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Chair

The Honourable Rob Merrifield

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•(1205)

[English]

The Chair (Hon. Rob Merrifield (Yellowhead, CPC)): We will call the meeting to order. We have a quorum.

We want to thank the officials for coming in from the Department of Foreign Affairs and International Trade. We have Jon Allen, Laurent Cardinal, and Kevin Thompson here to talk about the Buy American provisions. It's a rather relevant topic, particularly today.

Thank you for coming in to give your perspective on what's happening. The floor is yours for ten minutes.

Mr. Jon Allen (Assistant Deputy Minister, Americas, Department of Foreign Affairs and International Trade): Thank you, Mr. Chairman.

Bonjour, and thank you for this opportunity to speak to you.

I am Jon Allen, the assistant deputy minister for the Americas at the Department of Foreign Affairs and International Trade, responsible for North and South America. With me today from the department are Laurent Cardinal, the director general of the North America trade policy bureau, and Kevin Thompson, the director of the government procurement, trade, and environment division. They are the real trade policy experts here. Kevin has just returned from the embassy, spending a number of years there, and Laurent is a long-time trade policy expert.

We have been asked here today to address the draft Buy American provisions in the proposed American Jobs Act of 2011. In my opening remarks I hope to provide an overview of the proposed bill, its Buy American provision, and the framework in place between Canada and the United States to address government procurement issues. I'll also summarize the specific steps taken by the Minister of International Trade and others here in Ottawa and throughout the United States to respond to this issue. Following my remarks, we will welcome your questions and comments.

At the outset, it is important to emphasize that Canada is not opposed to the American Jobs Act per se. As the Prime Minister stated in an open letter to the chairman of the G-20, the administration's job plan "will provide a welcome impetus to growth in the short term" in the United States. However, Canada regrets the inclusion of new Buy American restrictions in this bill. New trade restrictions, if passed into law, would send a negative signal to governments around the world that trade restrictions are an acceptable policy. They would also negatively affect both the Canadian and U.S. economies at this fragile point of the global recovery and run the risk of inviting similar responses elsewhere.

Given the integrated nature of Canada-U.S. supply chains, new restrictions harm not only Canadian exporters but also U.S. firms that rely on Canadian inputs and U.S. governments that have come to rely on innovative Canadian products. We do much more than just trade with each other; we build things together.

On procurement, both Canada and the U.S. face huge challenges in improving our infrastructure on both sides of the border. We need to ensure there is as much competition as possible to maximize value for taxpayers. We know that free and open trade is the best way to protect and create jobs, to lower prices, and to produce better results in both our countries. That is the message we have taken and will continue to take to Washington.

Now to the American Jobs Act. On September 8 President Obama outlined his plan to address persistently high unemployment in the U.S. On September 12 his administration publicly released its legislative proposal, the American Jobs Act. This bill contains numerous elements, including payroll tax relief, transfer payments to prevent public sector layoffs, and investment in infrastructure. The administration estimates the total cost of the bill at \$447 billion.

The bill also contains a Buy American provision that prohibits the use of any funds for the construction, repair, or maintenance of public infrastructure unless all iron, steel, and manufactured goods used in the project are produced in the U.S. This provision is nearly identical to the Buy American provision found in the American Recovery and Reinvestment Act of 2009, with which many of you will be familiar. The bill also stipulates that the Buy American requirement must be applied consistently with the United States' international trade obligations.

I should note that the bill is very much at the first stage of the legislative process. Despite President Obama's urging that Congress pass the bill quickly, numerous steps are required before it can be adopted. The non-partisan Congressional Budget Office has to assess the costs of the bill. In both the Senate and the House of Representatives, the bill will be referred to relevant committees, of which there are several.

●(1210)

Given the nature of the U.S. legislative system, it is unknown at this point what the final text will look like in comparison to the current draft proposals, or even if there will be a final text that becomes law. As you know, over the summer the debate in Congress over the increase to the U.S. debt ceiling and concerns about the size of U.S. deficit led to increased political tensions in Washington. In August 2011 the House Republicans introduced their own job creation plan, called "Plan for American Job Creators". How these competing legislative proposals ultimately will fare is unknown at this stage.

Given this context, it's fair to say that the legislative path for this bill is quite uncertain. Moreover, we should bear in mind that while Buy American is an extremely important issue for Canadians—and as such is the one that the Canadian government has and will continue to engage on—other elements in the bill, such as the government's role in the economy and tax policy, will loom larger in the debate on Capitol Hill. We need to keep this in mind as we actively respond to this draft legislation.

It's also important to emphasize at this time that it is very difficult to calculate precise estimates of the potential impact of the bill on Canadian interests. The proposed funding mechanisms in the bill are complex, the distribution patterns of Canadian suppliers varied, and the application of U.S. international obligations content-specific. The bill stipulates that Buy American provisions must be applied consistently with U.S. international trade obligations.

That said, we are able and happy to share with you some preliminary observations. The Buy American provision is limited to funding for public infrastructure authorized by the bill. It does not affect other pre-existing authorization legislation that applies to annual appropriations. In other words, the majority of the federal transfers to states are not affected by this legislation. It applies only to goods, not services. The bill also provides for the waiver of the Buy American provision under certain circumstances, from which Canadian firms have benefited in the past.

The bill proposes funding amounting to approximately \$105 billion for several infrastructure programs to which the Buy American provision would apply. However, this figure represents the total size of the intended U.S. stimulus, not the value of lost opportunities for Canadian exporters. That figure is considerably lower based on numerous factors, including labour costs and professional services, neither of which would be subject to Buy American provisions, as well as taxes and contractor profit. We would be happy to elaborate further in the question period; that's of course the royal 'we', as my trade policy colleagues are much better able to get into those details than I am.

Now, if I may, I'd like to turn to the framework currently in place between Canada and the U.S. regarding government procurement.

Since the mid-1990s, Canada and the U.S. have granted each other reciprocal commitments in relation to federal government procurement. These are found in the North American Free Trade Agreement, NAFTA, and the World Trade Organization agreement on government procurement. These commitments, however, did not extend to procurement at the provincial, territorial, or state level.

●(1215)

In February 2010, as a result of concerns from Canadian suppliers regarding the Buy American provision of the 2009 recovery act, Canada and the U.S. concluded the Canada-U.S. government procurement agreement, CUSPA.

The CUSPA—we officials have acronyms for everything—has three main elements. First, Canada and the U.S. exchanged commitments in relation to subnational procurement. Canadian suppliers now have guaranteed access to covered procurement in 37 U.S. states, while Canada made procurement commitments in all provinces and territories except Nunavut. These commitments are subject to certain limitations and exclusions, but as a result, after 15 years, Canadian suppliers now have the same guaranteed access to subnational procurement opportunities in the U.S. as other members of the WTO agreement on procurement.

Second, Canada and the U.S. exchanged temporary commitments in relation to certain types of infrastructure spending at the local level. The U.S. granted Canada a waiver from the Buy American provision of the 2009 recovery act for seven programs of interest to Canadian firms. In exchange, Canada granted U.S. suppliers secure access to infrastructure projects by certain provincial crown corporations and municipalities. These temporary commitments expire on September 30, 2011, because they coincide with the full expenditure of recovery act funds.

The third element of the CUSPA, and a particularly critical aspect for purposes of this discussion, is the agreement reached in 2010, a commitment by Canada and the U.S. to enter into discussions to explore possible expansion of government procurement commitments on a reciprocal basis. Two constructive meetings in furtherance of this commitment have already taken place.

Finally, the agreement includes a consultation mechanism for any matter related to government procurement. Under this mechanism, either party can request a consultation with the other, which is precisely what Minister of International Trade Fast did on behalf of the Government of Canada with his U.S. counterpart.

Shortly after the public release of the Obama administration's proposed American Jobs Act, our Minister of International Trade took quick and decisive action by writing to his U.S. counterpart, U.S. trade representative Ambassador Ron Kirk, to formally invoke this consultation mechanism. Consultations are scheduled to take place in Washington tomorrow morning. Indeed, my colleague, Mr. Cardinal, will represent Canada in Washington tomorrow.

The minister has also spoken with both Ambassador Kirk and U.S. ambassador to Canada, David Jacobson. The minister reminded both ambassadors that as each other's largest trading partners, both American and Canadian workers and businesses do best when trade-restrictive policies are not pursued. Minister Fast expressed the Government of Canada's concern with the proposed Buy American provisions and reiterated to each ambassador the Government of Canada's position that long-term economic growth and good jobs are best protected and created by broadening and deepening our trading relationships and removing trade barriers.

In addition, numerous other senior officials, including the Deputy Minister of International Trade and our ambassador to the U.S. in Washington, have reinforced the government's concerns with their U.S. counterparts.

●(1220)

Beyond pressing our case with members of the administration, given Congress's role in the preparation of the legislation, the Government of Canada is also reaching out to members of the House and to the Senate to outline our concerns, to explain the negative impact Buy American could have on U.S. firms and jobs, and to enlist their assistance.

We are also coordinating with industry groups in both Canada and the U.S. that opposed Buy American so that our shared concerns can be fully taken into account in any future debate.

In summary, the minister and the department and our missions in the U.S. continue to react in a timely and balanced fashion to this regrettable development. We are identifying where the potential problems may lie. We are proceeding in a deliberate and sustained manner, even as we are also aware of the significant legislative uncertainties associated with this bill.

Beyond this issue, ladies and gentlemen, it is important not to lose sight of the big picture, of the depth of the broader bilateral relationship. Canada and the U.S. share the largest and most dynamic bilateral trading relationship in the world. With almost \$1.8 billion in goods and services crossing the border each day, the vast majority of these transactions, which total almost \$700 billion per year, are free of irritants and disputes. The U.S.-Canadian trade relationship is the deepest and the broadest, and notwithstanding our concerns with the proposed Buy American provisions in this draft bill—and those concerns are real—this clearly remains the case.

Beyond the economic sphere, Canada and the U.S. work together, as you know, on a wide variety of issues that range from defence cooperation to border management, security, energy, and the environment, just to name a few.

In short, the relationship between our countries is broad and mature and durable. The Government of Canada will continue to meaningfully engage with the U.S. government on these important matters of shared economic interest.

With that, I hope I have kept within the ten minutes.

The Chair: You went a little bit over, but you were so interesting, we allowed you to continue.

Nonetheless, we'll open it up to questions.

Mr. Chisholm, please start. You have seven minutes.

Mr. Robert Chisholm (Dartmouth—Cole Harbour, NDP): Thank you very much.

This is interesting. I'm glad you're here. I'm glad that you as well as Mr. Cardinal and Mr. Thompson were invited.

This is an issue that has gotten some attention, both inside the House and outside the House. I've taken the opportunity to make a few calls and talk to some people about what this really means. I'm trying to get a handle on what's been going on. As much as I want to blame everything that happens—the weather, the fact that the tomatoes aren't big enough this year—on the government, I try to actually find out what's really going on.

I have a couple of questions. As we go through them, my colleagues on this side may also want to pipe in.

A couple of things come to mind. One is that my understanding is that by the time we got involved with the 2009 Buy American Act, it was 2010. At that point, according to the numbers I've seen, the consequences were that we had access to only 0.5% of the American infrastructure spending, which was \$1.5 billion, whereas United States firms had access to \$25 billion on our side. I raise that because I'm going to be looking to you to drill down a little on the point you made about the ongoing public transfers of \$105 billion and what those actually represent to Canadian companies. That's one question regarding the last agreement.

The second part of that—and you've raised it—is that Canada was working at getting an ongoing exemption to prevent any further legislation like this from coming down the pipe. You said there were two meetings. I'm new at this; please appreciate that. Don't be too hard on me with your response. There have been two meetings. Given the severity and given how important this is and the impact, why haven't we been able to move more quickly on this in order to get that exemption under way?

●(1225)

The Chair: You have the questions. I encourage the members to ask their questions as succinctly as possible. It took about three and a half minutes to ask, so we'll give you three and a half minutes to answer, if you need it.

Mr. Robert Chisholm: Mr. Chairman, before the answer, let me just say that my experiences on standing committees vary. Sometimes witnesses like to get the context and address things in that respect.

The Chair: That's very well. We can discuss that.

Please go ahead and answer the question.

Mr. Laurent Cardinal (Director General, North America Trade Policy Bureau, Department of Foreign Affairs and International Trade): Thank you for the question.

On the first part, on the percentage of access on the first stimulus package the U.S. put in place in 2009, I guess in the assessment of that.... I know that it was largely discussed in the work of the committee at the time of the agreement. As you know, it's very difficult to get exact figures and data on contracts and what is accessible to companies and what contracts are won by Canadian companies and all of that.

You also have to keep in mind that in the agreement Canadian companies secured access to 37 states that are part of the WTO in the U.S. Previous to the agreement, that access was not available to Canadian companies, so that part of the agreement was important also. It secured procurement from 37 big states in the U.S.

What you're referring to is more the access to what was a temporary part of the agreement that is going to expire at the end of September. For the figures on that, I'll ask Kevin to comment. It's difficult to assess what was accessible.

I just want to mention that in exchange for the access to the programs, what was committed to on the Canadian side was procurement of construction contracts at the municipal level. Most of those contracts were already accessible to the U.S. They secured for two years the fact that municipalities wouldn't put in place restraints on the accessibility of U.S. suppliers to this.

On the second question, I'll ask Kevin to explain the \$105 billion and add his comments, if he wants to, on the dispute over the proportion of the contracts that was accessible to Canadian companies.

The Chair: Go ahead, Kevin, very quickly.

Mr. Kevin Thompson (Director, Government Procurement, Trade and Environment, Department of Foreign Affairs and International Trade): Thank you very much.

Firstly, very briefly on this figure of \$105 billion in the current American Jobs Act bill, I'd just like to emphasize that it's very difficult to assess the impact with any degree of precision, but we have been looking at the various funding envelopes under the bill, and there are essentially four that are of concern to us.

The Buy American provision relates only to public infrastructure spending. It does not relate to all elements of the bill. The bill contains tax relief. The bill contains transfers to states. So those parts of the bill are not implicated by the Buy American provision.

In terms of the public infrastructure spending, there are four programs. In particular, there's \$50 billion for transportation infrastructure. There's \$30 billion to modernize and renovate public schools and colleges. There's \$15 billion for a neighbourhood stabilization program, including redeveloping abandoned and foreclosed homes. There's another \$10 billion for a new national infrastructure program.

But it's important to emphasize that this figure represents the total of the U.S. stimulus and not the value of lost opportunities for Canadian exporters. I could elaborate on some of the factors that would go into that if you would like.

•(1230)

The Chair: Not right now, thanks.

Mr. Keddy.

Mr. Gerald Keddy (South Shore—St. Margaret's, CPC): Thank you, Mr. Chairman.

Welcome to our witnesses. We appreciate the good work that you do for us every day.

I'm going to allow you to elaborate on that a little bit more, but just before you do, I do have a comment. This legislation came into effect, I think, on September 12.

No? Well, It was tabled. It didn't come into effect on September 12. It's a different thing altogether.

The Chair: That's right.

Mr. Gerald Keddy: I was with the minister at that time. He was immediately on the line with his counterpart, Mr. Kirk, and speaking to Ambassador Jacobson.

This is relatively new, and, without question, is certainly of major concern. To put it mildly, it's disappointing that we're back here going over this again. But at the same time, it's a very complicated process and is one that's just not a clear run. It's not a home run for them, not whatsoever, to put it through Congress.

I would like a little more elaboration on the numbers. And I'd ask the chair to allow me to share the rest of my time with Mr. Holder.

The Chair: Go ahead.

Mr. Kevin Thompson: First, in relation to the \$50 billion proposed investment in transportation infrastructure, much of the transportation infrastructure spending in the United States is subject to longstanding, pre-existing Buy American restrictions. So there was legislation back in 1982 that essentially imposed a Buy American condition on federal transfers to states for transportation projects. There are some minor exceptions to that, but basically much of this \$50 billion will go through pre-existing programs under which there have been longstanding restrictions on all foreign suppliers, including Canada. So these are not new restrictions.

Second, for many construction projects, residential as well as non-residential, a significant portion of the overall project cost goes into non-tradeable inputs: things like labour costs, taxes, demolition costs, permitting, and contractor profit. Based on our preliminary analysis, about 50% of the infrastructure spending is actually on these inputs, which are not internationally tradeable, so Canada would not have access to those particular inputs.

Third, there is a program, a neighbourhood stabilization initiative, and if prior experience is any indication, approximately 25% of the spending goes to the actual acquisition of the foreclosed or abandoned home. When you take that into consideration along with labour costs, demolition, taxes, and profit, then really about 30% of that remaining \$15 billion is left over to purchase construction materials.

When you look at all of the elements that are non-tradeable internationally, the figure of \$100 billion is reduced very significantly.

We also have to look at the extent to which Canadian suppliers participate in those markets throughout the United States. Our suppliers are much more active in certain markets than in others. And at this time it would simply be premature to try to determine where the money is going to be allocated if this bill is adopted, in which states it's going to be allocated, and whether or not Canadian firms are actually active and competitive in those regional markets.

The Chair: Mr. Holder, you have three minutes.

Mr. Ed Holder (London West, CPC): Thank you very much.

I would like to thank our guests.

This feels a bit like *déjà vu* of the time when we were dealing with this concern with regard to the American Recovery and Reinvestment Act.

Mr. Allen, you mentioned that the Buy American provision of the American Jobs Act is limited to funding for public infrastructure authorized by the bill and that certain things don't apply. I think we understand that.

I'd also like to quickly acknowledge that I think the officials did a good job with CUSPA, in getting, frankly, the only exemption from Buy American that any country got back in 2009.

But my concern is that this really speaks to confidence in terms of Canadian and American business. American business is saying that maybe it's not a good thing to do business in Canada because they know what their American government's really intent is. I will express, probably a little more strongly than Mr. Keddy will, not just my frustration but my disappointment in the American government's approach to this. I think it's wrong-headed, and it's bad legislation at a bad time for all the reasons you've articulated.

I know you've talked about timing and how long this will take. What's your belly-button guess—if I can be so crass? If you had to guess as to the implementation of this bill, on a scale of one to ten, and on the implications of it, what would you think?

• (1235)

Mr. Jon Allen: Well, it's very difficult to predict. You know the process. A bill was introduced into the Senate. Before anything can happen a bill has to be introduced into the House. The Republicans control the House. They could amend the current legislation, or they could kill the current legislation. And with respect to the timing, it's really very much in their hands. To some extent the tensions between the Republicans and the Democrats have only grown, as you know.

So we really can't predict. But I think the contacts we have made and others have made suggest this is going to be far from an easy go for this legislation. But as to exact timing, when it would end, I can't tell you that.

Mr. Ed Holder: You know, it really does speak to this issue of why we've had to be as aggressive as we have been to enter into other agreements beyond the United States. Look, they're our best partner, our great neighbour, and all the things we know that are positive about that relationship. But quite frankly, we can't be as dependent as we are, which I think speaks to why we've tried to do these deals.

I might well be out of time, and I will apologize if I am.

The Chair: You have 13 seconds.

Mr. Ed Holder: Then I'll resume at another time, if I get a chance.

Thank you.

The Chair: I think we got the gist of that, but go ahead and answer quickly.

Mr. Jon Allen: Let me just say that in respect of the negotiations that are ongoing now in respect of the new agreement, which was a question, there have been two very substantive meetings. A third meeting is planned.

Both sides are very serious about this. I think we are indeed making some progress. It takes time. It's not going to happen overnight. But there is a seriousness on both sides of the table, and I think that is also valuable and important, looking forward.

The Chair: Mr. Easter.

Hon. Wayne Easter (Malpeque, Lib.): Thank you, Mr. Chair.

Off the top, I would say I disagree strenuously with the comment made in your presentation that, to quote you, "our Minister of International Trade took quick and decisive action by writing to his U.S. counterpart"—after the fact. We have a saying on the farm: it's pretty hard to deal with an issue after the horse has left the barn. In this case, the horse has left the barn.

I want to know, who fell down on the job? Starting on June 28, President Obama telescoped that this was where he was going to be. He was talking about "made in America" in at least six speeches prior to his announcement. Was there any representation to the administration by the minister, DFAIT, PMO—any ministry—prior to that speech of President Obama's?

Mr. Jon Allen: Not that I'm aware of, Mr. Vice-Chair.

Hon. Wayne Easter: But why not? Listen, I can't understand why DFAIT, through the embassy in Washington and all the other means through which you should be monitoring U.S. policy activity on an issue that is so critical to us in this country...that nobody was talking to the administration before.

As a second question, then, has DFAIT or any other ministry raised these kinds of concerns over this jobs plan in other broader discussions—perimeter security, defence cooperation, and those areas? Are you raising our concerns in those other discussions?

I know there are umpteen discussions going on with the U.S. Are we going to sit back and say, "Well, we'll give you perimeter security", or, "Well, we'll sell you more oil", when they're taking jobs right out of Canada's hands? Have there been any discussions in those areas?

• (1240)

The Chair: Mr. Easter, we'll get a response first.

I think you responded to some of that in your address.

Mr. Jon Allen: We did.

Let me just say that we do not receive previews of legislation put forward by the United States. Indeed there was some surprise, both at the U.S. embassy here and within the offices of a number of our contacts, because that legislation is not previewed to bureaucrats in the U.S. or to us before it's introduced. I can certainly confirm that as soon as it was introduced, the minister reacted extremely quickly by doing really what was the most important thing, to request consultations and then to get on the phone to Ambassador Kirk.

In respect of your second point, Mr. Vice-Chair, in terms of our "beyond the border" discussions, for example, in those discussions, which are aimed at improving trade facilitation, improving the economic relationship, and, as you know from your previous incarnation, improving the security between our two countries at the same time, we were able to advance those negotiations and deal with separate trade disputes at the same time.

Hon. Wayne Easter: Mr. Allen, I understand that. As the chair would know, we have a secretariat at the embassy in Washington. Is the Canadian government not monitoring potential policy implementation in the United States that is going to have an impact on Canadian jobs and our economy? You ought to be doing that. If you're not, this should have come as no surprise to anyone. On July 22, at the University of Maryland, President Obama made it clear that he was talking about made in America. I could go through the other dates. Is nobody monitoring what is happening, in all our embassies and consulates in the United States?

I think it's shameful, to be honest, that the Department of Foreign Affairs is not on top of these issues, given the number of embassies and consuls general we have in the U.S.

I want to come back to a previous recommendation that is pertinent to this issue. The second recommendation in this committee's report of May 2010 said:

That the Department of Foreign Affairs and International Trade (DFAIT) set up a mechanism to collect economic data regarding the application of the Canada-U.S. Agreement on Government Procurement, and thus enable it to assess the agreement's impacts on enterprises and employees in Canada. DFAIT should submit a report on this issue to the committee.

Previously, an assistant minister for trade policy and negotiations said that the department hadn't done that. Well, we're at a crucial stage in procurement now.

Have you abided by the recommendation of this committee yet?

Mr. Jon Allen: Well, I can tell you, Mr. Vice-Chair, that what we have done is spent a considerable amount of money through our consulates and our embassy in the United States to identify markets in the U.S. where our companies will be able to procure. We have been working with Canadian business, U.S. business, and with states to look forward to try to identify how we can take advantage of our existing new agreement and the previous agreements to better place our Canadian companies and industry so they can take advantage of them. We thought that looking forward with our limited resources and providing them with those opportunities was the best way to help Canadian companies in that regard.

The Chair: Okay. Thank you very much.

We'll now move to Mr. Cannan, who has seven minutes.

● (1245)

Mr. Ron Cannan (Kelowna—Lake Country, CPC): Thank you, Mr. Chair, and thank you to our witnesses for being here.

First of all, I'm not going to take any lessons from Mr. Easter and the Liberal Party on trade agreements. In 13 years, they accomplished very little as far as our global commerce strategy was concerned. Under Prime Minister Harper and our leadership, there have been nine trade agreements and we have negotiations under way with over 50 countries right now.

The fact is that Mr. Easter and I are on the executive of the Canada-U.S. Inter-Parliamentary Group, and I'd like to hear Mr. Easter say to Mr. Doer that he's not doing his job. I think our embassy in the United States and our officials there are number one. We've had several chances to go down there, both with this and the previous trade committee, and I don't fault them one bit. In fact, this is a non-partisan issue from a Canadian perspective. All of us around the table are concerned about Canadian jobs and the economy. It's strictly a political issue for the U.S., as President Obama is running for his life and throwing out everything he can. So this is a political policy, and you don't interfere with the Americans.

I'm sorry, Mr. Easter, but they don't tell us or consult on their policies.

The fact is that right from the get-go, Minister Fast and the officials contacted Mr. Kirk and other officials down there. I know first-hand that they called them and wrote to him. We're doing everything we can. We have a full-court press on from here and Washington. We'll continue to do that, because we're all really frustrated with the fact that the Americans have pulled this stunt again.

I'd like to ask our witnesses about the following. I've heard from several economists that we're the most broadly and deeply integrated economies in the world. This policy will affect not only Canadian jobs but also will hurt American jobs. Maybe you could expand a little bit on how this will have an effect on American jobs as well.

Mr. Laurent Cardinal: That is exactly the point we make to our U.S. friends. Because of the supply chains and the integration of the economies, putting restrictions and requirements on local content is going to prevent some of the companies in the U.S. from being able to bid on the contracts that are offered because of that program, especially considering that according to the last figures we saw, about 30% of Canadian exports to the U.S. are inputs to manufactured goods in the U.S. So the U.S. companies that are sourcing in Canada won't be able to bid on those contracts because of the Buy American provision.

Mr. Ron Cannan: My understanding is that it is about \$1.8 billion a day. That's about nine million U.S. jobs it relied on, and 35 of the 50 states have Canada as their number one trading partner. Is that correct?

Mr. Jon Allen: That is correct.

Mr. Ron Cannan: So do you have any idea what we're looking at in terms of the number of jobs this could potentially have an impact on?

Mr. Jon Allen: Well, again, as we've tried to explain, trying to predict that is very difficult, given the \$105 billion we're talking about and then parsing that down to how much money we're actually talking about in terms of contracts. You're talking about contracts that would have a Canadian connection, because that's the issue we're talking about. There has to be a Canadian connection to an American contract.

In terms of a prediction of hundreds of millions or billions of dollars, we can't say that. What we can say, as suggested, is that if 30% of the inputs into U.S. manufacturers come from Canada, and they can't have access to those inputs in order to bid for contracts under this bill, they're going to have a problem. But I can't put a number on that. It's significant enough that we're here trying to explain why we're making our case with the U.S. It resonates in the U.S. with members of Congress and with the business community there, because we have allies who agree with us that they're going to be hurt by this.

Mr. Ron Cannan: From a broader perspective, we're working with the World Trade Organization. What's WTO's perspective with regard to this procurement and "turtling in" or inward protectionism in terms of WTO objectives?

Mr. Jon Allen: I'll let my colleagues continue, but I would simply say that the whole point of the WTO is to keep trade as open and free as possible. They have their own procurement agreement, obviously, and believe strongly in that. I guess the one thing we have to note, though, is that the U.S. has claimed that these provisions are consistent with their WTO and international trade obligations. We are not alleging that they are contrary to those obligations. We are trying to suggest that this is going to hurt us; it's going to hurt them; and it sends a very bad signal.

• (1250)

Mr. Kevin Thompson: If I could just elaborate for one second, the WTO government procurement agreement signatories held a meeting last week in Geneva. At that meeting, Canada reiterated its concerns about this legislation. The position or the response of the U.S. government was twofold: one, this is draft legislation; and two, we have undertaken in the legislation to apply it consistently with our international obligations. That is the formal response of the U.S., that they will do this consistently with their WTO obligations.

Mr. Ron Cannan: Thank you.

I have just one quick question. You mentioned you're working with the private sector as well. Who else have you worked with within the Canadian private sector associations that are helping with the lobbying in getting this policy amended?

Mr. Jon Allen: We're working with the Canadian Manufacturers and Exporters; with the CCCE, the Canadian Council of Chief Executives; and with the majority of those individuals, companies, and associations that are being affected or potentially could be affected if this legislation were to go through. In addition, of course, we're working with the provinces and the territories. We've briefed them. We've kept them up to speed on the nature of the proposed legislation and what we've done in order to respond to it.

Mr. Ron Cannan: Thank you. I wish you the best of success in your continued efforts.

The Chair: Thank you very much.

We've gone the full round, and I want to start the second one.

I wonder if the committee would allow me just one quick technical question regarding something you brought up in your draft. You said that the wording in this procurement agreement is slightly different from that in the previous one, so the wording in the bill before us is a little bit different from that in the Buy American clause that was in the 2009 stuff. I've talked to congressmen who are suggesting that the wording is significant enough that it protects Canada, but in your dialogue you said there is a slight difference in the wording. Can you describe what that difference would be?

Mr. Kevin Thompson: There's no substantive difference in the scope of the Buy American provision. There are a few textual differences, but the substantive provision is nearly identical to the one found in the recovery act.

The Chair: Monsieur Ravignat.

[Translation]

Mr. Mathieu Ravignat (Pontiac, NDP): Thank you, Mr. Chair.

I want to thank the witnesses, whose being here is very important.

If it's okay, I will try to share my floor time with Mr. Chisholm.

I have two concerns. In the current climate, the Americans are facing economic issues they see as more important than this one. However, this matter is of the utmost importance to us. So I am especially worried by this industry consultation. You said the following:

We are also coordinating with industry groups in both Canada and the U.S. that oppose Buy American [...]

I think it's important to look at a variety of perspectives. That's my main concern. Could you provide us with more details, and tell us who those groups are and where they come from?

In addition, like other members of this committee, I am very disappointed to see this happening all over again. That's why it's all the more important to stop it from happening. I am wondering what kinds of efforts are being made specifically to resolve this issue once and for all.

Mr. Laurent Cardinal: I will start by answering your second question on what we are doing to ensure this doesn't happen again.

As Mr. Allen said, the 2010 agreement contained a provision for discussions on possibly enhancing the procurement commitments between Canada and the United States. Those discussions have begun, which is all the better because the bill before us contains a provision stipulating that the legislation must be implemented in compliance with U.S. international obligations. So, the goal is to enhance the procurement commitments. That's why the preliminary discussions are being held.

I will ask Kevin to answer your question on which groups have been consulted.

•(1255)

Mr. Kevin Thompson: My apologies, but I will answer your question in English.

[English]

A variety of business groups that represent both U.S. as well as Canadian interests in Washington were quite active during the 2009 recovery act in expressing their concerns about the introduction of the Buy American provision. There are associations at the national level that represent national business groups, but there are also specific associations in specific sectors—for instance, the water and waste water equipment association, the cement association, the pipe association—that have sizable Canadian memberships. For instance, the Association of Steel Distributors has a number of Canadian members. They're concerned because their distribution networks or distribution centres are very much integrated with Canadian suppliers. It's very difficult for them from an inventory perspective to be able to separate out what's made in America and what's made in Canada.

So there's a range of different associations at the national level as well as the sectoral level that we've historically been engaged with and have been engaging this time around.

The Chair: Mr. Hiebert.

Mr. Russ Hiebert (South Surrey—White Rock—Cloverdale, CPC): I thought I was sharing my time with Mr. Shipley, but I'm happy to go first.

The Chair: You can, if you like.

Mr. Mathieu Ravignat: Is my time up? I was going to share my time with Mr. Chisholm.

The Chair: It's right down to the seven minutes. We can try to come back to you, if you want.

Go ahead, Mr. Hiebert.

Mr. Russ Hiebert: In your opening remarks you made the comment that the Buy American requirement must be applied consistently with the U.S.'s international obligations. I was speaking with Ambassador Jacobson yesterday, and that was his response to any concerns that people had about the Buy American provisions in this proposed Jobs Act. Basically he's saying don't worry, we have NAFTA, this isn't going to affect anything.

I'm wondering, were not the same comments made when the 2009 recovery act was introduced? Did they not also say the same thing at that time—don't worry, we have NAFTA, everything's fine—and then subsequent to that did we not proceed with the Canada-United States government procurement agreement just to clarify that everything was open to free trade?

Are we going down the same path here as we did just a few years ago?

Mr. Jon Allen: Yes, to some extent we are going down the same path. It's quite a different context. One does not have to make excuses for the Americans, but the President is facing an incredibly high unemployment rate. He's facing no growth. He's facing an election, and rather than thinking of the big picture and trying to keep a jobs act—which is extremely important, as everybody acknowledges—as open as possible and taking the lessons from the

last set of events, I guess one could argue there was a certain appeal to local needs without an understanding that such an appeal may in fact hurt Americans and hurt jobs there.

So to some extent, yes, we are going down the same path and are making the same arguments. I'd say the difference perhaps is that the U.S. is probably in worse shape now they were then. From their perspective, they might—and we consider this to be incorrect—consider themselves in greater need of such legislation.

Mr. Laurent Cardinal: There's also a difference in obligations this time from the previous time. Before CUSPA, there were no commitments on the part of the U.S. states towards Canada. Procurement was covered only by NAFTA at the federal level. Now, with the commitment at the WTO, 37 states are covered, as are provinces and territories. So that's an expanded obligation compared to the first stimulus package that was put in place.

As for the way it's going to be implemented, there are always grey zones. In the proposed legislation, there will be funds transferred to private schools and private universities. The question will be whether it is still public procurement if the money is transferred to a private school. On those sorts of questions, we will need to see clarification from the U.S.

•(1300)

The Chair: You have more time left.

It is one o'clock, and in respect to the committee's time, I will only go past one o'clock if I have unanimous consent to do so. Having ten more minutes would get us through our list. Is anyone opposed to that?

Okay. Mr. Shipley.

Mr. Bev Shipley (Lambton—Kent—Middlesex, CPC): Thank you, Mr. Chair.

I have a quick question. Clearly, I think one of the things that has been talked about is that nothing in this process that's political is ever certain. So we've seen that as the comeback.

What will the ground effect be of this legislation if it potentially goes through? Our companies caught in the middle of this do not know or are trying to define, as you mentioned, whether their inventories are made in the U.S. or made in Canada. What does this say to Canadian companies that have already been in a procurement process?

Let's say this thing goes through. Now they can't use the products that would normally have been in their contracts. It's pretty self-serving for the United States, because those companies that are looking to do procurement for contracts are now going to say "Whoa, I'm not going to spend my money in a time of constraint. How can I afford to spend money on going through the process of putting a contract or a procurement proposal forward?"

So what will the ground effect be for Canadian companies, from what you've heard when talking to them?

Mr. Kevin Thompson: Certainly a big issue the last time around for Canadian companies that were already suppliers, for instance, to municipal waterworks was that the latter municipalities would find their supply chains or supplier relationships with those companies disrupted. For the projects funded under the recovery act, they would not be able to rely on their traditional Canadian supply chain.

I think you raised a very good point in asking about the possible effect these types of provisions will have, if they repeat, on decisions by public entities to source from foreign suppliers, even if there are no explicit restrictions. It's an extraordinary inconvenience if you're a water utility to have to shift the different types of equipment midway through your process, or to purchase equipment that's made in the U.S. but not compatible with your existing equipment.

But in terms of getting any kind of specific read on that, it's very difficult to do.

The Chair: Our time has gone on this one, Mr. Shipley.

We'll go with five minutes for Mr. Chisholm, then five for Mr. Holder, and then we'll call it.

Mr. Robert Chisholm: Thank you.

I understand that the government was taken by surprise, and maybe you folks were as well, but the reason we're so upset about this is not just because of the passage of the bill in 2009, the impact that had on us, and the fact that it's come back again. This may not go through, I know, but it's the fact that it's there: it will affect the buying intentions, the purchasing intentions of those suppliers and so on, and it will have a ripple effect.

I have a steel fabricator in my riding that's the largest bridge-builder in Atlantic Canada, one of the five in Canada. They used to do a lot of business in New York, you know, on the Triborough Bridge and the John F. Kennedy airport, the major terminal. They've done a number of things there.

Can you talk a little about the actual impact you've seen on Canadian businesses from the original Buy American bill and the potential impact from the introduction of this bill?

Mr. Kevin Thompson: Well, certainly the impact I think has been more pronounced in areas where you've had longstanding Buy American restrictions. For a lot of transportation infrastructure spending, you've had these Buy American restrictions since 1982. There has been a narrowing and there have been waivers that have been granted, but there is still a fairly pronounced impact from the introduction of those provisions 30 years ago. Prior to that, Canadian steel fabricators, for instance, would have been able to participate in federally funded highway projects, but over the years they've not been able to. They've essentially been excluded from that market.

I think one of the concerns we have is that the rules will be applied more strictly. You now have an environment in the United States where there is a significant preoccupation with unemployment. Over the years, the Buy American provisions have been implemented with more flexibility in certain areas; there have been waivers that have been granted. The concern is that this flexibility is going to be reduced over time. I'll leave it at that.

● (1305)

Mr. Robert Chisholm: I know, for example, that this company that was shut out has in effect been shut out since 2009. My question is, have you evaluated the dollar impact that the original Buy American restrictions had on Canadian companies? Have you done that evaluation? Do you have any sense of what further impact this introduction of part two of Buy American will have?

Mr. Jon Allen: First of all, I think we should note and just remind ourselves that we have made progress. You're talking about a specific case, which is very relevant and important: somebody who was dealing with New York City, which is local.

Mr. Robert Chisholm: Yes.

Mr. Jon Allen: We've dealt with federal and state, so we've made some progress, which does send a bit of a signal the other way.

Secondly, I think in respect of this legislation—and you acknowledged it—we do have to remember, frankly, that the chances of it going through as is are not particularly high. Therefore, in terms of the businessmen you're talking to and dealing with, I wouldn't send them a signal that they should pull back or cut back. They should continue at full speed ahead until there is much more clarity that the legislation is going to go through and clarity on what the terms are.

The Chair: Thank you very much.

Mr. Holder, very quickly.

Mr. Ed Holder: Thank you, Chair.

I actually meant to bring this up when my friend Mr. Easter was speaking. I say “my friend” thoughtfully, because when he was asking some questions of our officials, I thought that the tone and the attack was very inappropriate. Maybe you spank your cattle in P.E.I. to get their attention, but I have to tell you that in terms of dealing with our officials, I think there's a more thoughtful way to do it.

I think we're now at the point where what we're trying to say is.... We can lay blame, but I think the issue here is where do we go from here. That's the intent of this question.

You've indicated, Mr. Allen, some of the rationale. I think we know that as well. President Obama has.... They have a pretty tough economy, and we want the U.S. to have a good economy. We know he's facing re-election; you've already articulated all of that, I think, relatively well.

I'd like to leave us with a sense of some comfort here, if you could provide this to us in terms of what I would like to call a “Team Canada” approach to this very serious issue. It's one thing to reach out to members of the House and the Senate, as you indicated. I think one of our colleagues here—perhaps it was Mr. Ravignat—was making the comment about our approach in terms of utilizing every resource we have. What do we have? Obviously we have our officials talking to officials. We have our embassy staff in the United States presumably doing what they do. We have our provinces and territories, which have no small impact. We've talked about the number of states in the United States where we're the leading trade market for them. We have our own members of Parliament. We have senators with influence. We have associations and industries.

I guess what I would like to be left with is a sense of whether there is a comprehensive Team Canada response to this. I believe it's that serious. Can I ask who's coordinating that, and how does it look, if you were to put that on paper and say "Here's who we have here and there and in different places tackling all these folks and we're coming together and reporting with each other on some organized basis"? Can you give us some confidence that something like that is in place? Can you just give us a sense of what that looks like a little more formally?

• (1310)

Mr. Jon Allen: You were actually pretty comprehensive in your description of what is happening.

We have two focuses. We have the embassy in Washington, which is coordinating with all of our missions—22 missions in the U.S.—to ensure that we are getting to members of Congress in their districts, in terms of our consulates-general, and in Washington, when they're in Washington, getting to their staffers, so officials from the embassy and the consulates are meeting regularly with the staffers. What we're doing here is picking those influential members of Congress.

We're also targeting influencers of those members of Congress: people, companies, and industry associations in the U.S. who recognize the importance of what we're talking about—the global supply chains and the integrated nature. We're targeting them and asking them to go speak to members of Congress to ensure that that word is put through to Washington. That's happening in the States.

Here, we've met and discussed the issue with the provinces to make sure they're on board, that they have the information they need, and that when they're dealing with their counterparts in the U.S. they make the case as cogently as possible. We're dealing with industry associations here in Canada, providing them with all the ammunition so that when they're talking to their counterparts in the U.S., they make the case.

I think we have a fairly comprehensive package. We have an advocacy package we're using that's been agreed on government-

wide, which ministers have seen and approved. We have people from the Prime Minister on down speaking out about this.

You know, you can always do more, undoubtedly, but I think you were asking if it is coordinated and if we are acting in concert as Team Canada. I think I can say that we are, and that we will continue to do so until we find out where the bill is going and what its impact may be.

Mr. Ed Holder: Could I just ask for clarification?

The Chair: Go ahead.

Mr. Ed Holder: Not so much from the political level, because we presume that's the international trade minister, DFAIT, and the Prime Minister, but at the non-political level—this is all politics—who would be the internal person leading that coordinated effort?

Mr. Jon Allen: It's Ambassador Doer in Washington. It's our consuls-general in our various missions right around the United States. Here in Ottawa at the officials level, it would be Louis Lévesque, the Deputy Minister of International Trade, and the assistant deputy minister for trade policy, and me. I do the advocacy. Ian Burney, who is the assistant deputy minister for trade policy, coordinates the substantive elements of it.

Everybody is on this file. It is up there as one of the highest priorities, along with Keystone XL. Right now, those are the two highest priorities vis-à-vis our relations with the U.S.

The Chair: I want to thank you for coming in and giving us this briefing. It's been a real valuable insight.

It's a bit of a comfort in the sense that what you're doing, to the committee.... I'm sure they all feel the same way. What's striking for me, as the chair, is that the committee is pretty unanimous in their concern about this issue and their concern about Canadian jobs, because it's a fallout that could happen if this were ever implemented as worded today.

With that, thank you very much for coming in.

We'll call the meeting adjourned.

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