoid the uncertainty that plagued the negotiations. If Canada were to refuse to implement the Canada-U.S.-Mexico Agreement, the U.S. President would most likely carry out his threat to withdraw the United States from NAFTA.

If the White House did that and it ended up in court, that would have a very negative effect on the entire North American economy, especially the Canadian economy, because investments would be delayed or simply shifted to the United States. Companies would focus on the United States because they would see it as the biggest market. In addition, the costs of many business transactions between Canada and the United States could increase to offset the risk associated with the possible end of NAFTA. This scenario must therefore be avoided at all costs.

CUSMA is certainly not perfect. I'm sure you've heard plenty of criticism. In the time I have left, I would like to focus on two elements. Bob Fay already mentioned one, but I'd like to go into that in a little more detail.

In the future, the Canadian government's commitments under Chapter 19, which covers digital trade, may constrain domestic regulations that federal and provincial governments may wish to put in place to govern data flows between Canada and the United States and the digital space in Canada. I discussed this topic in detail in an October 2019 paper published by the Centre for International Governance Innovation, where I am a senior fellow.

For example, U.S. or Mexican companies, especially U.S. companies, could lobby the U.S. government to initiate a dispute over regulations requiring data localization in the private sector for privacy or national security reasons. That is the issue. The agreement contains a “legitimate public policy objective” exception. No one knows what that means. Ultimately, if there were a dispute between Canada and the United States over data localization, for example, a panel of arbitrators would be called upon to settle the dispute. The panel would have to determine what constitutes a legitimate objective in Canadian public policy.

So the question is, even if the panel is established jointly, do we want to let unelected, technocratic arbitrators decide what Canada can or cannot do? The same issue arises with article 19.7, which states that computer service suppliers cannot be held responsible for content on their platform. This mirrors the immunity laid out in section 230 of the U.S. Communications Decency Act of 1996.

The general WTO exception applies in this case, for example to defend public morality. The Canadian government could therefore decide, for reasons of public morality, to institute measures making companies that transmit content, such as Facebook, responsible for the content they transmit. That said, Facebook could appeal to the U.S. government on the grounds of article 19.7, alleging discrimination. Under CUSMA, Canada would therefore not be able to apply such a measure. This would result in a more constrained environment for Canadian companies and a less constrained one for American companies.

Here is my recommendation to this committee: The government and its partners should define in detail what constitutes a legitimate public policy objective in the context of the agreement so that business has greater regulatory and future certainty, especially with respect to data flows.

- (1930)

Lastly, we mustn't forget that CUSMA is set to expire 16 years after coming into force. After six years, the parties may review the agreement. The problem is that, for companies with an investment horizon longer than 15 years, uncertainty about whether the agreement will cease to exist partway through the lifespan of their investments could prompt them to invest in the United States rather than in Canada.

Not knowing which agreement will apply in 10 or 15 years, anyone looking to invest tens or hundreds of millions of dollars over the next 20 or 25 years in either Canada or the United States could decide to invest in the latter. That means investment and job losses in Canada.

Therefore, the sooner the parties can give CUSMA some permanence, the better for Canada.

Thank you. I'm happy to answer your questions in French or English.

[English]

**The Chair:** Thank you very much. We'll go to our members.

Mr. Lewis.

**Mr. Chris Lewis:** Thank you, Madam Chair.

Thank you very much, witnesses, for coming out this evening. It's really good to see the softwood lumber witnesses tonight. It's better late than never, not unlike the Canada-United States-Mexico Agreement itself—better late than never.

I'm talking about how we got this report shortly after noon today. I've been going through it, and I see in the very first paragraph on page 2 six words that say “reduces red tape at the border”. Great.

I'll continue on to page 5—and I only got to page 5 because I only got this shortly after 12 today—where it goes on to say:

However, the gains will be partially offset by new market access to Canada's supply-managed sectors and more restrictive rules of origin for automobiles and auto parts that will likely increase auto-part production in North America but also lead to higher production costs. In particular, implementing the CUSMA outcome:....

My first question is for Ms. Hasenfratz. I heard you talk about shipping parts back and forth across the border, right? This would suggest that it's supposed to be much smoother. The C.D. Howe report suggests that there's going to be “border thickening”, as they call it.

We do know that the government has not put any extra time, effort or money into the CBSA, who will be the ones implementing this and the tariffs.

My question is twofold. Number one, are you concerned from the auto parts sector that there's going to be a potential issue at the border? Number two, the auto industry would very much like this CUSMA deferred for them to January 2021. Do you share the same ambition?

**Ms. Linda Hasenfratz:** I personally don't have concerns that there's going to be a holdup at the border. I think that when anything new comes in there's potentially some uncertainty, and it takes some time to kind of get your arms around that. There may be some potential issue, but I personally don't see that—and our team doesn't—as a major risk.

I think some of the discussion around implementation timing is really to just get better clarity on exactly how some of these rules are going to work. There's a bit of a question about the detail around it, which is why there's been some discussion around delaying the implementation, just to make sure that everybody has very good clarity on how the calculations work and that type of thing.

**Mr. Chris Lewis:** Thank you very much, Ms. Hasenfratz.

**Ms. Linda Hasenfratz:** That's my understanding of it.

**Mr. Chris Lewis:** That's perfect. Thank you.

My next question is for you, Mr. Young. I listened keenly to your opening speech, which was very interesting.

How has the dispute impacted your operations? You refer to “tough choices”. Can you share a bit more about these tough choices and the asymmetrical impact of the dispute on your operations and your people?

**Mr. Kevin Young:** Thank you for the question.

It's obviously very difficult to make choices when you have 300 families who work with you and you have to let some of those families go in one location and hire them in another. We're a Canada-based business, and ideally in our world we'd like to see more Canadian wood processed in Canada. The challenge we've found is that as a smaller independent producer the impact of the duties is quite asymmetrical relative to what the primary producers face.

Just as an example, the primary producers are producing two-by-fours and shipping them down to the U.S. They're going to pay a duty on that. The asymmetry is that the higher price of that wood becomes the higher price of my input. That becomes my cost. Therefore, the more value I add in Canada, again, the more duty that we pay in Canada. We did some quick numbers. It's about three times the amount of duty we pay for every board foot of finished product that goes across the line.

• (1935)

**Mr. Chris Lewis:** Thank you.

Do you have a suggested wording for an amendment—I think that's what you were speaking about—and why will an amendment help again?

**Mr. Kevin Young:** The quick answer is yes, we do, and we've provided the committee with some suggested language around the amendment.

When we approached the Department of Commerce back in 2017, they had two areas they were concerned about. The first one was identification and the second was circumvention. They suggested that we ask the Government of Canada for assistance. If the Government of Canada would ask the Department of Commerce for this, then we would move ahead with the study.

The study is really just going back to past precedent, to say, okay, let's have a look at.... It goes back to 1988, with plywood. All they did at the time was to have a look. Both sides of the border were manufacturing plywood, and they did a review of it. They presented letters. The amendment basically allowed them to take plywood out of the softwood lumber dispute and move it into the free trade agreement, and then it had a trail off of duties.

The amendment is intended to allay the concerns of the Department of Commerce that Canada can ask for and provide a study of finished wood products. Again, there are a variety of manufacturers across Canada. It's to look at those products and to do so in such a way that describes them so that it allays the concerns of the Department of Commerce.

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

Mr. Arya.

**Mr. Chandra Arya (Nepean, Lib.):** Thank you, Madam Chair.

Mr. Fay, I'm so glad you came here to talk about the data-driven economy. We had NAFTA for a long time. Now we have this new

NAFTA, CUSMA, but it is not going to dramatically change. This agreement is good. It brings some stability to the Canadian economy.

Look at what has happened with respect to trade in the last, say eight or 10 years. I think in 2011 our exports to the United States were around \$315 billion. Last year, it was \$320 billion or \$324 billion. Our imports about 10 years back were around \$280 billion. Now we're just \$290 billion.

This agreement is important. It brings stability to a lot of the economy, but it doesn't address the economy of the future. We have steel industries. They were producing 16 million tonnes 20 years ago. They are producing the same 15 million tonnes today. The aluminium industry has not seen an increase in storage capacity for the last 15 years.

Basically this agreement is good. It brings stability. However, it is not addressing the future and where the world economy is going, namely, towards a knowledge-based economy. Nobody has talked here about software for autonomous vehicles. Nobody has talked about robotics. Nobody has talked about artificial intelligence and how it impacts not just the Canadian corporate sector, not just the economy, but Canadian society itself.

I'm glad you talked about the data-driven economy. As you pointed out—and as in this agreement—we have been waiting for six years on our negotiator. We all are policy-makers. We can understand more the impact of these things, so that when the review comes in, we can look at and also focus on these things.

Obviously, the existing industries are quite loud in their lobbying, and that draws attention from the lawmakers, the policy-makers, the negotiators. However, the six-year time frame will hopefully give us some breathing space to look into the other aspects that have not been considered.

You touched on FDI, foreign direct investment. Many people don't know that two-thirds or about 65% of Canadian trade is due to companies that are owned by foreign investors, foreign companies. Their foreign direct investment play a very major role in the Canadian economy and Canadian trade. They control 65% of the trade.

You mentioned that we need to have new international rules for FDI and intellectual property. Let's not go to intellectual property. I know that's a big thing, a very, very important thing. That is our next natural resource. That is the only thing that can replace the natural resources.

Can you quickly highlight, keeping it short, the fundamental change you want to see internationally on the foreign direct investments.

• (1940)

**Mr. Bob Fay:** Thank you for the question. I've been listening to the conversation.

Just to maybe reinforce what you were saying, we have heard from the softwood lumber industry. Our natural resources are an important production factor in the Canadian economy, and we need a trade agreement to protect those industries and help them flourish.

Data is a factor of production. Data and data analytics will drive growth going forward.

With respect to FDI, I think one of the questions that's open is whether we allow the multinationals that dominate the data industry to take out Canadian innovator firms or whether there should be a review.

**Mr. Chandra Arya:** Are you suggesting that we control foreign direct investment?

**Mr. Bob Fay:** I'm suggesting that we need to take a second look at how multinational investment is taking place in key sectors of the Canadian economy. I'm not suggesting that we should restrict or impose new regulation. I think we need to look at it and to see what exactly is happening on the ground. For example, Google will list on its website the publicly listed companies it buys out, but there is a flourishing SME sector where the takeouts happen.

**Mr. Chandra Arya:** There are a lot of new technology industries in Ottawa. Ottawa has the biggest cluster of high-tech industries, most of them mom-and-pop shops. There are 1,700 knowledge-based companies in the national capital region; nobody realizes that.

But as and when they find something that is exciting or marketable—

**The Chair:** Make a short comment or ask a question.

**Mr. Chandra Arya:** —they get taken over. Yes, that's a point well made. I think we should look into that.

**The Chair:** Thank you very much.

Mr. Savard-Tremblay.

[*Translation*]

**Mr. Simon-Pierre Savard-Tremblay:** I thank all the witnesses for their very diverse comments. Many of you are in the same field, but many are not, so this study has been very interesting from the start.

I'll probably ask you my first question, Mr. Leblond. At one point you said NAFTA is better than CUSMA. I'm curious to know why that is.

Indeed, most of the witnesses we heard from, apart from those in the agricultural sector, told us that, at worst, it's the status quo. Many identified gaps. Few witnesses other than those in the ag sector identified setbacks.

I'd like to know in which areas you think CUSMA is worse than NAFTA.

**Mr. Patrick Leblond:** Thank you for your question.

It's not necessarily worse, at least not according to economists who have studied its potential impact on the economy as a whole in terms of GDP, for example. Of course, there is always a significant margin of error.

The most recent study by Mr. Ciuriak of the C.D. Howe Institute shows that, overall, there may be a very small decline. However, other agreements were expected to have a positive effect on GDP. Even the United States International Trade Commission in Washington came to the conclusion that, overall, the new agreement

would have little or no effect. It estimated that any positive effect would derive primarily from reduced uncertainty regarding the new agreement.

In terms of quality, the agreements are therefore comparable. The new one is more up-to-date in certain respects, such as the chapter on digital trade. However, as I indicated, that chapter is problematic because of how Canada's commitments could affect digital data regulations our government might want to make. As you know, some stakeholders in the ag sector aren't happy.

My source was the analyses that have been done. It seems clear that there are no significant gains here. Overall, it's pretty much the status quo.

• (1945)

**Mr. Simon-Pierre Savard-Tremblay:** Farmers told us this is a step backward, but that there is a way to compensate. In terms of digital trade, is there a way to compensate?

**Mr. Patrick Leblond :** As I explained, the problem is mainly related to regulations. If the government decides to go ahead with protecting Canadians from bad content or material on digital platforms, American platforms can say the government can't do that because, in the agreement that we signed with them, we made a commitment not to hold them responsible, whereas Canadian companies are responsible.

There is also the issue with Netflix and taxes. Netflix doesn't pay GST, and businesses here complain that their services are taxed. This creates an environment where competition isn't necessarily fair. It also raises questions about what we want to do as a society and as a government to protect our businesses, Canadians and national security, among other things.

There's also a grey area, as I said in my remarks. The agreement says that exceptions can be made for legitimate public policy objectives.

What does that really mean in practice? Where's the line? Ideally, we should try to define it, and the agreement doesn't do that, in my opinion.

We could be in for some surprises in a few years if the government wanted more control and more regulations governing the digital realm.

**Mr. Simon-Pierre Savard-Tremblay:** What you're saying is that there's a grey area rather than a rule that is definitely not in our interest, something vague.

There is an institution called the NAFTA Free Trade Commission, which helps clarify and interpret agreements once they're in force. That could be a possible way forward. Feel free to make recommendations to us if you can. We'll be monitoring this with great interest.

**Mr. Patrick Leblond :** Thank you.

**Mr. Simon-Pierre Savard-Tremblay:** How much time do I have left?

[English]

**The Chair:** You have 45 seconds.

[Translation]

**Mr. Simon-Pierre Savard-Tremblay:** There's a question I would have liked to ask everyone involved in the softwood lumber industry.

As you probably know, in Quebec, the price is set by the market, or, to be precise, by an auction system. This system is not recognized in the agreements, which means that in the event of a trade dispute with the U.S. government, Canada's system as a whole is taken into account.

Do you think it would be possible and useful to formally recognize that Quebec has a different system for softwood lumber?

[English]

**The Chair:** I'm going to have to ask you to try to find another way to answer our colleague, as his time is up.

I have to go to Mr. Blaikie.

[Translation]

**Mr. Daniel Blaikie:** Thank you.

Mr. Leblanc, a few years ago, we had a debate about Cambridge Analytica. Some of us thought the government should take a more legislative approach.

If I understand correctly, you think that will not be possible under the new agreement.

**Mr. Patrick Leblond :** It's not that it wouldn't be possible, but I have a question, and I'm not the only one. Platforms like Facebook and Google offer content, but at the moment, in the United States and under our agreement, they have immunity. They cannot be prosecuted. They're self-regulating, in a way. The question is, do we need to regulate the content that's on these platforms? That's debatable.

If, because of what happened with Cambridge Analytica or misinformation, Canada made these platforms responsible for their content, they could say that our regulations do not apply to them by virtue of a clause in the agreement that says they're not responsible. It's important to remember that, in the case of Cambridge Analytica, Facebook sold data when perhaps it shouldn't have done so. If that were to happen, Canada would invoke the legitimate public policy objective exception, but would it be recognized in the event of a dispute?

At the moment, we don't have an answer to that, but, ultimately, do we want to let a panel of three arbitrators make decisions about an issue of such importance to the future of the economy and the country?

• (1950)

**Mr. Daniel Blaikie:** Do the data localization provisions make it harder to regulate the sale of data when the data are located in a place where our laws do not apply?

Is there a chance that Canada would not be able to regulate the use of Canadian data?

**Mr. Patrick Leblond:** It's possible. For now, the agreement provides that privacy rules apply to personal data in the private sector. However, if we were to change the rules and further constrain the transfer of data from Canada to the United States, American companies seeking access to the data could invoke the agreement and say that we are engaging in data localisation that's blocking the free flow of data. They might argue that we are free to apply such regulations to Canadian companies, but not to them. That would result in an uneven playing field, which would have a negative impact on the competitiveness of Canadian companies in this sector.

**Mr. Daniel Blaikie:** Thank you.

[English]

I think that brings us back to some of Mr. Fay's opening remarks with regard to...

It just seems to me that sometimes people sign long-term contracts without understanding the future value of what they're signing away. It seems like a good deal now, but in 10, 20, 30 years, you know, if people didn't have the foresight or what they needed in order to be able to understand the value of what they were trading at the time, they can find that they're falling sorely behind. Is that the situation?

It seems to me that there's a lot that we don't know about what is still an emerging industry; I think that's fair to say. It seems to me that this agreement is making some pretty serious and far-reaching policy decisions without evidence that we actually know what we're really trading away at this point. Is that a fair assessment that I'm hearing from the panel today? How do you think we might try to have some domestically produced remedies that mitigate against this?

**Mr. Bob Fay:** I think that there is one thing we do know: More data and more varieties of data are what is necessary. Canadian firms are competing with some multinational giants that already have these enormous data stores, and with the open data flows, we're reinforcing their market position. The question is this: What can we do about that? At CIGI, we're thinking about this.

I agree with everything Mr. Leblond said. There are ways to think about this and create our own data stores. There's a very important role for government here, too. Government can play an extremely valuable role in helping to nurture businesses and make data available to businesses. There's a patent collective that's about to be started in one particular sector. So, there are things that can be done. I think that we want to really push hard in these areas right now. As I mentioned, we want to use that six-year review period to help advance things that will be in Canada's interests as well.

**The Chair:** Thank you very much, sir.

Now we will go on to Mr. Kram.

• (1955)

**Mr. Michael Kram:** Thank you, Madam Chair.

The committee is joined by the member of Parliament from Cypress Hills—Grasslands, Jeremy Patzer.

I'm going to be splitting my time with Mr. Patzer.

**Mr. Jeremy Patzer (Cypress Hills—Grasslands, CPC):** Thank you, Michael.

My question is for Mr. Beck and Mr. Waugh over there.

Given where we are at with the softwood lumber dispute, can you elaborate further on the negative impacts it will have on the first nations that you represent, as well as for any who are looking to establish new logging rights and start up a new logging company? What is the outlook with regard to that?

**Mr. Mike Beck:** I'll let you take that.

**Mr. William Waugh:** The direct impact is on log prices. They factor in these costs that the lumber producers are having to pay—the tariffs—and they drive down the prices for domestic logs that are consumed in these mills and first nations are selling to them. A lot of these operations aren't viable because of this—a lot of the wood doesn't get logged; a lot of the wood sits; a lot of the volume still remains standing. As far as new logging operations go, on the coast of British Columbia there is more and more volume and tenure being awarded to the first nations as we speak. Currently, with the way things are economically, it's very difficult to start up a new business in the logging operation. If they reduce the tariffs and duties, hopefully that will increase log prices, and we can get some of these operations going.

**Mr. Jeremy Patzer:** Yes, that's what I had.

**Mr. Michael Kram:** Okay, thanks.

How much time do I have left, Madam Chair?

**The Chair:** You have three minutes.

**Mr. Michael Kram:** Okay, thank you.

My question is for Mr. Fay and Mr. Leblond.

Could you describe a little bit what some of the high-level public policy options are that we have in front of us to regulate digital platforms such as Facebook and Google? How would the new NAFTA agreement limit policy-makers' options?

**Mr. Bob Fay:** Do you want to start?

**Mr. Patrick Leblond:** I can start.

This is ongoing thinking, but I've already mentioned this idea that—as was mentioned in the panel review for heritage—if we were to treat social platforms as broadcasters and wanted to regulate their content, for instance, and make them liable for what they publish online, whether it's from news operations or others, then the question is whether that would be challenged by those companies through CUSMA and article 19.17. We would have to see. Of course it would have to be a dispute that would be launched by the U.S. government. There is no investor state in this case; it would not be the companies themselves. In that case, if there was a dispute, then a panel would be set up and would have to decide on these things. It's very difficult at this point to know where that panel would decide.

If it were to rule in favour of Facebook or those kinds of social platforms, it would immediately undermine what Canada would be doing. To me, that's problematic in a way. Are we potentially constraining ourselves when it comes to that?

We talked about privacy of individuals. Down the line, if we wanted to impose more data localizations, for instance, both at the federal level or even at the provincial.... The Quebec government is talking about moving in that direction. What happens if, for example, Quebec says that it wants to do more data localization—not for government purposes, but for private business? Then U.S.-based companies come and say that they think this goes against the agreement that allows free data flow between our two countries. If we were to challenge this and if a panel was set up and they found, for instance, that those regulations or laws can't apply to U.S. companies, then what happens? It creates an even bigger problem. Quebec could continue doing so, but the federal government would have to pay some form of compensation.

• (2000)

**The Chair:** Mr. Leblond, I'm sorry I have to stop you there.

Mr. Dhaliwal.

**Mr. Sukh Dhaliwal:** Thank you, Madam Chair. Thank you to all the presenters, particularly those from beautiful British Columbia.

I know that the softwood lumber dispute is a key issue to you fellows. As a committee here in the previous Parliament, we did study this particular issue, when witnesses were able to come in. At every opportunity that I personally found, I talked to the minister about this as well, so we could keep it on the forefront. The minister has always said that she has always been in contact on the other side—the U.S. side—when it comes to this dispute and dispute resolution.

Mr. Rielly, you just touched upon the previous chapter 19—now the new chapter 10—and making sure that in every agreement we sign in that regard has to have robust and fair dispute resolution in it.

Do you have any comments?

Is this chapter 10 going to help companies like yours?

**Mr. Andy Rielly:** Yes. I think it's not just going to help our company. It's essential even for bigger companies like Mr. Kalesnikoff's and the independent companies that are processing things across the country to have something that they can rely on to resolve this. We sometimes just can't count on the big companies to get behind the idea to resolve the issue, or the provincial governments to get the direction, from time to time, from the big companies to do that.

In a perfect world, I would suggest that it would be great to have softwood lumber included as one of the items that is going to be in the USMCA. In my experience over the years, having been through this since 1984, that is just not a practical thing to hope for because on the other side of the border you have a large group of people that doesn't want to have this resolved and have a free trade environment. That's always been difficult. That's essentially why I think the dispute resolution system they have in chapter 19 going forward seems to be pretty much intact. That's why I would say that the small and medium-sized independent companies would say the USMCA needs to be ratified, so we can continue that.

**Mr. Sukh Dhaliwal:** Thank you.

My next question goes to Linamar Corporation. Linda, you mentioned that 70% of your business is in auto parts, and 30% in others, which also includes equipment manufacturing. Does this new agreement, CUSMA, help when it comes to equipment manufacturing, in particular, to the companies you represent?

**Ms. Linda Hasenfratz:** You mean outside of the auto business? Are you wondering about the impact on our industrial businesses?

**Mr. Sukh Dhaliwal:** Yes.

**Ms. Linda Hasenfratz:** We don't see any negative impact from the agreement for either our agricultural harvesting equipment business, headquartered out of Winnipeg, or our access equipment business Skyjack, headquartered here in Guelph. We don't see any downside risks for either one of those businesses.

**Mr. Sukh Dhaliwal:** Basically, it's a win-win situation for you in both.

**Ms. Linda Hasenfratz:** Yes.

**Mr. Sukh Dhaliwal:** Do I have time?

**The Chair:** Yes. You have 50 seconds.

**Mr. Sukh Dhaliwal:** I'm going to go to British Columbia, or to both of you if you want to make a comment on chapter 10, which used to be chapter 19.

**Mr. Ken Kalesnikoff:** Sure. I agree with what Andy said. If we don't have that, what do we have? That's the problem. The WTO, for us, seems to have weakened. We need a mechanism. We must have something when these unfair threats are made, some way of challenging them.

We're dealing with a massive engine in the U.S., with the softwood lumber coalition there. They have a lot of power. They're not letting up and they're not going to let up, as we all know.

• (2005)

**The Chair:** Thank you very much, sir.

We go on to Mr. Hoback.

**Mr. Randy Hoback (Prince Albert, CPC):** Thank you, Chair.

Chair, before I get started, I just want to thank all of the staff, the support people who have been here these last two weeks, putting all of this together and making sure that we have everything.

**Some hon. members:** Hear, hear!

**Mr. Randy Hoback:** We've always signalled that we're going to vote in favour of this agreement, but we've had lots of concerns about it. One concern was, of course, softwood lumber. The fact that there was a softwood lumber package put together a few years back and that we then found out that a lot of that money didn't flow was concerning. The fact is it's too late now for it to flow.

I looked at softwood lumber. In talking to some of the people right across Canada in the sector—I didn't talk to any of you, which is unfortunate, but I will now—I heard that once this is passed, there is a softwood lumber agreement sitting in the background. Have you heard the same thing?

**Mr. Kevin Young:** I'm optimistic that there is, but I'm not confident there is. I think that's also dictated by what's going on in the U.S. political system right now. As much as I would like to think

there is something in the background that's being discussed, everyone I've spoken to has not indicated there is.

**Mr. Randy Hoback:** The minister's been putting on a lot of pressure to get this passed, and the premiers have been putting on a lot of pressure. One tool they're using is saying there's softwood lumber sitting in behind this, so get this done and then softwood lumber will be dealt with right away. I guess I'm just trying to figure out what's real and what's not. I'm hoping they're right.

Having said that, if there isn't a deal, how do we mitigate what's going on right now? What do we need to do?

We want to get a deal. Don't get me wrong. That would be my priority one: Get a deal, solve the tariff issue and go back to business as usual and give some stability. In light of that, what do we do?

**Mr. Kevin Young:** Well, for Woodtone and companies that are similar to us, I think generally the approach, historically, has been that everybody's in or everybody's out. We've been approaching it from the largest side of the triangle. I think there's an opportunity here.

We're at a unique inflection point here in terms of having a vehicle in order to accommodate a fairly small sector of the softwood business. There's a lot of softwood business, there are a lot of softwood products that are outside of the scope. We manufacture some ourselves that are outside of the scope. I think that if we can approach it with some urgency—in our particular case I said this amendment affects a number of companies across Canada—it can provide some certainty.

The uncertainty in our business, as everyone here has spoken to, is significant. In our case an amendment could assist in providing some certainty for a number of companies.

**Mr. Randy Hoback:** Is there a short-term replacement for the U.S. market?

**Mr. Kevin Young:** No.

**Mr. Randy Hoback:** Is there a long-term replacement, with some of the new trade deals such as CETA, the TPP and that?

**Mr. Kevin Young:** No, not in our case.

**Mr. Randy Hoback:** Ken.

**Mr. Ken Kalesnikoff:** Yes, I can comment on that. One thing I am very much afraid of is this new deal. The federal government and the provincial government have both told us to diversify away from the U.S. market, so we have, but now we have no shipments of record importing. If there's a deal made and the U.S. coalition really wants a quota deal, we're screwed.

**Mr. Randy Hoback:** You don't have any—

**Mr. Ken Kalesnikoff:** No, because we were told to diversify, which we did.



You're asking about a deal. I'm very puzzled that it would be out there, and I'm not an expert. What happens to us, all of us, including Andy, is that we are kept in the dark most of the time.

These deals are made, and when Andy refers to big companies, we're talking about Canfor, West Fraser, Interfor, and Resolute. Those are the companies that are being called and talked to. They very seldom talk to us, which is why I'm here. I'm going to be stranded in Ottawa because I wanted to come to have this opportunity to say that to you.

**An hon. member:** It's a lovely place.

**Mr. Ken Kalesnikoff:** I don't disagree. Apparently we can't go skating because it's slushy, but I don't know how that could happen when it's so cold.

Anyway, at the end of the day, somebody needs to start to listen to the small operators across this country. That is not happening, and that is very frustrating when we are the ones who are staying in our communities and are the ones employing people. We're not shutting down, but investing.

Our families' sales are \$68 million a year. We're investing \$35 million. Do you know how we did that? We put our homes on the line, my home and both of our kids' homes. Nobody here knows that, but the policies are being made here, and the people who get to come here are the ones who have big shareholders. We don't. We have ourselves, and if we don't make it, Mama is going to be unhappy.

Getting to your question, Randy—I'm sorry, I get passionate—at the end of the day, I have not heard of anything going on. There may be. I'm not walking the halls here, but when I look at it logically, why would there be? The U.S. holds all the cards. The coalition is super strong. They're sitting just waiting. They're just giggling at all this right now.

When there's enough money in the piggy bank and we start talking about sharing that piggy bank, then maybe they'll come to the table, and if they lose a couple more.... This last NAFTA challenge that came out, where their duties are going to be reduced potentially.... Without that, what would we have? It would continue.

I apologize.

• (2010)

**The Chair:** Please don't—

**Mr. Francis Schiller (Advisor, Woodtone Industries):** If I may just jump in quickly—

**The Chair:** Yes, go ahead.

**Mr. Francis Schiller:** Just to complement some of the comments you've heard here, I think it's important for committee members to recognize that they have the power right now to make a difference. It's not about a pot of gold at the end of another rainbow. Before you, right now, is the capacity to make the softwood lumber dispute better for a set of producers, and that's within your purview, within your power.

Part of Mr. Young's message is that you guys can move with confidence based on past precedent and supported by sound public policy. In the public interest you can make a very surgical amendment

that will get more attention in Washington than anything our negotiators can do right now, by leveraging what you have before you to make it better for, not the large primary producers that you have heard have benefited from high prices and sustained demand, but the small and medium-sized enterprises that are investing, employing and extracting maximum value on this side of the border.

That's why they are here today. It's to say that you guys can make a difference right now with a very small amendment that will not compromise the NAFTA deal or the USMCA. Rather, it's about how it's going to be implemented, and there are provisions. You can make a small change that will make it better moving forward for a group of producers in this country.

Thank you.

**The Chair:** Thank you very much.

We will go on to Mr. Sarai.

**Mr. Randeep Sarai:** Thank you.

I'll be sharing my time with Ms. Bendayan.

First I want to thank all of the British Columbia sawmills who are here and elsewhere. I want to let you know that we do take this very seriously. All the mills that are in my riding—I've the most softwood employees per capita in all of British Columbia, I've been told by COFI—are all like you, Mr. Kalesnikoff. They're all independent, they've all put their homes on the line, and as a member of Parliament, I try to meet with them regularly to find out their difficulties.

Do you have a say in COFI? You're not a member?

• (2015)

**Mr. Ken Kalesnikoff:** No.

**Mr. Randeep Sarai:** We listen to everyone on every study—whether you're an independent producer like you, or you're small producer with 10 employees, or with 200 or 2,000, or as Linamar is, with \$7 billion in sales and 7,000 employees.

When it comes to softwood lumber, we have been fighting. If you recall, the Prime Minister brought this up at his first meeting with President Obama, and the President didn't even know there was a dispute. That's how small it is to them, but how big it is to us. I've been told that this has been talked about at every subsequent meeting between President Trump and our Prime Minister, but you know the politics of how these countervailing duties are put in place. They grind you and they hold you to it.

I think the best that Canada can do, unless you have suggestions otherwise, is to go to the places we can to challenge them. We've been successful. I have a steel fabricating company in my riding with 100 employees who fabricate American steel in Canada and then ship it back for building in the U.S. They were slapped with a 7% tariff three weeks ago. We won at the U.S. commerce board.

Unfortunately, these are the challenges we have to deal with in this kind of trade environment, but the good thing is that Canada usually is successful at the end of the day, and that's what I'm believing. That's why you've survived in the past, even though your piggy bank got pretty slim at certain times, but we hope we'll be successful again.

Mr. Schiller, how do you think we'll be able to amend something very quickly? I don't think it's plausible to put it in this. Maybe what you're asking for is that we push the Americans harder to get an agreement. That might be something, but we will not be able to use this. I don't know how that would be able to be done in a tri-party deal.

**Mr. Francis Schiller:** May I?

**Mr. Randeep Sarai:** Sure.

**Mr. Francis Schiller:** I think what's wonderful about the opportunity you have before you is that softwood is in Bill C-4. The reference to softwood offers the opportunity to amend that reference to include, in the case of Mr. Young, an independent study of the finished products that are not intended in the scope of the dispute. So we're not talking—

**Mr. Randeep Sarai:** The goal is if the resolution of the dispute is done, then none of the duties that he's paid should be paid. Am I correct? You get it amplified when he gets hit with 20%, and yours, because you value-add, gets higher. The goal is to have none whatsoever, and I think that's what we're trying to achieve.

**Mr. Francis Schiller:** Indeed, but as legislators you have to be conscious of this asymmetrical impact that has been inflicted on, or varying damage to, the industry. While the large primary producers are enjoying record prices and record sustained demands, the secondary sector in Canada is being negatively impacted. You've heard comments about having to relocate jobs in technology.

Right now you have the opportunity to provide for an independent study to reassure the Americans on this very specific sector of volumes, and this could make things better. It wouldn't impact the deal. It would impact the implementation of the deal. That's within the committee's purview.

**Mr. Ken Kalesnikoff:** Madam Chair, if I can, just one second.

**The Chair:** Yes, go ahead.

**Mr. Ken Kalesnikoff:** COFI represents a certain group in B.C.

**Mr. Ken Kalesnikoff:** These groups are smaller independents. We're not represented by COFI, but when there's a—

ILMA, your Interior Lumber Manufacturers' Association, which I'm the chair of, and Andy is the chair of his, doesn't get called. It's always COFI that gets called, so that has to change as well. What these guys are talking about when it comes to products, the issue is about two-by-fours. This is not about panelling, siding, finished products. That's where it's got to change.

Thank you.

**The Chair:** Ms. Bendayan.

**Ms. Rachel Bendayan:** Sorry, I don't have much time left. I just want to say to Mr. Young and Mr. Schiller that I know you've had meetings with the deputy prime minister's office as recently as today. I hear you at this committee. I think my colleagues opposite also hear you, and so we'll take that back. I'm not sure what is possible by way of amendments to the implementing legislation at this time, but we could certainly look at recommendations and what we can do. So let us take that back. Thank you very much for making the trip to Ottawa and making yourselves heard here today.

**Mr. Kevin Young:** Thank you.

**The Chair:** Okay, thank you to all of our witnesses here. We appreciate it very much that you've come and offered your advice to us. We'll see where everything goes tomorrow.

Yes, Mr. Hoback.

**Mr. Randy Hoback:** If you want to dismiss the witnesses that's fine, but I just want to talk about the—

**The Chair:** Okay, so I should dismiss all our witnesses. I thank you for being here.

**Mr. Randy Hoback:** If you want to go in camera, that would be fine too. It's up to you.

**The Chair:** Well, if we want to actually talk, then we can. There's nothing stopping me from going in camera, right?

Do I have the support of the committee to go in camera?

**Some hon. members:** Agreed.

*[Proceedings continue in camera]*







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