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Mr. Leon Benoit

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● (1005)

[*English*]

The Chair (Mr. Leon Benoit (Vegreville—Wainwright, CPC)): Good morning, everyone.

The Standing Committee on International Trade is here today, of course, to continue the study of the softwood lumber agreement of July 1 of this year.

Today we have as our witness the Honourable Michael Wilson, who is, of course, Canada's ambassador to the United States. With Mr. Wilson, we have Andrea Lyon, director general, North America trade policy bureau.

Thank you both very much for coming today.

Your Excellency, it's so good to see you here. I thank you so much for your part in making this deal happen, and I look forward to what you have to say on the deal.

Do you have an opening statement to make?

Hon. Michael Wilson (P.C., Ambassador of Canada to the United States of America, As an Individual): Yes, I do, Mr. Chairman. Thank you very much.

The Chair: Go ahead with your opening statement, and then we'll go to questioning.

Hon. Michael Wilson: Thank you, and thank you for your kind words.

Good morning, and thank you very much for the opportunity to join you today to discuss the Canada-U.S. softwood lumber agreement, and what is clearly the greatest demonstration of trade diplomacy and cooperation between our two countries in a generation.

On July 1, the Minister of International Trade, David Emerson, and U.S. Trade Representative Susan Schwab initialled an historic agreement to bring an end to the long-standing lumber dispute. In so doing, Canada's new government achieved what no government before it could: an end to this damaging dispute in terms that are highly favourable to Canada, with many elements that industry and provinces had specifically requested.

This agreement represents a carefully negotiated balance of interests that guarantees a stable and predictable environment for our industry, and provides long-sought-after certainty for the hundreds of communities and hundreds of thousands of Canadians who depend on it for their livelihoods. We have before us today a deal that Canada can be proud of—indeed, the best deal possible. It will mean the end of punitive U.S. duties, the return of U.S. $4.3 billion to Canadian industry within four to eight weeks, and the arrival of much-needed stability and certainty. But before I speak in detail about the benefits and the process of the past several months, I want to talk about the key factors that allowed us to get to this point.

The softwood lumber industry in this country represents a critical sector of our economy, directly impacting some 300 communities and more than 300,000 Canadian forestry workers and their families nationwide. So it came as no surprise that upon taking office, Prime Minister Stephen Harper made resolving this dispute a key priority for his government. Reflecting a new era of cooperation between Canada and the United States, the Prime Minister and President Bush agreed this spring to find an end to this damaging dispute. This decisiveness and leadership supported the efforts and unique industry experience of Minister Emerson. They also supported the contributions of cabinet, as well as my efforts in Washington along with those of our strong negotiating team, as we sought to achieve the best deal for Canada.

Provinces and industry were consulted extensively at every step in the negotiating process to reach the original April 27 framework agreement, through subsequent weeks of very intense discussions with the United States, and even into the very final hours leading up to the conclusion of negotiations and the initialling of the deal on July 1. The views of the provinces and industry have been important for this government and for the negotiating team, and were always carefully considered as the agreement was finalized. Without exception, this process has been one of open and constructive dialogue.

On August 9, Ministers Emerson, Bernier, Lunn, and Flaherty and I met in Toronto with some 25 industry CEOs, key decision-makers, to discuss the agreement and to gain a sense of their respective positions. At that time, Minister Emerson again emphasized that negotiations were concluded. He publicly announced that companies would have until the close of business today, August 21, to signal their support for the deal. He made a commitment to continue discussion with all parties regarding specific and administrative clarifications necessary to make this deal a reality. In recent days, information packages and letters of intent have been distributed to more than 300 Canadian lumber companies for their response.

To be clear, the alternative to this agreement is continued costly litigation with no guarantee of a more favourable result, continued U.S. duties punishing Canadian industry workers and communities, and an unstable business environment for this important sector of our economy. It is important that the implications of a litigation strategy be clearly understood. Even if Canada were ultimately successful in this latest round of litigation, without a negotiated settlement, the U. S. lumber lobby could launch a new case against imports of Canadian softwood lumber the following day, starting a new lumber dispute. This agreement prevents that.

Provinces and industry asked for a deal that secures the return of billions of dollars in duty deposits. This agreement delivers on that. In addition, the government has developed a mechanism to maximize the benefits of the refund of deposits by ensuring that most of the money will be back in the hands of our companies within weeks of the agreement's entry into force. The estimated $4.3 billion to be returned to our companies marks a significant infusion of capital for the industry and will benefit workers and communities. Without this mechanism, it could take U.S. Customs up to two years to return all the money to Canadian exporters.

Provinces and industry asked for a deal that provides stability and predictability to the Canadian lumber industry. This government delivers on that. The agreement will last seven to nine years, long enough to help stabilize the market environment for our industry, despite what misinformation has indicated regarding the termination clause. During this time, the U.S. will be prohibited from initiating further trade action.

Provinces and industry asked for a deal that includes the protection of an enhanced termination clause. This agreement delivers that. Termination clauses are a standard feature of international trade agreements. What's more, under international law, without a specific termination clause, agreements may be terminated at any time with 12 months' notice.

This agreement provides for 24 months of dispute-free trade, and it also contains an important provision whereby the United States cannot initiate new trade action for an additional 12 months in the event that it terminates the agreement. This is a powerful disincentive to early U.S. termination. The absence of U.S. trade remedy action under the agreement will offer a period of stability for the industry, which will allow Canadian companies to make the investment necessary to ensure their competitiveness going forward. However, termination of an international trade agreement is a serious decision that countries do not take lightly. Both Canada and the United States agree that we have a strong interest in maintaining the rights and privileges that we attained under the agreement. Termination by either side is highly unlikely.

Provinces and industry asked for a deal that maintains policy flexibility for provinces to manage their forests. Again, this agreement delivers. We have negotiated anti-circumvention provisions that fully protect provincial forest management practices, including a full carve-out for B.C.'s new market pricing system.

Another example of how this agreement will help Canadian companies remain competitive is its third country provision. Under certain circumstances, should third countries take U.S. market share from Canadian companies, a percentage of export charges paid will be refunded.

Last week, Premier Campbell announced British Columbia's unequivocal support for the agreement. At the same time, significant support from the B.C. lumber industry was publicly announced. Within a day, the Ontario government came forward in support of the deal. On Friday, Quebec industry announced large consensus and support for the agreement, joining senior Quebec government officials who also indicated their support. Atlantic provinces and industry have long supported the negotiated settlement achieved between Canada and the United States.

I'd like to take this opportunity to thank everyone who has expressed support for the agreement and assisted in bringing us to where we are today, including Premier Campbell and Premier Charest, ministers from the governments of British Columbia, Ontario, Quebec, New Brunswick, and Nova Scotia, and numerous private sector representatives. The initiative and leadership these individuals have shown are truly impressive and have been critical to the result we have achieved together. I am most appreciative of this support.

This broad and emerging consensus in support of the agreement affirms the direction and leadership Canada's government has demonstrated on this file. While no one should presuppose the final outcome of the decisions individual softwood producers must make today, the government is confident that it will receive quite substantial support from the industry to move ahead.

● (1010)

On this basis, Prime Minister Harper's government intends to introduce enabling legislation when Parliament returns in September, with the objective of seeing the agreement enter into force in October 2006. Canada and the United States will then be able to fully turn the page and direct our full attention to building a stronger, more competitive North America.

Disputes of this nature and the challenges inherent in the process of resolving them can often draw some down the simple paths of rhetoric and political posturing. Today I urge each of you to resist the simple paths and acknowledge what has been achieved for Canada. It's an achievement that truly bridges regional and partisan lines.

This negotiated settlement marks an enormous step towards ensuring progress and prosperity for the future. It protects the best interests of our softwood lumber industry and the best interests of our country as a whole. That's what Canadians expected of their new government. The government identified the resolution of the softwood lumber industry as a key priority. It is clear that the government has delivered on this commitment.

Mr. Chairman, thank you. I would be pleased to take your questions.

● (1015)

The Chair: Thank you very much, Ambassador, for that excellent summary of the process and of the reality of the choice to be made by industry by tonight.

Thank you also, Ambassador, for accommodating this committee so quickly; we really appreciate it. We know that with your schedule it's a difficult thing to do, and it shows, of course, the serious treatment you give this committee.

I know you're not new to committees. You have attended committees before as a witness, so you'll understand the questioning that takes place.

We'll go directly to questioning now from the official opposition Liberal party.

Monsieur LeBlanc, you'll have seven minutes.

Hon. Dominic LeBlanc (Beauséjour, Lib.): Thank you, Mr. Chairman.

Thank you, Mr. Wilson. Welcome back to a place that's very familiar to you. I'll echo the words of the chairman: we appreciate your willingness to be with us this morning. Your involvement in these negotiations makes you a very important witness for this committee, to understand not only the process but the substance of what the government is trying to achieve.

Mr. Chairman, I have two quick questions for Mr. Wilson. Then my colleague Mr. Boshcoff may want to follow up, if there's time remaining.

Mr. Wilson, you referred to the meeting in Toronto of various ministers and yourself and business executives from the forestry industry a couple of weeks ago. My understanding is that in that meeting in Toronto some of the business executives asked you to go back to Washington to try to seek some changes, some improvements to specific aspects of the July 1 agreement, that they wanted to see.

The running rules were one issue we'd heard about publicly. I understand the issue was raised at that meeting, as were some concerns around the termination clause. Those issues have preoccupied members of the Liberal opposition. I'm wondering if you're in a position to tell us what success you've had in getting some changes to the July 1 agreement—you used the words "specific and administrative clarifications"—and what the nature of those clarifications might have been in the last number of weeks.

Also, Mr. Wilson, I have a question with respect to the Byrd Amendment. One of the things we in the opposition have found particularly difficult is the idea that over $500 million ends up directly in the hands of the American lumber coalition, which has caused so much grief to the Canadian industry in such an unreasonable way over so many years. We were wondering why the government, and you perhaps as the lead negotiator on many of these issues, accepting that some of the money may have had to be left there if that was the position needed to arrive at a negotiated conclusion, didn't look at other options; for example, as I know was the case in past discussions, such things as Hurricane Katrina relief, or low-income housing in the United States—"more benevolent purposes" was the phrase your predecessor used—as opposed to rewarding directly those who had pushed us so hard for so long.

Thank you.

The Chair: Ambassador.

Hon. Michael Wilson: Two clarifications arose out of the subsequent discussions we had with Washington. A 12-month standstill agreement had been negotiated as of July 1, and that didn't apply on expiry of the agreement, so you can have a one-day difference from a termination on the last day of the agreement to the first day after expiry. The Americans accepted the clarification. It didn't really make a major difference, so they agreed to allow the standstill to occur on normal expiry of the agreement. The agreement that was initialled on July 1 allowed for 23 months and then a one-month termination, so effectively two years. The industry felt that if we could get a six-month notice instead of the one-month notice it would add some value to the agreement. The Americans sought it within the two-year timeframe originally negotiated. So an adjustment that way was not a major factor.

You mentioned running rules as another matter that was raised at the meeting. The United States have indicated to us that they understand there are concerns on running rules. They understand that running rules have to be operated in a way that is commercially viable, that makes business sense. They have indicated that in one of the consultative elements of the agreement...that they would be happy and would expect that we would bring them forward. There's an understanding between us that this will probably be an early item brought forward to that agenda. There could be things from both sides, both the U.S. and the Canadian industry, in that consultative mechanism.

I should make an observation on that. I think this is a very important mechanism. It's very important that industry from both sides of the border get together and discuss these matters without the filters of industry associations or lawyers, and in this and other ways, we have provided for that type of dialogue. It can be an important element in keeping us away from problems in the future.

You mentioned the Byrd Amendment. As you know, the Byrd Amendment has been ruled illegal, and we are very supportive of that. We are very conscious of the difficulties it presented and we pushed pretty hard in any discussions that we had with the United States on the matter.

You asked whether we considered any options. I should say to you that of the $1 billion that goes to the United States, $500 million goes to the industry and $500 million goes to a number of initiatives, what we've called meritorious initiatives. You touched on one, Katrina rebuilding. There could be others. Who knows what's going to happen, with this hurricane season that we're just getting into right now. There's provision for half of that money to go to, first of all, industry promotion; that would be North American industry promotion. The much larger balance will be on these meritorious initiatives, which we've had discussions on, but we haven't had final agreement as to what they would be.

● (1020)

The Chair: Thank you very much, Mr. LeBlanc. The time is up.

We'll now go to the Bloc Québécois.

Mr. Paquette.

[*Translation*]

Mr. Pierre Paquette (Joliette, BQ): Thank you, Mr. Chairman.

Mr. Wilson, I thank you for having accepted this Committee's invitation.

You told us that the agreement negotiated by the government was the best possible in the circumstances. You also said that we should put partisanship aside and consider objectively what this agreement represents for our industry. However, as early as April 27th, after negotiating the framework agreement, the government kept telling us that negotiations were concluded. This is one of the reasons for our concerns about this agreement. We find it very difficult to understand why the government keeps saying that negotiations are concluded as soon as an agreement in principle has been signed.

On July 1st, when we received the legal documents, the Canadian industry that supported the framework agreement of April 27th, including the industry in Quebec, withdrew its support saying that it wouldn't give it back unless some changes were made to the agreement. The government has announced that it would not help the industry whatever decision they make. The industry has been put into an untenable situation. It has been told that the Canadian government would not negotiate further and that if it refused the framework agreement of April 27th, it wouldn't get any help. The industry was also told that it would have to go it alone before American courts and that the court process would probably take a very long time.

I have here a letter to that effect that was sent to the industry's representatives. Minister Emerson wrote that they must make a choice because the alternative is not the continuation of negotiations — and I am asking you why — but a return to legal challenges, a long and costly process whose result is always uncertain.

Even if negotiations have been concluded since April 27th, why has the government not been more open and not made sure that the agreement will better meet the needs and concerns of the industry? Why has it not been more open? Furthermore, why was it not possible to pursue the litigation before American courts considering the progress already made? The government could have committed itself to help the industry through loan guarantees.

As a matter of fact, I can see that the mechanism that is to be implemented is exactly what the Opposition parties — which then included the Conservative Party — had proposed. Export Development Canada will buy duties on the basis of contervailing duties, which are receivable accounts.

Mr. Wilson, why wasn't it possible to pursue the negotiations after April 27th? According to the government, it was take it or leave it or you would engage in a dead-end. Had you and Mr. Harper promised to the U.S. government and President Bush that Canada would only accept this agreement? Why is it not possible to continue negotiating since April 27th?

● (1025)

[*English*]

Hon. Michael Wilson: The principle point you're raising is, why were there no further negotiations after April 27?

There were further negotiations. We negotiated the British Columbia market price system. We negotiated changes to the termination agreements; on the evening of July 1, we changed the termination clause from three months to twelve months. So there were negotiations following April 27.

The minister did say, and was very clear on this on a number of occasions—and the Prime Minister as well—that as of July 1, negotiations were concluded. We had initialled an agreement and there had been full discussion and dialogue between the government and industry and the provinces during that period from April 27 to July 1. But at some stage, negotiations do have to stop. We had a period of May and June—two full months in there—for lots of discussion.

You made a comment that the government would not help. Well, without a lot of pressure from the industry, the government did provide substantial help in the financing arrangements, so that rather than asking industry to wait for a period of what could be over two years, the government is financing the vast bulk of that. So industry will get the money in their banks in a period of four to eight weeks. That's a significant financial improvement for the industry. Again, that came after April 27.

You also made some reference as to why we were so closed. I would say to you that one of the reasons we took as long as we did from April 27 to July 1 was the significant amount of dialogue between the industry and the negotiating team; we wanted to understand precisely what the issues were on both sides. In some cases we were able to make adjustments to the text that had been concluded on April 27.

I'm not quite sure whether I got this final point, but let me say it the way I thought I heard it. You made some critical comment that we had to drop litigation. Well, effectively, this negotiation is an out-of-court settlement. In other words, the parties to the agreement and the affected parties of the agreement agree to certain things that are set out in the agreement—some substantial benefits to both industries, and for that they both agreed to drop the litigation. You can't have an out-of-court settlement and a continuation of litigation; it just doesn't work. So that is the basis on which both sides agreed that litigation had to be dropped.

● (1030)

The Chair: Mr. Paquette, your time is up.

Okay, be very short.

[*Translation*]

Mr. Pierre Paquette: We shall have the opportunity to see if there was no other alternative than forcing the industry to accept an agreement which is not exactly what it wants.

Is the clause of the agreement concerning 95 per cent of duties still active? Is it still necessary to obtain the support of companies which had to pay collectively 95 per cent of countervailing duties in deposit in order to get a signed agreement with the American government? Is that provision still in the text?

[*English*]

Hon. Michael Wilson: The clause is still present in the document, but Mr. Emerson has indicated that it was a unilateral Government of Canada provision. It was introduced into the agreement to encourage as many people as possible to come aboard. The Government of Canada set a threshold of 95%, but there is flexibility in that 95%. It's not an absolute, fixed number by any means—and that's a point that Mr. Emerson has also made.

The Chair: Thank you very much.

Now we'll go to the government side, to the Parliamentary Secretary to the Minister of International Trade, Mr. Emerson, Ms. Guergis.

Ms. Helena Guergis (Simcoe—Grey, CPC): Good morning.

Good morning, Ambassador.

First, let me give my appreciation to you for the incredible job you have done, along with Minister Emerson, in achieving what is a great deal for Canada and a great deal for Canada's industry. I very much appreciate your dedication to this file.

I also think it's appropriate that we point out here that you offered to be before our committee. We appreciate your offering to be here. But we did in fact ask the former ambassador, Mr. McKenna, to come forward, which he declined. I just want to point out that some of my Liberal colleagues across the way often like to talk about the non-deal they had and brag about it being so much better. I just think perhaps Mr. McKenna would have liked the opportunity to come before us to brag about the non-deal that he had not achieved, if it were so good.

I'll leave it at that.

Mr. Ken Boshcoff (Thunder Bay—Rainy River, Lib.): On a point of order, Mr. Chairman, Mr. McKenna isn't here to defend himself, so why such a cheap shot as that?

Ms. Helena Guergis: That's right; he declined, Mr. Boshcoff.

The Chair: Mr. Boshcoff, you know that's not a point of order.

Ms. Guergis, go ahead, please.

Ms. Helena Guergis: Thank you.

You are quite right, Ambassador, that negotiations at some point do have to end. Again, I do think you have done the best we possibly could do for Canada and you were always thinking of our industry.

Could you please talk a little bit more about the second alternative that Minister Emerson himself had referred to as being litigation, perhaps, if this deal didn't go forward? I've seen in the news that the U.S. Coalition for Fair Lumber Imports has said that if Canada even attempts to change the deal, Canada and our industry can expect years more of litigation. I think it's safe to say that if the deal doesn't go forward, that's the exact same thing they would have to say.

Could you just tell us what you think that litigation would look like?

Hon. Michael Wilson: The minister has made a very strong point of the very undesirable option of continuing litigation, and if we don't get an agreement here, that option is open to the United States industry. This agreement clearly prohibits that option during the life of the agreement, which would be seven to nine years. The point he has been making is that when you're in a low-price market, which we are today, and because of the technical aspects of anti-dumping—which I won't go into in detail, but I can if you wish me to—it is not difficult for the U.S. industry to successfully launch an anti-dumping action.

What you have to demonstrate is that you are selling below the domestic price and you're selling at a loss. There will be companies in a low-price environment such as we're in today selling at a loss, and by the nature of there being an export duty that would be in place if we don't have a resolution here, that will result in an anti-dumping petition, and probably a successful petition. So having gone through four years of anti-dumping and countervail action, we will be right back into it.

The other point the minister has made, which I fully agree with, is that the United States government has committed a significant amount of political capital to bring its industry onside and contribute to the successful conclusion of this agreement. If we can't get a successful resolution of this and we go back into a litigation environment, it will not be a happy environment. I put it as gently as that. But the other thing is that I think you can be sure that, having committed this political capital to move us to where we are today with an agreement that has been initialled by the two governments, if the industry rejects that, the U.S. government will not get behind another attempt at a negotiated settlement. So I think we'd be a long way away from getting back to where we are today, if we were back in a litigation environment.

● (1035)

Ms. Helena Guergis: I believe my colleague Mr. Cannan may have a question at this point.

The Chair: Mr. Cannan, go ahead, please.

Mr. Ron Cannan (Kelowna—Lake Country, CPC): Thank you, Mr. Chair, and thank you, Ambassador Wilson.

Coming from British Columbia, I know this is a very important agreement. Over 55% of the industry involved is in British Columbia—as you mentioned, more than 300,000 employees across the country. So I appreciate your reinforcement to our member opposite of the fact that there were negotiations and considerations after the April 27 agreement about British Columbia having the market-based pricing.

I believe there is also provision for something that's unfortunately coming across the country—the pine beetle. Could you expand on the implications of the pests that are invading our forests and on the provisions for mitigating wildfires? Coming from Kelowna—Lake Country, I know it was in the summer of 2003, of course, that wildfires devastated our community. We have to make sure there are provisions on that within our agreement, as well as for the first nations.

Can you clarify whether those issues have been addressed within the agreement?

Hon. Michael Wilson: The market price system, as you point out, is a very important element in the positions of the B.C. government and the B.C. industry. The planning of this has been under way for three or four years now, and it is moving the B.C. industry into an auction-based approach for establishing stumpage fees. That has been, as I'm sure you're very much aware, one of the key points of difference between the U.S. and the Canadian industries. Their allegation was that the Canadian industry stumpage was set by the government and not based on a transparent auction system. This new system does provide for that. So that in itself can contribute to a more satisfactory relationship between the two industries in the future.

You mentioned the pine beetle. The pine beetle is not only a very serious element in the health of the B.C. industry—because the pine beetle kill is starting to move into Alberta—but it's also starting to move down into the United States. So they could have the problem in those two jurisdictions as well.

It becomes a significant issue because there's a certain period after which the trees no longer provide good softwood lumber because of damage by the pine beetle to the quality of the fibre. There's a certain period of time during which the trees have to be harvested, and those harvesting practices are dealt with or addressed in the anti-circumvention clause. It's been told to me by both the B.C. and Alberta industries that those are important factors that the agreement includes, so any adjustments that are made to address the pine beetle problem won't be regarded as circumvention of the agreement.

● (1040)

The Chair: Thank you, Ambassador, and thank you, Mr. Cannan.

Now we will go to the New Democratic Party. Mr. Julian, seven minutes, please.

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

Thank you, Mr. Wilson, for coming forward today. It's important to have your testimony.

This is the second day of hearings. As you know, this committee will be discussing later today a motion to continue the softwood hearings in British Columbia over the next few weeks. Hopefully we'll have all-party support for doing that. Given that British Columbia is the heartland of the softwood industry, I expect we'll get all-party support to do that and take this committee to Vancouver so that we can hear from the many producers who have expressed strong concerns about this agreement.

I'd like to start off by following up on the question from my colleague Mr. LeBlanc on the termination clause, so that we're all very clear. The original draft proposal for July 1 started by saying—I'm referring to article XX, clause 33—that after 23 months after entry into force, either party may terminate this agreement, and it goes on. Am I correct, then, that your comments indicate that the agreement would now say that after 18 months after entry into force, either party may terminate this agreement?

Hon. Michael Wilson: Eighteen months plus the six-month notice period.

Mr. Peter Julian: So we've actually lost five months. The agreement, with this improvement—it's difficult to understand it as an improvement—actually gives us an agreement that is five months shorter than it was in the initial draft agreement from July 1.

Hon. Michael Wilson: No, I don't think that's correct, Mr. Julian. The important way to understand this is to add the termination period and the notice period together. What you're reading from there is 23 months plus one month's notice; now we have 18 months plus six months' notice, so that it is effectively the same. The six-month termination was something that was felt important by the industry, by those people you were referring to just a minute ago.

Mr. Peter Julian: Thank you for your answer, but nevertheless, we've now moved from 23 months after entry into force to 18 months, and I think that's an important thing for this committee to know.

Hon. Michael Wilson: Plus six months.

Mr. Peter Julian: I'll continue.

Have there been any changes to clause 34? It reads, as of July 1:

> The United States reserves the right to terminate the Agreement if Canada is not applying the export measures under Article VII and Article VIII without resort to dispute settlement under Article XIV or any other pre-condition for termination of this Agreement.

In other words, if there is even allegation of non-compliance with the agreement, the United States can, with no further recourse from Canada, terminate the agreement at any time.

Have there been any changes to that paragraph?

Hon. Michael Wilson: No.

● (1045)

Mr. Peter Julian: Okay.

Have there been any changes to the rules or provisions around the running rules? This is something the companies have been raising as a major concern: that effectively the penalties are set retroactively. You referred to some committee that might, in a few months or a few years, come up with some changes. As far as the agreement is concerned—the draft agreement, because we're not dealing with theory here, but with the reality of the printed word—have there been any changes in this draft agreement to the running rules?

Hon. Michael Wilson: There has been, as you point out, discussion between the industries in the east and the west. They were looking for greater flexibility in the running rules. The running rules were negotiated after considerable consultation and a good deal of back and forth between the Canadian negotiating team and the United States. The conclusion we have come to is as set out in the agreement.

Mr. Peter Julian: Okay, so there have been no changes to the running rules.

Hon. Michael Wilson: Let me conclude my—

The Chair: Mr. Julian, please let the ambassador finish his answer.

Hon. Michael Wilson: There were a number of changes from the original proposal for running rules, particularly with the option A running rules, that have provided increased flexibility. The industry was attempting to get changes from the April 27 agreement that had been agreed to. With the flexibility that was introduced during this period, it was felt there was a sufficient basis to move ahead. The U. S. has indicated, as I indicated to Mr. LeBlanc, that they would expect these matters to be brought forward to this consultative mechanism and that they would be happy to engage in discussion at that time.

Mr. Peter Julian: Thank you, Mr. Wilson. But it's important to note that there are no changes to the running rules.

You referred to continued litigation, and Minister Emerson referred to it as well. In fact, Prime Minister Harper has said there'll be seven years' litigation; we'll just continue, on and on. We know there are two cases, one of which we won again under Tembec a few weeks ago that's subject to one final appeal. We also have, on subsidy, the ECC judgment that the Canadian government has actually suspended, and it's a non-appealable judgment on subsidy.

I'll ask the same question to you as I asked to Mr. Emerson. We have these wild and irresponsible phrases and interventions, talking about endless litigation. We know there are two hurdles, both of which are non-appealable after the fact. So specifically, when you talk about endless litigation, what possible appeals are you talking about in those two cases that would allow both the tariffs to be taken off completely and the moneys to be returned? I'm talking about specific appeals, not vague fantasies like those Mr. Emerson and Mr. Harper have referred to, but specific appeals on the Tembec case or on the ECC judgment.

Hon. Michael Wilson: You used the word “irresponsible”, Mr. Julian. I'd be careful about who's using the word “irresponsible” and who they're directing it at, because some of the things that you're saying just now are irresponsible.

Mr. Emerson has directed his comments at the alternative of litigation in the case that we not conclude an agreement. We're not talking about the litigation that is in the courts rights now; we're talking about subsequent litigation that could be launched on very short notice.

Mr. Peter Julian: Thank you for your answer.

Hon. Michael Wilson: So that is the litigation he was referring to; that's not the way you addressed it.

Mr. Peter Julian: Thank you for your answer. This is something that I asked Mr. Emerson. He was unable to provide any further grounds for appeal.

So effectively we are dealing with two legal hurdles, both of which we are very close to going over. Thanks for clarifying that.

The Chair: Mr. Julian, your time is up. If you have one more short question, go ahead.

Mr. Peter Julian: You referred to four to eight weeks before the return of tariffs from the United States. Can you clarify that you're actually talking about moneys that we've paid out through the Export Development Corporation, not moneys that would be coming back from the U.S. for that four- to eight-week timeframe?

Hon. Michael Wilson: The four to eight weeks refers to moneys coming back from the United States to EDC and then being financed. The moneys will be starting to come back from the U.S. Customs people during this period of time. But the Canadian government has agreed to discount the whole amount of the deposits and pay those up front within the four- to eight-week period.

Mr. Peter Julian: So that's money coming from EDC?

Hon. Michael Wilson: That's money coming from EDC—

Mr. Peter Julian: From Canadian taxpayers?

Hon. Michael Wilson: —but some money will be backed by deposits coming back from the United States Customs Department.

● (1050)

The Chair: Thank you very much.

Unfortunately, our time is up. I want to once again thank you, Ambassador, for coming today and also for your clarity in presenting the situation and providing answers to the committee. It is very much appreciated. I thank you for your service to this country, as ambassador to the United States, and look forward to great things from you in the future.

Thank you.

Hon. Michael Wilson: Thank you, Mr. Chairman.

The Chair: We will take a five-minute break as the witnesses clear the table, and we'll start the next meeting in five minutes.

We are adjourned.

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