



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Standing Committee on International Trade

CIIT • NUMBER 077 • 1st SESSION • 41st PARLIAMENT

EVIDENCE

Monday, May 27, 2013

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Chair

The Honourable Rob Merrifield

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• (1530)

[English]

The Chair (Hon. Rob Merrifield (Yellowhead, CPC)): I call the meeting to order.

I thank our witnesses for being here.

We are embarking on a study on the benefits to Canada of the Trans-Pacific Partnership agreement.

We have the department coming in on Wednesday. We have been interrupted; there have been a couple of false starts to this study, but nonetheless, today we're here. We have from the Dairy Farmers of Canada, Richard Doyle, the executive director. By video conference we have from the Canadian Centre for Policy Alternatives, Scott Sinclair, senior research fellow.

Scott, can you hear us?

Mr. Scott Sinclair (Senior Research Fellow, Canadian Centre for Policy Alternatives): Yes, I can.

The Chair: Okay. You're coming through on this end as well.

Very good. We're all set to go.

We'll yield the floor to Mr. Doyle. The floor is yours, sir.

Mr. Richard Doyle (Executive Director, Dairy Farmers of Canada): Mr. Chairperson, thank you for the opportunity to participate in the committee's study on the benefits to Canada of the Trans-Pacific Partnership.

The Dairy Farmers of Canada recognizes the importance of trade for this country and is on the record as supporting the government entering the talks based on the balanced trade negotiating position.

Our director of trade, Mr. Yves Leduc, who was originally scheduled to appear before this committee, is currently in Brussels, unfortunately—I don't know if it's fortunately or unfortunately, but he's in Brussels—following the CETA negotiations and I'll try to replace him and answer your questions, if I can.

The aim of the Canadian milk supply management system is to balance supply and demand, as well as balance market power among the supply chain stakeholders. Despite concentrating our effort on the domestic market, international trade talks are an important aspect when it comes to maintaining the integrity of the Canadian system in the future. Predictable imports are critical considering that dairy farmers discipline their production to ensure domestic demand is met without creating unnecessary surpluses.

Between 6% and 8% of our Canadian dairy consumption is supplied by imported dairy products coming in tariff-free, which makes Canada more generous than the U.S. or EU in terms of access. Predictability and import control are not equal to no imports. Dairy farmers are proud of the dairy sector's contribution to the Canadian economy, and we consider ourselves job sustainers, providing stability in the economy and supporting our rural communities.

It should also be noted that the Canadian dairy sector increased its number of Canadian jobs between 2009 and 2011. Dairy farmers are doing their part of the economic action plan to keep our economy strong and prosperous.

Essentially 100% of our dairy sales take place on the Canadian market. Exports only represent roughly 1% of Canada's milk production and export opportunities are virtually nil as a result of the negative decision in the late 1990s of the WTO panel on Canada's export policy. Any market opening, therefore, even if it were reciprocal, would come at the expense of Canadian dairy farmers.

Canada has negotiated 11 trade agreements with a number of negotiating partners over the past 20 years and has always maintained supply management for dairy and poultry. In other words, no concessions have been made with respect to TRQ expansion or over-quota tariff reduction. This is fully in line with the position defended by the Canadian government and which was clearly spelled out in the motion which was unanimously adopted in the House of Commons on November 22, 2005. The motion clearly states that Canada will accept no over-quota tariff reduction and no TRQ expansion for its supply-managed products as part of its balanced negotiating position in any trade discussions.

DFC would like to express its appreciation for the comments made by the Prime Minister, Minister Ritz, Minister Fast, and their parliamentary secretaries, who have consistently reiterated on a number of occasions that they will not make any concessions on supply management. We also very clearly want to acknowledge and appreciate the continued support of all parliamentarians for a system that is working well for Canada.

We've tabled with you a more detailed brief this afternoon, but I would like to address two issues with regard to the TPP trade talks.

First, negotiations like those on the TPP are often presented as being subject to no a priori exemptions. It is interesting to note, however, that domestic support in agriculture cannot be found on the negotiating agenda. Failing to discipline the use of such subsidies which can be very trade distorting goes against the principle of a no a priori exemption.

Second, I would like to mention that all countries, including New Zealand, Australia, and more particularly the United States, have a number of sensitive sectors. There are several examples outlined in our submission, but many more can be found. While we may be more up front about it, as Canadians, we don't have to be shy to defend what is in the best interests of Canadians and Canadian industries.

[Translation]

In conclusion, Mr. Chair, Dairy Farmers of Canada is on record as supporting the Canadian government entering the TPP trade talks as part of the government's trade agenda that is based on the balanced trade negotiating position. For dairy farmers, this means that the government will continue to defend supply management both domestically and internationally, in line with the June 3rd, 2011, Throne Speech and the November 2005 House of Commons motion.

Consequently, Canada must not give any concessions in the TPP or any other trade negotiation that would in any way undermine the credibility of the Canadian negotiating position at the international level with respect to Canada's right to maintain supply management.

[English]

Thank you for your attention. I will be happy to respond to your questions.

The Chair: Thank you very much for your contribution.

We'll now turn to our video conference.

From Charlottetown, Prince Edward Island, we have Mr. Sinclair. The floor is yours, sir.

• (1535)

Mr. Scott Sinclair: Mr. Chair, I thank the committee for the invitation to participate.

Today's trade and investment treaty negotiations no longer deal exclusively, or even primarily, with trade matters. They are increasingly about putting new types of restrictions on how governments and societies are able to democratically regulate themselves. This is particularly true in the case of TPP negotiations with the U.S. and 10 other Pacific Rim nations, which Canada joined last year. It has been consciously sold as a next generation, 21st century trade and investment agreement that will delve into many behind-the-border regulatory matters. The agreement is designed to tie government's hands in many areas only peripherally related to trade, including patent protection for drugs, foreign investor rights, state-owned enterprises, local government purchasing, orderly agricultural marketing, cultural expression, and public interest regulation.

Canada already has trade and investment treaties with four other TPP members. It is in separate bilateral negotiations with Japan. The other six countries combined account for less than 1% of Canada's exports. With the exception of the Japanese market, there is limited trade expansion upside, yet there are very significant policy risks for Canada in this side of negotiations.

The TPP is primarily a U.S. driven and dominated project. From their perspective, it is a geopolitical exercise with a dual purpose: to construct a trade and investment bloc that reflects U.S. commercial

interests and regulatory norms, and to counter the growing dominance of China in the Asia-Pacific region. The U.S. expects the TPP to curb China's influence by providing an advantage to U.S. commercial interests over Chinese competitors within the bloc, and ultimately the goal is to convince China to join the TPP on terms that compel Chinese reform in areas such as state-owned enterprises and currency manipulation. It is far from clear that the TPP will have the desired results in China. It will certainly enable the U.S. to apply intense pressure on other TPP members, including Canada, to accede to their ambitious regulatory demands.

A key problem with the agreement and the processes is that despite its potential to have serious implications on governments at all levels of the citizenry, the negotiations are excessively secretive. There are no opportunities for public scrutiny and debate of negotiating proposals and texts. The 26 draft chapters and other negotiating documents are stamped as classified for four years from entry into force of the TPP agreement, or if no agreement enters into force, four years from the close of the negotiation. Officials and private sector advisers must sign strict non-disclosure agreements. This extreme level of secrecy is unacceptable, especially when one considers that the TPP deals with regulatory matters that go to the heart of democratic decision-making in the public interest. Any agreement would restrict the policy options of future governments for generations.

There are precedents for greater transparency. The draft text of the free trade area of the Americas, FTAA, was publicly released in 2001. The WTO regularly publishes negotiating proposals and draft texts. It is critical that the TPP terms be subject to greater scrutiny by the public, outside experts, and legislators before they are agreed to and essentially set in stone by negotiators.

The rest of my remarks will focus on two important areas where some information has been leaked from inside the negotiations: first, the impact of TPP proposals on drug costs; and second, the investment protection chapter and investor-state arbitration.

The U.S. proposal for intellectual property in drugs has been leaked. It incorporates demands from the brand name industry for WTO-plus patent protection, including longer periods of data exclusivity, stronger patent linkage provisions, and significantly for Canada, patent term extensions, which would add to the term of the patent the time it takes for health regulators to give regulatory approval to a drug, up to a maximum of five years.

The U.S. has made these proposals for longer periods of patent protection conditional on a so-called access window. This would give brand name drug companies access to the stronger IP protections only if they stopped marketing approval for a drug in another TPP country within a certain as yet unspecified period of time, after first obtaining marketing approval in another country. But the access window is little more than window dressing. The proposed changes would invariably reduce the availability of cheaper generic medicines and drive up costs to consumers and governments.

● (1540)

Currently Canada does not have a system of patent term extension, although it is widely expected that the CETA will move us in this direction. The estimated cost of implementing a full system of patent term extension is around \$2 billion annually. Containing rising drug costs is essential, and these U.S. demands could deal a further blow to the sustainability of Canada's universal health care system.

The U.S. has also proposed new rules that would undermine important drug cost containment policies, including price regulation and reimbursement levels. A proposed annex to the TPP transparency chapter would deal specifically with pharmaceutical and medical technologies. It includes procedural rights for drug companies to participate in the decision-making process for reimbursement, and substantive rights, which are quite vaguely worded but were based on prices as set, for example, by the Patented Medicine Prices Review Board on the value of the patent or market-based prices.

The potential impact of these transparency proposals, which I would be happy to discuss in further detail, including the costing facts, should be studied fully and debated widely.

I would like to turn now to investor-state arbitration. A draft text of the TPP investment chapter was leaked last year. It revealed a U.S.-style investment protection agreement modelled on NAFTA chapter 11 and U.S. bilateral investment treaties, BITs. Significantly, the chapter includes an investor-state arbitration mechanism.

Four investors have already used chapter 11 and BITs to challenge a wide range of government measures that allegedly diminished the value of their investments. Since most government regulations or policies affect property interests, NAFTA's investor-state rules and similar mechanisms have been strongly criticized for giving multinational corporations far too much power. Investors do not need to seek consent from their home governments and are not obliged to try to resolve complaints through the domestic court system before launching an investor-state claim. There has been a steady rise in the number of actions against Canada, particularly in the area of environmental protection. We are also witnessing the use of more aggressive arguments, such as in Eli Lilly's investor-state challenge to a Canadian court decision to deny patent protection on one of its drugs.

Agreeing to investor-state arbitration in the TPP will greatly expand the pool of foreign investors who have the right to invoke the severely flawed mechanism. The leaked investment text notes that Australia is refusing to be bound by this mechanism. Australia adopted this position in 2011 after a thorough independent review of

the costs and benefits of investor-state arbitration. Such a review is long overdue in Canada and until one is completed, Canada would be wise to follow Australia's example.

There was also a growing problem of incoherence in the various investment protection treaties that Canada is negotiating. For example, in the Canada-EU agreement, Canada is under pressure to agree to stronger investment protection rights in certain areas, such as minimum standards of treatment. NAFTA's most-favoured-nation provisions require that all protections given to the European investors be extended to investors from the U.S. and Mexico. As a result, these investors will be able to mix and match investor rights from NAFTA chapter 11 and the CETA to construct the most favourable challenge. This problem of treaty shopping will only worsen under the TPP.

To close, the astonishing range of matters being negotiated within the TPP underlines how far this process has strayed from bread-and-butter trade issues. New disciplines on state enterprises, ostensibly aimed at China, could impact CBC and Canada Post. Both the U.S. and New Zealand are insisting on significant access to Canada's dairy market, as we've heard, which would threaten the viability of supply management. As you will hear from other witnesses, TPP treaty commitments to the free flow of commercial information may undermine domestic privacy policies. The U.S. has never accepted the legitimacy of Canada's cultural exemption in trade treaties, and this will be up for grabs once again. The list goes on, and may well include new issues and matters that are not yet public knowledge.

● (1545)

The role of Parliament in examining this treaty and how it may affect Canadian interests is critical. There needs to be a much fuller discussion of the range of potential costs and benefits, but meaningful discussions and debate are hampered by the unprecedented level of secrecy and the difficulty in obtaining proposals and negotiating texts.

Thank you.

The Chair: Thank you.

We'll now move to questions and answers.

We will start with Mr. Davies. The floor is yours. You have seven minutes.

Mr. Don Davies (Vancouver Kingsway, NDP): Thank you, Mr. Chairman. Thank you to both witnesses for being here today.

Mr. Doyle, have the Canadian dairy farmers been asked by DFAIT or the minister's office for their input? Have they been consulted about the TPP to date?

Mr. Richard Doyle: Yes, an intersectoral committee has been formed for consultation purposes. Mr. Leduc is a representative. This is a confidential advisory committee.

I think the problem with the TPP is that we don't have access to any documents. This is true for all negotiations, as Mr. Sinclair was saying. That's one of the issues; whether you are on that committee or other ones, you have no access to documents.

We are briefed regularly.

Mr. Don Davies: Sorry, continue on. I interrupted you. You are briefed by whom?

Mr. Richard Doyle: We are briefed by the negotiator, Kirsten Hillman, on a regular basis.

Mr. Don Davies: The government's negotiator?

Mr. Richard Doyle: Yes.

Mr. Don Davies: Who set up the confidential committee you just referred to?

Mr. Richard Doyle: The department, DFAIT.

Mr. Don Davies: Did you have to sign a confidentiality agreement, Mr. Doyle?

Mr. Richard Doyle: The person on it did, yes.

Mr. Don Davies: Thank you.

Mr. Sinclair, has the Canadian Centre for Policy Alternatives been consulted about the TPP?

Mr. Scott Sinclair: By DFAIT? No, not to my knowledge. There was a request for comments which was in the *Gazette* and open to everyone, but no, we haven't been expressly consulted.

Mr. Don Davies: Mr. Sinclair, have you received any briefings from the negotiator about TPP?

Mr. Scott Sinclair: No, we haven't.

Mr. Don Davies: I want to move to the beginning, and those are the conditions for Canada to enter the TPP talks. As we know, Canada entered late. I believe some nine rounds of negotiations had been completed prior to Canada entering.

Mr. Sinclair, you have written a little about this. I understand the U.S. trade representative set out the conditions for entry in a letter to both Canada and Mexico. What can you tell us about the terms of entry, as you understand them, for Canada to enter the TPP talks?

Mr. Scott Sinclair: As far as I know, the terms of entry letter was never published, but it was widely reported in a U.S. trade publication. The terms of entry for Canada and Mexico were similar and in my view quite unprecedented.

Basically, as a condition of being admitted, Canada and Mexico agreed not to reopen any text that had already been agreed to by the then nine TPP members. At that time only three of the 26 chapters had been closed. But according to the U.S. trade representative this commitment extends not just to completed chapters but to any unbracketed or agreed text in all the rest of the chapters.

I am not familiar with any country ever agreeing to a condition like that in any trade agreement. It's a principle of trade agreements that nothing is agreed until everything is agreed.

Just to close, Japan was recently admitted to the talks, and there have been no reports of any such conditions being placed on it as a condition of entry.

Mr. Don Davies: Mr. Sinclair, I understand that from the time the Canadian government was accepted into talks there was a 90-day consultation process in the U.S. Congress before Canada was formally admitted, during which time there were two further negotiating sessions. Some have expressed concern that the time period from the ninth negotiating session to the twelfth, when Canada was going to formally enter, gave the original nine countries the opportunity to reach consensus on areas where they knew Canada had sensitivities, for instance, on agriculture, market access, drug prices, cultural industries, and copyright protection. It gave them an opportunity to close off text in advance, knowing that Canada was about to enter.

Have you heard any concerns in that regard?

• (1550)

Mr. Scott Sinclair: I haven't heard any inside reports. You're quite right, though, that there was a 90-day consultation period before Canada joined, and they didn't join until the end of the second round. I'm not privy to what may or may not have been agreed to during those two rounds.

During that period, Canada did not have access to the negotiating text. Now the same condition has been imposed on Japan. It does not have full access to a negotiating text until it joins the negotiations at the next round. There has been some flexible scheduling of the next round to enable Japan to participate. Again, that did not occur in the case of Canada.

Mr. Don Davies: I want to move to transparency.

We're often told that treaties must be negotiated strictly in private. One of the main concerns about the TPP has been the lack of information given to the Canadian public, or even parliamentarians, about what's being negotiated. This is exacerbated by the fact that we can't get a clear answer from the minister. When the minister was before our committee, he appeared to tell us there was no formal consultative body. We hear from other people who are members of that consultative body that there is one, in fact, where private actors in Canada are being consulted and briefed by the ministry, whereas Canadians and parliamentarians are not.

I'm going to ask you about the transparency. Can trade negotiations be conducted in a more transparent manner, and are there any examples where that's been the case?

Mr. Scott Sinclair: They certainly can and they usually are. Even though documents are formally classified, they are usually more transparent than the TPP. They do tend to be circulated, and someone who has a strong interest in these matters can usually get access to the relevant texts. That's certainly been the case in all the negotiations that I've followed closely.

If you want to look at alternative models for negotiating treaties, especially ones that, as I said, increasingly deal with regulatory matters, you could look at the UN process, say, the Convention on Biological Diversity or the Kyoto protocol. Those negotiating sessions are completely open. Commercial interests and non-governmental organizations can observe the negotiations. They're on the basis of public proposals and public texts.

I would like to see trade negotiations move more in that direction rather than the other way.

The Chair: Thank you very much.

Now we'll move to Mr. Keddy for seven minutes.

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

I welcome our witnesses. It's always good to have a few dairy farmers in the room. In the interests of full disclosure, my wife grew up on a dairy farm, so it's near and dear to me, and I think there's a few committee members who have some dairy experience.

I have a couple of questions. One is an overall question surrounding the importance of confidentiality when you're negotiating agreements and especially international agreements. Sometimes these agreements can take years, if a lot of information that gets out is, quite frankly, wrong.

The Dairy Farmers of Canada sat on the committee. You signed a waiver, which you mentioned, on confidentiality, but you were part of the process and you were briefed, and therefore your membership was briefed.

What's your membership? How many dairy farmers across Canada do you represent?

Mr. Richard Doyle: Twelve thousand farmers—

Mr. Gerald Keddy: So there are 12,000—

Mr. Richard Doyle: —farms. There are more farmers than that.

Mr. Gerald Keddy: I like the word “farmer” rather than “producer”, but 12,000 farmers across Canada have some representation for an industry. You said yourself, Mr. Doyle, that not just our government but previous governments have signed a number of free trade agreements, and every one of them was a doom-and-gloom scenario: the dairy industry would never be supported; it would never survive; we were going to lose; This needed to be out in the open.

In every single one of the trade agreements that Canada has signed, the dairy industry and supply management sector have been protected. I think part of that is because of your own lobbying effort, but I think part is a representation from the dairy industry to work with government in a proactive way, quite frankly in defence of your own self-interest, which all of the proponents who are on these committees do.

Is that an exaggeration?

• (1555)

Mr. Richard Doyle: I'd like to believe that, yes.

Mr. Gerald Keddy: But not that it's an exaggeration, though.

On the TPP, there's a lot of discussion here about how we joined after the ninth round. Quite frankly, I think there's some surprise in the lack of forward momentum. You have to realize that there's a lot of talk about the United States steering these meetings, but the United States wasn't a founding member. A number of countries decided to open up the Trans-Pacific Partnership.

There's a lot of work to be done here. I think most of us who believe in free trade welcome this group, but none of us is so foolish as to think they're going to be able to negotiate an agreement by the end of the year. If they can, good luck, but it's a huge undertaking.

Mr. Cannan wanted a couple of questions, but I have one before I wrap up.

With your association with the government—not just our government, but previous governments—in briefings and in having the dairy industry and the supply-managed sector as a whole understand what our free trade agreements are about, are you satisfied with your briefings and the amount of input you have with government?

Mr. Richard Doyle: Well, we'd say yes, but I want to build on the point that the lack of access to the documentation is a bit of a concern. There has been....

I'll go back to the Uruguay Round, where at the time we had SAGIT, which was a sectoral advisory group to the Minister of International Trade. That was functioning fairly well in the sense that people could decide on and discuss their own situation. It was all very confidential, but there was a lot more content on discussing the text and the impact on each of the different sectors so that everybody around the table could understand.

What we've moved into now is that we all sign confidentiality agreements, but there is no real access other than the regular briefings. The real confidential discussion that we can all benefit from is maybe lacking a bit.

The Chair: Mr. Cannan, you have a little over a couple of minutes.

Hon. Ron Cannan (Kelowna—Lake Country, CPC): Thank you, Mr. Chair.

Thanks to our witnesses.

I only have a couple of minutes, so I have a couple of quick questions for you, Mr. Sinclair.

What trade agreements has the Centre for Policy Alternatives supported?

Mr. Scott Sinclair: We raise concerns about trade agreements. We don't take firm positions like that.

Hon. Ron Cannan: Have you come out and supported anyone to date over the last 20-plus years?

Mr. Scott Sinclair: I have a critical perspective on trade and investment treaties, and what I see in this negotiation affirms me in that view.

Hon. Ron Cannan: Okay.

For innovation, technology, and patent protection, do you support an intellectual property regime of patent protection?

Mr. Scott Sinclair: Yes. My position is that the push for WTO-plus patent protection, particularly from the pharmaceutical industry, is basically a bottomless pit. They will never be satisfied unless governments—as I think your government is feeling now in the Canada-European negotiations—take a very, very firm position that 20 years of patent protection is more than sufficient. Also, there are legitimate issues of blockage and other issues. In that 20-year term, there has to be flexibility so that innovation is not actually hampered by legal shenanigans in the patent system.

• (1600)

Hon. Ron Cannan: What's the main difference in pharmaceutical patent protection, then, between Canada and other TPP countries, most notably the United States?

Mr. Scott Sinclair: Well, when you combine all the different elements, Canada has one of the strongest systems of patent protection in the world, particularly for pharmaceuticals.

As I mentioned in my remarks, one important difference is that Canada alone of the G-7 countries does not have a patent term extension system. Patent term extension refers to the desire of patent holders to add the time that it takes for regulators such as Health Canada to approve a drug, on the basis that it's safe and effective, to the 20-year term patent protection. Canada does not have that. But we have other elements that are combined, such as patent linkage and data exclusivity, and which protect drugs at a very high level. So if you put those in combination, I would argue, and I think most experts would agree, that we have one of the highest forms of patent protection for drugs in the world.

The Chair: Thank you very much.

Mr. Easter, the floor is yours, sir.

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

Thanks to both of you for your presentations.

Just spinning off of Mr. Cannan's questions, Mr. Sinclair, I would suggest, and I'd suggest the government should welcome this, we certainly appreciate the kind of critical analysis that you do of trade issues. You've done it all your life. I think that's important. It's a side of the equation that we need to look at. The government should take much of that analysis to heart so that we don't go down a rat hole that we obviously should not go down.

On the investor protection aspect of the agreement, this is something you've been on for a considerable time, I know, and as it relates to chapter 11 in NAFTA as well. Do you have the numbers with you in terms of how often Canada has lost cases under investor protection and how often we have won in other countries? Have we won at all in other countries? I know we've lost lots.

Mr. Scott Sinclair: A Canadian investor, unless it's happened very recently—I've been on leave for a few months, as you may know—has never won an investor-state arbitration. I think it's only a matter of time until that happens.

In NAFTA chapter 11, yes, we have lost or settled I think six or seven cases at a total of around \$160 million in monetary damages, plus tens of millions more in legal costs to defend ourselves against the more than 30 claims that have been filed against Canada.

Hon. Wayne Easter: Thank you, Scott.

Mr. Chair, I wonder if it's possible for the Library of Parliament to come back with some figures. This is an important point. Canada seems to be losing under this part of the agreement rather than winning.

Perhaps you could give a quick answer, Scott, on the drug patents that have been negotiated under the TPP. Are they similar, or do they give more patent protection to drug companies, as they do under the CETA negotiation?

Mr. Scott Sinclair: They go beyond the WTO TRIPS. The proposals, in particular demands from the United States, would go beyond Canada's existing system of patent protection.

Hon. Wayne Easter: Thank you.

My next question is for the Dairy Farmers of Canada. Richard, on this text business and being on the sectoral committee, you said that being on that sectoral committee may be lacking a bit. I would say, and let's be honest, without the text in terms of the sectoral committees, setting up the committee on the part of the government is absolutely nothing short of a farce. That's all it is. They just want to use the number to say that we're meeting with people. If commodity groups and organizations don't have the text, then the whole thing, in my view, is nothing but a farce.

That's where I sit, because here's the thing: you have somebody on the committee who signs a declaration of confidentiality, has no access to the text, and is maybe or maybe not briefed on the text, but because of the confidentiality agreement, he or she can't go to the board of directors and tell the board of directors what we're talking about. How can that person represent the group on the sectoral committee? He or she can't tell anybody, and doesn't even know if they're dealing with the issues that are in the text.

I mean, that's just absolutely nothing but a farce. Let's call it what it is.

I don't know if you have a comment or not.

• (1605)

The Chair: Do you have a question?

Hon. Wayne Easter: No, I'm just laying out the facts, Mr. Chair, because those are the facts.

The Chair: Well, those are the facts from your perspective.

Mr. Doyle, if there's a comment that you'd like to add, go ahead.

Mr. Richard Doyle: I'll just say that consultation is a two-way process. As an industry representative, we want to have the ability to explain our situation and make sure that the negotiators are fully aware of what's on the table.

I reiterate my comment that I think the lack of access to the text is what makes most of the industries, including the experts, very nervous about a negotiation where you aren't able to do a proper analysis of what is on the table. You rely solely on basically what you're being told by the negotiators and by the people who are on these committees, who cannot reflect necessarily what information they receive but who give you confidence that what is on the table is either having an impact or not on your industry.

Hon. Wayne Easter: The problem is, Richard, that they can't talk to the very representatives of the industry that they're supposed to be representing in the negotiation. My point still stands.

You mentioned, Mr. Doyle, that more access is allowed into Canada for dairy products versus access we have into Europe or the United States, but that's not well known. In fact, I mentioned it to some people this morning, and they were shocked, because Canada is seen as protectionist. We are more open on dairy access than these other countries. We've somehow lost the messaging fight.

The USTR is clearly using the TPP to try to break our system. The USTR publication on foreign trade barriers said, "supply management...severely limits the ability of United States producers to increase exports". The Congressional Research Service said, "...to tackle outstanding non-tariff measures that have limited, and could further restrict, access for U.S. fluid milk...and cheese into Canada's market".

Could you expand a little on what we do versus what they do? That information has to get out there. We're an open market even though we—

The Chair: I'd like you to expand very little, because the time has gone.

Go ahead.

Mr. Richard Doyle: Very quickly, I think the U.S. is talking out of both sides of its mouth, to be quite frank. On the one hand they're saying that they don't want to reopen the free trade agreements they have with most of the partners in the TPP, but they do want to have access for dairy in Canada, and they do not want to have any access for New Zealand dairy products, which they claim to be very trade distorting. They don't want to reopen FTAs on sugar with Australia because they want to respect all FTAs they have, but they want to reopen the NAFTA, or the CUSTA, as we call it, with Canada on dairy.

I think it's unclear at this stage as to what is exactly the position. I think everybody's talking and listening to these consultations, which are public, but they are not talking at all about what the negotiators are actually offering on the table. We don't know that.

The Chair: Thank you very much.

Mr. Shipley, you have seven minutes.

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

Thank you to our witnesses.

Maybe I am a little closer to the dairy industry than some of the others here. One of the things I find interesting is that when you talk about... We've always been criticizing Canada because of the pricing. I'll use the context of \$1.45 a litre for milk, whereas in New Zealand, where they've opened it up and taken it away, it's actually \$1.65 a litre. In Australia, it's \$1.55. In the United States, they have so many subsidies attached that it's hard to trigger down, but actually, across the board, the price per litre of milk is more than it is in Canada.

On turkeys, for example, we always hear about the cheap turkeys you can buy because of the lack of supply management in the States.

Canada's price is actually \$2.97 a kilogram and in the States it's \$3.26. That's over a 13-year average.

Mr. Doyle, in terms of Canada's position, with the 11 trade agreements you referenced that are in place, have you been satisfied with the outcome, the end result of those agreements in terms of your producer organizations?

• (1610)

Mr. Richard Doyle: Yes. As I said before, supply management both for poultry and for dairy have been respected in terms of our TRQ and access.

Mr. Bev Shipley: You mentioned that you talk to the negotiators. I'm trying to get a sense from you in your significant position if there is any waning of responsibility of the government toward supply management.

Mr. Richard Doyle: I'm sorry. I missed that.

Mr. Bev Shipley: Are you getting any sense in the discussions you've had with negotiators that in terms of the responsibility of the government we're moving away from the support of supply management?

Mr. Richard Doyle: No.

Mr. Bev Shipley: This discussion has come up across the way a little bit, and you've mentioned the concern about not having the details. Can you tell me about other member states that actually do agreements and that are getting the details of the talks?

Mr. Richard Doyle: It's a little different. In the discussions we have on bilateral, whether it's with Chile or other countries, or even the WTO, for example, the texts are much more readily available. We know where the square brackets are. We know what the issues are. Everybody can more or less look at the text and have input into it.

Maybe that's the problem with the WTO in the end, but it's a little more accessible in terms of what is on the table being negotiated.

Mr. Bev Shipley: In the TPP, then, is it your sense that just Canada doesn't have access to the details, or is it all member states?

Mr. Richard Doyle: No, Canada has access to the information, but all member states have agreed that they will not give access to any of the information outside the negotiating room.

Mr. Bev Shipley: One thing that was brought up I wasn't surprised about, but I think many... In fact I'm glad my colleague across the way brought it up. It's about production in terms of supply management in Canada. We use domestically what we produce. I think you said we export outside of 1%.

You can be assured that the consumers and the academics out there do not, or choose not to, recognize that actually we import 6% to 8%. So it isn't that supply management is a closed system.

In many of the countries, Mr. Doyle, on a percentage basis or on a population basis, do we allow imports to the same extent that other countries do, and yet we're limited to the amount of exports we do? Is there any kind of an answer for that, particularly with our southern friends?

Mr. Richard Doyle: I know that the European Union does not provide as much access as Canada on dairy, and the same in the United States. I couldn't give you the list of all the countries. Europe is negotiating as a union, so the numbers are only available there.

Mr. Bev Shipley: I wish we could get the message out more. It's a difficult one, because it's a bit like other situations we may be in where the closed discussion can't seem to get the truth out about what supply management actually does, that not only is it good for the consumer but it is also good for the economy and other businesses.

Mr. Sinclair, after your discussion, what would be your take on the chances of success for the TPP?

Mr. Scott Sinclair: I think this will be a difficult negotiation to conclude, particularly as the number of countries involved expand. The United States has some very ambitious, aggressive demands, but at the same time it's very protective of its own sensitivities in many areas. I could see that in, for example, their proposals on intellectual property rights and drug pricing where they've carved out Medicaid and other things.

Another factor is that there are actually parallel negotiations for regional economic integration in the Asia-Pacific region that don't involve the United States but involve China and many of the other partners. By all reports these are much more flexible and sensitive or open to various domestic sensitivities that the countries involved have. So there's an alternative that people can move to if they feel they're being shaken down too much by the United States.

•(1615)

Mr. Bev Shipley: My time is up, so I'll thank you very much.

The Chair: Thank you very much.

Monsieur Morin, the floor is yours.

[*Translation*]

Mr. Marc-André Morin (Laurentides—Labelle, NDP): Mr. Doyle, during briefing sessions where you do not have access to the documents and the representatives have to sign confidentiality agreements, how does that work, in reality? You say you are reassured when it came to supply management, but since you have not seen the documents, are you just assuming things? I wonder about that.

Mr. Richard Doyle: As I said, clearly since I am not a committee member, I don't have access to the information provided in committee work. Without going into the legal details of the texts, I will say that the chief negotiator gives us a general idea of the position of various countries and the processes being followed. We are very much aware of the process. I am confident that if any issues affecting our industry in particular or major changes in that respect were to arise, we would get into much more serious discussions.

Mr. Marc-André Morin: But if your representatives signed a confidentiality agreement, they cannot really tell you what was said during those briefing sessions.

Is it just representatives from the department and from your group that are present, or are there broader forums that include other industries?

Mr. Richard Doyle: There are various levels. The committee we are talking about is sectoral. It covers the entire economy and services, not just agriculture. We had people on site during the negotiations that took place last week in Lima.

Every evening, the negotiators update the people present. They explain to them what took place during the day. Even then, they do not go into detail in terms of the text, but speak about the situation broadly. People can meet with the negotiators individually to discuss the broader issues of the dairy industry. We can at least voice our concerns on the matter, even though we do not have access to the documents.

Mr. Marc-André Morin: Do I have any time left, Mr. Chair?

[*English*]

The Chair: You have two minutes.

[*Translation*]

Mr. Marc-André Morin: Okay.

My question is for Mr. Sinclair.

[*English*]

Mr. Scott Sinclair: Yes.

[*Translation*]

Mr. Marc-André Morin: Does Canada still have the possibility of adopting a different position in these negotiations? Could we be more demanding or are we involved in an irreversible process? Do we still have the option of conducting another kind of more open or different negotiation?

[*English*]

Mr. Scott Sinclair: That would be a matter that would have to be agreed to by all the members.

There's also leeway that can be taken by governments and negotiators. The United States negotiators, as is generally the case in negotiations, use leaks strategically. They are much more open about what their demands are, and in a sense are less preoccupied with secrecy when it doesn't suit their purposes.

Canada could play that game more, but I think what would be more preferable, of course, would be an agreement to open up the process to outside scrutiny. I think you're invariably going to have better outcomes.

These texts are not easily understood or accessible. They need to be explained by negotiators. Negotiators need to have a few things explained to them, for example, from public health experts and legal experts who are outside the formal consultative process and outside of the negotiating room.

•(1620)

The Chair: Thank you very much.

Mr. Scott Sinclair: Yes, Canada could insist on a more open process.

The Chair: We have five minutes left.

Mr. Holder, the floor is yours.

Bells may go. Do I have the unanimous consent to let him finish his five minutes of questioning?

Some hon. members: Agreed.

The Chair: Go ahead, Mr. Holder.

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

I'd like to thank both our guests for being here today.

Chair, I was listening to testimony from our guests. I heard less testimony than I heard a soliloquy from my colleague opposite, Mr. Easter. One thing struck me about that. I was thinking about his comments about transparency. I just want to make this statement, because transparency seems to be an issue among our guests, and certainly Mr. Easter has extended that conversation quite a lot.

I thought I'd do a little research. I went back to when Mr. Easter's party was the party in power. They did not have a lot of free trade agreements on which to base my conclusions because that wasn't as much the focus, but to be fair they did some, with Chile, Costa Rica, and Israel. I was struck by the fact that the Liberal government of the day was exceptionally careful not to share information. They knew if they had to do a deal there were going to be negotiations and discussions that had to be in private.

It's very curious that now that the member opposite is in a different position, he seems to make a different argument.

I'd like to ask Mr. Doyle a question. You made the comment in your testimony that you're concerned you haven't seen the text. Has it hurt you so far?

Mr. Richard Doyle: I wouldn't know.

Mr. Ed Holder: Let's come back to what you do know. You do know the trade agreements—and I will say that I'm asking for clarity here—that we have put in place as a Conservative government. Tell me which of those agreements have hurt the dairy farmers of Canada.

Mr. Richard Doyle: As I said before, none.

Mr. Ed Holder: There are none. Just to be clear, there is not one. You can't name one.

Mr. Richard Doyle: That's correct.

Mr. Ed Holder: All right. If you can't name one, and we work on the basis of good faith, I would say the dairy farmers have done reasonably okay. Would you suggest that might be true, Mr. Doyle?

I know that when you have your discussions, you have them in good faith, since you said in all the negotiations that have been done so far Canada has been very careful to try to protect the dairy farmers' interests as well as the interests of those in other areas of agriculture and, I would even say, in other areas of industry across our country, though they are not protected in terms of various supply management considerations.

Mr. Richard Doyle: That's true.

Mr. Ed Holder: I say that, Chair, because notwithstanding the lack of transparency, it would appear, it doesn't seem to appear to have hurt the dairy farmers to this point. I would say to you, to be fair to the party prior, that even when they didn't tell you anything in

those days, you still did okay, or you didn't do so okay with the Liberals. Is that what you're saying?

Mr. Richard Doyle: I might disagree. It's not that I did okay or not okay.

In the Uruguay Round and a number of these negotiations on the NAFTA and the CUSTA, we did have access to the documents. Things took place under confidentiality rules, but we did have committees and structure through which we, as experts in our own respective fields, could do the proper job of advising the negotiators and the government by having true access, although on a very highly secret and confidential basis, which is not the case right now.

Mr. Ed Holder: Mr. Sinclair, thank you for your comments as well.

I thought I heard you say—and forgive me if I have misunderstood this—that you had a critical view of trade agreements. Did I catch the right words? I want to be careful as I ask you a subsequent question on this.

Mr. Richard Doyle: Yes, I said I have a critical perspective on trade agreements.

• (1625)

Mr. Ed Holder: I'm sorry, I'll put my earphone in just to hear that better. Could you please say that one more time.

Mr. Scott Sinclair: Yes, I have a critical perspective on trade investment treaties.

Mr. Ed Holder: By the way, I have a degree in philosophy, which doesn't really mean so much except that, like you, I try to look at things critically. But if you have a bias against them, how could you ever imagine that a trade agreement...? As you would know, sir, with your critical view of these things, trade agreements involve not just the reduction of tariffs, but a number of things, such as trying to ensure that we have labour standards that are ILO-based and that we have environmental conditions that are broader and stronger.

Here is my question for you. Even if it's not perfect, even if any trade deal doesn't satisfy your critical perspective, as you have indicated, could you not imagine a point at which if you were trying to raise the standard of living in another country, if you were trying to increase your own exports, if you were trying to increase labour and environmental conditions, there would be some things you'd say weren't so bad, even with a critical perspective?

Mr. Scott Sinclair: The investment provisions of the NAFTA and subsequent treaties have been used to attack environmental protections in Canada. The subject matter of trade treaties, as I've said, is changing quite dramatically. They involve regulatory matters that need to be fully debated, and instead we see in the TPP that they are moving to greater secrecy and actually stifling the public debate. I think that's very unfortunate for a proper critical discussion of these very sweeping treaties.

The Chair: The time is up.

Certainly this committee has embarked on a TPP study that promises to be very lively and very public.

That takes us to the end of our first session.

We are expecting a vote and the bells to ring within a minute and a half, so any time now. It's unfortunate because our second session, I believe, unless something is going on in the House.... Things happen in that place that sometimes change the agenda. The bells are ringing right now, so things haven't changed, unfortunately. We're going to have to postpone the second hour of our testimony and bring these two players back at another time.

I want to thank the two witnesses for kicking off this study in a very exciting way.

With that, the meeting is adjourned.

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