



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Standing Committee on International Trade

CIIT • NUMBER 027 • 1st SESSION • 42nd PARLIAMENT

EVIDENCE

Thursday, June 16, 2016

—
Chair

The Honourable Mark Eyking

Standing Committee on International Trade

Thursday, June 16, 2016

•(0845)

[English]

The Chair (Hon. Mark Eyking (Sydney—Victoria, Lib.)): Welcome, witnesses and everybody in the audience.

This is the trade committee. We have had a very active session of Parliament so far, with a lot on our plate between softwood lumber, the agreement with Europe, and also our main focus, the TPP, and consulting with stakeholders and Canadians about it.

We've travelled to the western provinces, Quebec, and Ontario. We're also taking individual submissions up until the end of October. MPs are also holding some town halls. We will finish up with the Atlantic provinces and the territories in the fall. We hope to have a report to Parliament in the new year.

That said, welcome, guests. If anybody is here for the first time as a witness, we'd like whichever group you represent to speak for about five minutes. If it goes over five minutes, I'll give you a little reminder to make your conclusions.

When the MPs are in dialogue with you, try to keep the answers short, because it's a big panel and we'd like to get in as much input as we can.

Without further ado, we'll start with our first witness. As an individual, we have Gus Van Harten. Go ahead, sir.

Dr. Gus Van Harten (Professor of Law, Osgoode Hall Law School, York University, As an Individual): Thank you very much for the opportunity to present.

I'll be speaking about the TPP's investment and financial services chapters, and in particular the investor-state dispute settlement mechanism or foreign investor protection system. The acronym is typically ISDS these days. I'd like to make a few points in the time I have.

By the way, you should have a short PowerPoint handout. I won't refer to it, but when you have time, if you are interested, please take a look at it. I'll emphasize just a few points in my initial presentation.

First, ISDS is very difficult to measure in terms of costs and risks associated with these trade agreements. It's difficult to measure, for example, because it's hard to track all of the implications of the pressure ISDS puts on countries, legislatures, or governments to change their decision-making in favour of the perspective of a foreign owner of assets or a foreign investor. For example, in the past Canada withdrew legislation banning a gasoline additive when sued in ISDS under NAFTA. As a result, Canada had a chemical additive called MMT in its gasoline for approximately six years when the

United States did not. This was thought by the auto industry to mess up their new auto emissions technologies. A range of costs that were associated with that outcome—significantly attributable to ISDS—have never really been researched and tracked, even though this happened about 15 years ago. These were costs to health due to increased air emissions in urban areas, and costs to people taking their car to the garage when the engine light went on because the catalytic converter was messed up.

I just want to stress that these risks and costs are very significant, but they're not well understood and not well measured. What is the significance of the costs? I'd like to highlight three concerns that are typically raised with respect to ISDS and trade agreements.

The first concern involves a profound institutional transfer of power from a country's legislatures, governments, and courts to a panel of three lawyers sitting as arbitrators, who now have the ability to award uncapped amounts of compensation against a country for decisions made that affect foreign investors. When I say “foreign investors”, I'd like to add that the primary financial beneficiaries of this system to date have been very large multinationals and very wealthy individuals.

The power that the lawyers sitting as arbitrators have is very much unique in international law because of the potency of the compensation awards they can issue. In effect what it does, in a way that domestic law and other areas of international law would not do, is put this unclear price tag on any legislation, governmental decision, or even court or tribunal decisions that a foreign investor may object to. The decision-maker will not know how the arbitrators decide years down the road, but if it considers it has any risk of losing down the road, if the assets are big enough—it may entail \$100 million or even billion of financial uncertainty associated with the decision—that can be a very powerful check against responsible decision-making in a country. In effect, it pits the interests of voters who elected a government to do certain things against the interests of taxpayers who want to be protected against uncertain but potentially catastrophic financial risks.

The second concern I'll flag is this. What's the rationale for giving this special access to public money to foreign investors as opposed to any other actor? It's a special access to public money to protect the foreign investors against risks associated with democracy, regulation, and judicial decision-making that's not available to anyone else. Everyone else has to settle for the usual ways of dealing with their issues in elections, in public debates, in the courts, etc. But foreign investors get this special access to ISDS. What's the justification for that?

I would simply ask you, as decision-makers, to be very rigorous in insisting upon clear, compelling evidence of benefit to the public of giving these advantages to foreign investors. It's one thing to say that foreign investors would like to have special access to public money; who wouldn't?

• (0850)

The question should be, what's the compelling evidence and public benefit of doing this?

The Chair: Do you want to wrap up, sir?

Dr. Gus Van Harten: I'll wrap up with my last point.

Foreign investors obtain very powerful international rights in ISDS without any actionable responsibilities. It's a fundamentally imbalanced system, and for that reason, I suggest it's a very powerful reason to not commit Canada to the Trans-Pacific Partnership.

Thank you.

The Chair: We're going to move to the Canadian Association of Research Libraries. We have with us Victoria Owen and Susan Haigh.

Ms. Owen.

Ms. Victoria Owen (Chief Librarian, University of Toronto Scarborough, Canadian Association of Research Libraries): Good morning, and thank you for the opportunity to speak to you on behalf of the Canadian libraries about the Trans-Pacific Partnership Agreement and the potential impact on our work.

My name is Victoria Owen. I'm the chief librarian at the University of Toronto, Scarborough. I am here today on behalf of the Canadian Association of Research Libraries, the Canadian Urban Libraries Council, and the Canadian federation of library associations.

I am joined by Susan Haigh, the research libraries' executive director.

Libraries are society's guardians of the public trust and specifically identified as institutions serving the public interest with regard to providing access and preserving the world's cultural and scientific heritage in all formats across all time periods. The library's role in the dissemination of knowledge promotes innovation, competition, and commerce, as works are used, new works created, and made available in the marketplace.

Librarians believe that chapter 18 of the Trans-Pacific Partnership, in its current form, will have a direct negative impact on the statutory rights that Parliament has claimed in the public interest and it poses a threat to the way knowledge is shared and culture is preserved in Canada. The most troubling articles include the mandatory extension

of the term of copyright, article 18.63, and the requirement for a narrow and strict interpretation of digital locks, article 18.68.

Article 18.63 of the TPP requires that Canada extend its term of copyright from the current term of life of the author plus 50 years, the standard established by the Berne convention, to the American term of life of author plus 70 years.

Term extension to life plus 70 will result in a definite cost to Canada's historical and cultural materials. No new works will enter the public domain for 20 years from the time that such an extension passes into law.

Delayed for 20 years will be the artwork of Lauren Harris and Anne Savage, the organ compositions of Healey Willan, and the memoirs of Prime Minister Lester Pearson.

The lack of enrichment of the public domain is in direct opposition to the stated objectives in article 18.2. It is contrary to the provisions in article 18.3 of the principles, and article 18.15 where it states: "The Parties recognise the importance of a rich and accessible public domain."

The TPP weakens the public interest by robbing the public domain of embellishment for 20 years. The fact that life plus 70 would halt entry of new works into the public domain renders meaningless articles 18.2 of objectives, 18.3 of principles, and 18.15, the statement on public domain.

Libraries and archives fund non-commercial digitization projects that depend on the ongoing release of new materials into the public domain. The digitization work and access to a rich array of materials will grind to a premature halt if copyright term is extended.

Digitization projects and researchers seeking to make uses of works still under copyright are already challenged to locate rights holders that are obscured by the passage of time and the lack of registration. The difficulty finding copyright owners of older works, known as orphan works, will worsen with the extension to the term of copyright.

The 70-year term brings no direct economic benefit to our creators in Canada, as we are a net importer of intellectual property content. Rather, the primary beneficiaries will be foreign publishers, and foreign film and music producers. Canadians will pay royalties to foreign corporations for an additional 20 years, and in all likelihood, the majority of all other works, those created by individuals and not corporations, will join the morass of orphan works.

Term extension will put much of Canada's cultural history out of reach and could have harmful effects on Canada's knowledge-based economy. Canadian librarians believe that potential negative impacts of chapter 18 would be mitigated by a side letter allowing Canada to manage term extensions, and meet the terms of the agreement through a supplemental system of application and registration, assuming it would comply with the existing international framework.

Such a system would benefit rights holders by giving them control over term extension and benefit the public interest by allowing many works to enter and enrich the public domain according to the Berne life plus 50.

In addition to the term extension, Canadian librarians take issue with the digital locks requirement. Article 18.68 of the TPP poses a more rigid interpretation of the digital locks requirements than those that were added to Canada's Copyright Act in 2012.

• (0855)

The digital locks provision in the TPP, without adequate legislative or regulatory protection to allow for the effective use of statutory limitations and exceptions, will make it difficult for Canadians to practice fair dealing, a users' right that was instituted by Parliament and repeatedly upheld by the Supreme Court of Canada.

The Chair: Do you have your conclusions?

Ms. Victoria Owen: I do.

Canadian librarians urge Parliament to seek an amendment that clearly and specifically allows for the circumvention of digital locks. They are concerned that the TPP has no provision in its process for comment and, as a result, proposes provisions that are not in the best interests of Canadians.

Thank you.

I'm sorry. I saw that flash and—

The Chair: That's all right.

Ms. Victoria Owen: —I didn't realize that it was for me to stop.

The Chair: That's all right. We're not that strict, but we just like to get everybody in. If you have other comments when they're asking questions later on, you'll be able to get more comments in.

I remind witnesses also, if there are thoughts that you have after today, submit them to us and we'll enter them into our report.

Now we'll move on to the Canadian Cattlemen's Association, which we heard quite a few submissions from when we were out west.

It's good to see you here.

John Masswohl, you've got the floor. Go ahead, sir.

Mr. John Masswohl (Director, Government and International Relations, Canadian Cattlemen's Association): Thank you, Mr. Chairman, for the invitation to be here this morning. There's always a lot of important work being done at this committee, and we're always pleased to be here.

It is really important, and I want to commend the committee for doing such an extensive consultation with Canadians. I think it is worth highlighting that this is meeting number 27 on this subject—27—and a lot of those meetings have been marathons with upwards of dozens of groups providing testimony in a single day. On top of that, the minister of trade, and Parliamentary Secretary Lametti, whom I'm pleased to see here this morning, have also been conducting dozens of consultations with groups and companies and holding public town halls across the country. There was one just last night, which I understand was quite interesting. We had a few beef farmers of Ontario there.

I would say that you are really to be commended for beating the bushes and giving everyone an opportunity to have a voice. As you said, I know you have heard from Canadian beef producers in several provinces. They've given me some feedback that they were very appreciative to have that opportunity to meet with you in their home provinces. They don't often have the committees coming out to some of those towns, so that was very much appreciated.

What you would have heard is that Canadian beef producers are strongly supportive of the TPP. We achieved our primary objective in those negotiations, which was to re-level the playing field for Canadian beef exports to Japan. Japan was a \$103-million export market for Canadian beef in 2014. That was down a bit in 2015, and we don't yet have enough data to know what 2016 is going to look like, but so far this year it's looking like it's keeping pace with last year.

You've heard that one of our real concerns is that Australia has seized a competitive advantage over us by already implementing a free trade agreement with Japan last year. While Canadian beef is still subject to a 38.5% tariff in Japan, Australian beef has already enjoyed its first three tariff cuts. It's down to 30.5% for chilled beef, and 27.5% for frozen. Rates on both of those products are going to continue dropping further, and that disadvantage will grow.

Once the TPP is implemented, if the TPP is implemented, and I know that decision hasn't been made yet, that tariff inequality will immediately be levelled and then decrease in lockstep with our other TPP partners, to 9% over 15 years. We feel that with the TPP we can double or nearly triple our beef exports to Japan, to about \$300 million a year. Without the TPP or a bilateral agreement with Japan, Canada will likely lose around 80% of the value of our exports to Japan.

Beyond Japan, the TPP secures our future access to Vietnam and Malaysia. Although those countries aren't traditionally large beef importers or consumers, we foresee people in these markets moving up the income ladder in the future, and as people earn more disposable income, we know they tend to eat more beef.

The TPP also gives us the opportunity to seek concessions from prospective members, such as Korea and Taiwan, as those countries negotiate their admission with the existing members.

Those are the benefits for us. I want to spend just the last bit of my time commenting on the strategy of where we go from here. We understand that the TPP cannot go forward without the U.S. It's fair to say it's not certain what the U.S. is going to do with that agreement.

The CCA believes that the Government of Canada should actively consider whether there's a better strategy than waiting to see what the U.S. will do. American agriculture groups are working very hard in Washington to explain to their congressmen and senators how vital the TPP is for America's farmers. They're worried that if the U.S. rejects the TPP, other countries, including Canada, are going to seize the opportunity to fill the void, and that's not just speculation. We know that Australia already has, as I talked about that. We know that the European Union already launched negotiations with Japan in 2013, and they've had 16 negotiating rounds since that time.

I hope our U.S. counterparts will also be correct that Canada will not be content to wait for the U.S. to lead the way for us. The Canadian Cattlemen's Association hopes that Canada will formulate a made-in-Canada strategy to ensure that Canadian exporters are not disadvantaged.

• (0900)

Canada and Japan launched bilateral free trade agreement negotiations in 2012. This committee held numerous hearings and issued a report in 2013 that had very positive conclusions and recommendations. That committee report envisioned that bilateral FTA negotiations and the TPP could proceed in parallel, and that the TPP was not a substitute for a bilateral agreement. Since that time, seven negotiating rounds have been held, but we haven't had one since November 2014.

I would suggest that Canada's taking care of its own interests in Japan would not require starting from scratch. We're already well beyond the preliminary work, and the government machinery is already in place to proceed. Moreover, reigniting a bilateral initiative with Japan would not go unnoticed in Washington. A Canadian strategy and efforts with Japan can help to motivate the Americans to recognize their own self-interest in implementing TPP.

I'll conclude by telling you that Canada's more than 68,000 beef farmers would solidly support the Government of Canada moving quickly to finalize a bilateral FTA, both on its own merit and as a strategic initiative to encourage others to move on implementing the TPP.

Thank you.

• (0905)

The Chair: Thank you, sir, for that briefing.

We'll move on to the Canadian Centre for Policy Alternatives. We have Scott Sinclair. Go ahead, sir.

Mr. Scott Sinclair (Senior Research Fellow, Canadian Centre for Policy Alternatives): Thank you to the committee for the invitation.

The Canadian Centre for Policy Alternatives is an independent, non-partisan research institute. This year, as part of the ongoing debate over whether Canada should ratify the TPP, we have published seven studies and will release more soon.

One recent CCPA report challenges claims that the TPP will generate significant trade benefits for Canada. The reasons are fairly straightforward. Canada already has tariff-free access to most of the TPP region. Canada imports significantly more from, than it exports to, the TPP countries that we do not already have a FTA with. The

quality of that trade is also imbalanced. Our exports are mainly commodities while our imports are mostly more sophisticated manufactured products.

Since what we import from these countries currently faces higher tariff protection than what we export, tariff elimination under TPP will likely worsen Canada's existing trade deficits with non-FTA TPP members. We'll also deepen our dependence on natural resource exports at the expense of our manufacturing sector.

These findings are broadly consistent with the results of other studies, including those carried out by Tufts University and the C.D. Howe Institute, and with Canada's experience so far under the recently signed FTA with South Korea.

A highly problematic aspect of the TPP agreement is the inclusion of generous foreign investment protections, enforced by investor-state dispute settlement. Giving international investors the right to seek compensation when public interest regulation interferes with their commercial objectives clearly weakens democracy.

Canada's experience under NAFTA confirms this. Because of NAFTA, Canada is now the most sued developed country in the world. Two recent losses are particularly disturbing. The 2015 Bilcon ruling, which found fault with an environmental assessment recommending against a quarry on the Bay of Fundy, will exert a detrimental chill over future environmental assessments. Another NAFTA tribunal recently awarded ExxonMobil, or its Canadian subsidiary, an initial \$19 million in compensation for having to fund local research and development as part of an agreement that all companies make to drill for oil and gas offshore in Newfoundland and Labrador. As long as that policy remains in place, the federal government must pay ongoing damages.

The TPP not only expands the deeply flawed ISDS system to investors from more countries, it includes new investor rights—which I hope we will be able to explore in the question period—and significantly, the TPP would not replace NAFTA's investment protections, but will exist alongside them, giving investors the option to use the agreement most favourable to them when challenging Canadian policy.

Both CETA and TPP would require the federal government to extend the term of patents to account for supposed regulatory delays in approving drugs for sale. Canada already has an industry friendly system for protecting pharmaceutical patents, which is reflected in our having the fourth highest drug costs in the OECD. Meanwhile, R and D levels in Canada have fallen to historic lows.

Research published by CCPA estimates that by further delaying the availability of cheaper generic medicines, TPP's patent term adjustment system would result in an annual cost increase of over \$600 million, or 5% of the annual cost of patented drugs in Canada.

As you have heard in previous testimony, the devil will be in the details of implementation. In effect, TPP gives the United States trade representative, a long-time critic of Canadian intellectual property laws, a seat at the implementation table, since the U.S. must certify that a TPP member is fully compliant before the treaty enters into effect. In any event, the agreement would burden the Canadian health care system with higher drug costs.

Finally, Canada's TPP temporary entry commitments cover a wider range of occupations and sectors than past trade deals. The system would be extended to countries such as Australia and Japan for the first time.

The temporary entry system prohibits countries from applying any form of economic needs tests or numerical quota, including labour market impact assessments. Therefore, employers hiring migrant workers under TPP will be able to do so even in areas where unemployment is high and qualified local workers are available. Furthermore, unlike the temporary foreign worker program, which can be reformed, the temporary entry system in the TPP cannot easily be altered once the treaty is ratified.

● (0910)

My remarks today only scratch the surface of the issues surrounding this complex and far-reaching agreement. For further analysis, I refer you to the studies on our website. Future reports will address copyright protection, the auto industry, labour rights, and other issues. Our research to date strongly suggests the risks for Canada in ratifying the TPP, especially the negative impact on our governments' ability to regulate in the public interest, significantly outweigh the benefits. While certain sectors or groups may gain, the TPP would not be of net benefit to Canada. We therefore recommend against its ratification.

Thank you.

The Chair: We'll now go to the Canadian Labour Congress. With us, we have the president, Hassan Yussuff, and also Angella MacEwen, senior economist.

Go ahead, folks.

Mr. Hassan Yussuff (President, Canadian Labour Congress): Let me begin by expressing my sincere appreciation for your willingness, and that of Minister Freeland and the government, to sustain open and frank dialogue regarding the Trans-Pacific Partnership negotiated under the previous administration.

It is a deeply flawed agreement, and our view is that the costs of the TPP outweigh, of course, the limited benefits that might arise from the deal.

Proponents of the deal only expect a boost to Canadian GDP of about 0.5%, and that's over 10 years and down the road. That's about as much as the previous administration promised to pay the dairy industry for compensation for TPP losses. This leaves nothing to cover the costs to the auto sector and other sectors.

A key study from Tufts University predicts that workers in all of the 12 TPP countries would lose out because the TPP will increase income inequality within those countries.

This flawed agreement also is about protecting multinational corporations' rights. It does nothing to help workers or the environment.

The two sectors with the most to lose are the auto industry and the dairy sector. But I also want to touch on our concerns with the provisions on public service, labour mobility, rising drug costs, and the investor-state and environmental regulations.

The auto sector is centrally important to Canada's research and development, high value-added production, and manufacturing exports. In 2014, approximately 40,000 Canadians worked in motor vehicle manufacturing in our country, and another 70,000 in the parts manufacturing. A five year phase-out of tariffs on Canadian imports of Japanese vehicles will quickly eliminate the incentive to manufacture in Canada, and it will encourage Japanese assemblers to import more vehicles into our country. Unifor, our major industrial union, has estimated TPP will lead to at least 20,000 job losses in the auto sector alone.

The Canadian dairy sector provides high quality, locally produced food while supporting small family farms and rural communities in our country. Under the TPP agreement, foreign dairy producers will be able to access an additional 3.25% of Canada's 2016 dairy milk production. This comes at a time when the dairy industry is already under considerable stress. Two hundred and fifty million litres of milk and subsequent production jobs are at risk annually.

The TPP makes unprecedented changes to Canada's policy for the use of temporary workers. Under the TPP, there is no limit to the number of temporary workers who can get temporary work permits, and no ability to set economic needs tests on specific sectors. There is also no mechanism to enforce fair labour rights for these workers. This will immediately impact on infrastructure projects and workers in the building trades.

We have many concerns with the model of investor-state dispute settlement. By now, I think the problems with this model of dispute settlement are well known: the unaccountable and ad hoc nature of the arbitral panels, their expansive definition of what constitutes an investment, the fact that they do not operate in subsidiarity to national court systems but above them. And then there's the apparent lack of deference to the prerogatives of governments, or even national jurisprudence on any given issue.

The TPP chapter on public services locks in the current level of privatization with so-called ratchet and standstill clauses. This makes it more difficult for governments to introduce new public services such as pharmacare or child care without subjecting themselves to ISDS claims.

Canada already has the second highest per capita drug costs in the world. The TPP will further constrain efforts to reform pharmaceutical purchasing provisions within Canada.

The TPP also contains broad prohibitions on economic and environmental performance requirements, such as requiring technology transfer or local sourcing to foster green industry. Such restrictions will serve as a chill on governments contemplating steps required to make the transition toward a low-carbon and climate-resilient economy.

It is time to come back to more reasonable forms of investor protection, protections that should be subsidiary to national jurisprudence, should privilege state-to-state settlement, and shall emphasize investors' responsibilities just as much as the protection of their assets.

In conclusion, we have called on the federal government to conduct its own impact analysis of the TPP, and to make this analysis public so all Canadians can learn what the impact would be.

• (0915)

In closing, I want to ask the committee today if you have requested a thorough study or analysis by Global Affairs Canada. If you have not, I would like to recommend that you do so. Given the high economic and political stakes, Canada deserves no less than a full and substantive discussion on the potential consequences of this draft agreement.

I want to thank the committee again for the opportunity to present here today.

The Chair: We're going to move on to our last witness. From the Chemistry Industry Association of Canada, we have Vice-President Dave Podruzny.

Go ahead, sir.

Mr. David Podruzny (Vice-President, Business and Economics and Board Secretary, Chemistry Industry Association of Canada): Good morning, and thank you for this opportunity to present briefly on who we are, why this trade agreement and trade generally matters, and then to take questions.

CIAC is the voice of Canada's chemistry industry. We represent the large industrial chemical producers and chemistry service providers across the country. In 2015, we had shipments of \$53 billion. Most important, we are second in exports in manufacturing, third in value add. Over 70% of our production is exported. Over 80% of any new investment will be aimed at the export market.

To put this in perspective, though, we are 1% of global production, and 2% of global trade. We may think we're a big manufacturing sector in Canada, but growth in China in 2014 was five times the entire size of our sector. The U.S., at 15% of world production, and China at 37% are the elephants in the room, and they do impact global trade.

With regard to change, 10 years ago, global production of chemicals was roughly a third in the Americas, a third in Europe, and a third in Asia. Today, Asia is 54%; China alone is 37%. That's up from 10% in less than 10 years. While over three-quarters of our exports are to the U.S., this will change. The U.S. is investing heavily in new capacity in the chemical sector. That will be my key message today.

On slide 8, is Canada ready for this new world? New investment in the U.S. will first back out imports and then compete into global markets. The U.S. is the destination of most of our current production. We need access to new markets if we're going to remain globally competitive. The TPP opens up major new markets. More important, it sets the bar for Pacific Rim trade—fair, reciprocal, rules-based market access. Our members believe that we can compete on that basis.

Canada makes its chemicals, at least its petrochemicals, from natural gas. Our carbon footprint is the lowest compared to making the same material from oil or coal, an emerging route in China where the emissions are ten times that of making it from gas. So way to go, Canada.

I've included some information on our responsible care ethic and our delivery of continuous improvement in our environmental performance. We invented responsible care here. What I want to say is that making stuff here for the world from the best technologies and processes with the least waste, that is our vision.

Slide 8 I mentioned earlier, and this should cause some alarm bells to go off. We have the same shale gas as the U.S., the same technologies and skilled workforce. We export 60% of our gas to the U.S. As of today, the U.S. is exporting gas, so our exports will soon be zero—and maybe less than zero. Unless our gas reaches tide water and trades to offshore markets, we will leave it in the ground, and then the chemicals we make from that gas will be made in China from coal. Remember that footprint that I mentioned earlier.

In speaking in favour of exports, of fair market access, of TPP as a model for the future of investments and jobs based on resource upgrading and value-add manufacturing, I'm challenging all of us to facilitate more trade. Bringing down global barriers, achieving certainty around market access, will be factors in securing future investments and the latest and best technologies.

Thank you for this opportunity to present, and I look forward to your questions.

• (0920)

The Chair: We're going to go into dialogue with the MPs. We have quite a few witnesses here, so let's try to keep the questions and answers as short as we can to get as much dialogue in as we can.

We'll start with the Conservatives for five minutes.

Mr. Hoback.

Mr. Randy Hoback (Prince Albert, CPC): Mr. Podruzny, you touched on something that is very important and that we need to make sure is included in this report, the fact that by exporting natural gas we would replace coal and reduce overall world greenhouse gases as a result.

Do you want to just expand on what that means?

Mr. David Podruzny: As a small portion of the world, a lot of our impact will be multiplied if we can replace things happening in other parts of the world. You already used the gas-coal analogy, but I'll use the chemicals analogy. For every tonne of chemicals we make from gas, the life cycle of those products reduces emissions in other sectors by three tonnes. That's things like insulation, light-weight auto parts, and lubricants that reduce friction.

This is all about having a smaller global footprint by doing it better, and we are suggesting that making things from gas automatically has a footprint one-tenth of making it from coal, one-half of making it from oil. Most of the world makes its chemicals from oil. An increasing portion of the world, in China, makes it from coal. We're saying we can have an impact by growing here, at the expense of somewhere else, if we do it better here.

Mr. Randy Hoback: Then as we look at the new regulations where they're looking at upstream gas emissions and taking that into consideration, they don't take in the global footprint. That's a fault in that system, do you not agree?

Mr. David Podruzny: I'm not sure, because reducing gas emissions, methane emissions, is something we're all pursuing in every aspect of our operations. Reducing waste and making it a stream for other sectors to make stuff from is a good thing.

I think what they're talking about is fugitive emissions in gas and oil drilling and so on. Our friends at the Petroleum Services Association of Canada are going a long way to improve technologies to reduce that. We think we're ahead of the curve there and don't need to feel too threatened by some of those regulations. Very much our responsible care ethic requires us to be the best we can be and to be tested by the communities where we operate.

Mr. Randy Hoback: Mr. Masswohl, it's good to see you here again. You said that you have been here 27 times. Obviously, you are involved in the consultation process.

I'm just kind of curious. We've had groups come before us and say they weren't involved, yet when I ask officials and other people if anyone is banned them from participating, nobody was banned from participating, so what got you involved in the consultations? Did you pick up the phone and call somebody, or how did that work?

Mr. John Masswohl: You know, I may have been here 27 times.

Mr. Randy Hoback: I'd better get that correct.

Mr. John Masswohl: I think what I said was that this committee has had 27 meetings on this subject, not necessarily that I've been to them, but anyway.

● (0925)

Mr. Randy Hoback: You should have.

Mr. John Masswohl: Maybe I'll get a raise out of that.

I think you're right. We don't sit around and wait for the phone to ring. When we have a view on something, we find out who is working on it and we get engaged.

I was trying to make myself a little note of how many of the TPP negotiating sessions we went to. Certainly we've had lots of meetings with the negotiators here in Ottawa, but we were at the first meeting Canada was at in Auckland. We were in Singapore three times.

Mr. Randy Hoback: It wasn't the government telling you to be there, it was you saying you wanted to be there.

Mr. John Masswohl: Oh, yes, we want to be there because the negotiation goes through a life cycle. In the early days, they're trying to figure out the priorities and what they are trying to achieve. They can only achieve things if people tell them what they are. Then the middle of the negotiation gets into how to achieve that. What are the objections from other countries?

Mr. Randy Hoback: For example, I assumed you signed a confidentiality agreement so you could actually see in more detail what's going on. What do you say to groups that said, "No, we won't sign it," and then come to this committee and say, "We haven't been consulted"?

Mr. John Masswohl: I've signed so many of those confidentiality forms over the years for this negotiation or that. The government is willing, and in fact eager, to consult with people who have views, who can make these agreements better. My view is, if you weren't consulted, you really didn't try very hard.

The Chair: You have 15 seconds. Do you want to leave it at that?

Mr. Randy Hoback: I think I'll leave it at that, Chair.

The Chair: Thank you, Mr. Hoback.

We're going to move over to the Liberals now.

Mr. Dhaliwal, you have five minutes.

Mr. Sukh Dhaliwal (Surrey—Newton, Lib.): Thank you to all the panel members for your excellent presentations.

My question is for Mr. Sinclair and brother Hassan.

Mr. Sinclair, I noted that in your presentation that you talked about temporary foreign workers coming in, and basically my take from your presentation is that this is going to alter our immigration policy. Whether it was the folks of my friend Dave Van Kesteren who came here many years ago, or me, who came to this country in 1984, many people like us who have contributed positively to the economic prosperity and building of Canada.

How do you see this as impacting negatively or positively when it comes to the workforce, as well as building Canada?

Mr. Scott Sinclair: The problem with the types of temporary entry provisions that are being negotiated under trade agreements like the TPP is that we give up a large amount of regulatory control. These are essentially rights that are not given to workers to move across borders, but to employers to deploy workers internationally. For those workers, there's no path to permanent residency, or no ability to immigrate to the country. Also, there are quite important regulatory differences even between the temporary foreign worker program, where we have had issues of abuse. Again, in the temporary foreign worker program, a company must demonstrate, through a labour market impact assessment, that it looked for and was not able to find qualified workers within Canada or within that local region. Now those types of economic needs tests or certification are prohibited by these agreements. That's the reason the United States' Congress, when it looked at these types of provisions, which had been negotiated in their previous agreements, said this was not trade policy, but immigration policy, and they forbade USTR from making further commitments. That's why the United States has not made any specific commitments on temporary entry in the TPP.

Mr. Sukh Dhaliwal: Hassam, do you have something to add?

Mr. Hassan Yussuff: Obviously, I concur with most of the points that Scott has made in this area. We highlighted them because we believe that in this agreement, this will of course allow companies bidding on contracts in Canada to bring in an entire workforce. In addition to that, we will have no ability, as a government, to even determine the credentials of those individuals coming into our country. Clearly, we've always had a fairly open immigration policy, with people coming in through a regulatory process. Whether it's through landed immigrant status, or even as a temporary foreign worker, despite our objection to that program, there is of course very much a commitment to at least assess people's skills, where they're going to be working, and whether there is a need for them in that job market. Under this agreement, it that is completely privy to those companies that are bringing people in. We think it's going to have an dramatic impact on the buildings trade sector, which is involved in much of the rebuilding of our infrastructure across this country. We highlight it because it's one of the issues that have not been properly addressed in the agreement.

• (0930)

Mr. Sukh Dhaliwal: Besides Mr. Masswohl, were you fellows consulted, and did you work hard enough to get consulted?

Mr. Hassan Yussuff: We were not consulted. Again, we learned there was an agreement during the middle of the election, when the government announced that an agreement has been reached. We met with Minister Freeland shortly afterward—we met with her twice actually—to talk about the TPP agreement and try to find out more details from her what was in the agreement. We met with her trade officials who were involved in the negotiations and learned many things. I think what's been different with the current government compared to the previous government is its desire to have an open dialogue. It's fundamentally a different approach.

Mr. Sukh Dhaliwal: Are there any other comments?

The Chair: Mr. Dhaliwal, your time is pretty well up. You might get a chance later on.

We're going to move to the NDP now.

Ms. Ramsey, you have five minutes.

Ms. Tracey Ramsey (Essex, NDP): Mr. Masswohl, I have to respectfully disagree with the thought that folks weren't included because they didn't try hard enough. In all honesty, I feel it's the responsibility of Global Affairs Canada and the negotiators to go out to those who will be included. In particular, we've looked at the chapter on labour mobility. Those folks have never been included in a trade deal. As a result, it's outside the realm of possibility for them to even think they would be included in this.

I'd like to go to Ms. Owen and Ms. Haigh, because here's another piece that we're looking at, an extension to our copyright, which we haven't seen in a trade deal up to this point. You mentioned that this would weaken the public interest. I want you to expand a bit on how you feel it would impact Canadians' lives and their access to cultural materials in Canada.

Ms. Victoria Owen: We think that a term extension will have a negative impact on people's access. Certainly, libraries that are conducting digitization projects will have to wait an additional 20 years to be able to do that. Scholars, we know, take materials that are in the public domain and write new, critical works that require copying beyond fair dealing, and that will be constrained. Books won't be republished. Once it's in the public domain, books can be republished and disseminated again. New material can be written around that material and promoted in a different context. That will be constrained. Teachers and students won't be able to get permission to scan or photocopy out-of-print books or artwork, mentioned earlier. As I mentioned, the jobs of libraries, archives, and museums in preserving our cultural heritage material will be made more difficult.

Ms. Tracey Ramsey: I'd like to go to Mr. Van Harten, and possibly Mr. Sinclair will weigh in as well. Mr. Van Harten, you provided us with a deck that shows investor claims that have been brought against us in other countries.

I wonder if you can speak a little about the risks involved in expanding and enshrining these privileges in this agreement. In particular, this one slide shows that in year 2000 we hit a critical point with these awards, which started to dramatically increase after that point. I wonder if you could speak a little about the history of ISDS and why it's such a concern to us.

Dr. Gus Van Harten: ISDS exploded onto the scene in the late 1990s. It's probably been the biggest bonanza for large international law firms that we've seen in international law, because you can get access to public money in ways you just can't elsewhere in international law. Canada's the fifth most sued country in the world. Why? We're the only western developed country ever to have agreed to ISDS with the United States under NAFTA. This is 20 years later. No other country has taken that path, that degree of concession of our sovereignty to these kinds of tribunals. It's a meek surrender of sovereignty—that's how I describe what ISDS has entailed for our country.

The TPP would expand it to include coverage of more foreign-owned assets in our economy. If you include the CETA with Europe, almost our entire foreign-owned economy would be subject to the power of these tribunals. As well, there are some elements in the TPP that expand the existing rights of U.S. investors in Canada.

I would draw attention particularly to how ISDS is incorporated into the TPP's financial services chapter. Basically, financial services companies will be able to sue us, using rights called fair and equitable treatment and full protection and security, which they cannot currently do under NAFTA. That's a win for big banks and a loss for financial regulators and anyone they protect, in the case of the TPP.

• (0935)

Ms. Tracey Ramsey: What about the ratchet and the standstill clauses? How would they impact our ability essentially to perform our jobs as parliamentarians? We've heard about these things. We've talked about regulatory chill here at this committee, and I think you touched on that a bit.

Dr. Gus Van Harten: I don't want to take too much time to get into the details of specific clauses, but you could think of the entire ISDS as a ratchet, because you are locking in your space to pass laws and make regulations, without this looming risk of a potentially very significant financial cost to the taxpayers.

For example, towards the end of the Conservative government's term, there were proposals for new, tough anti-corruption rules. According to *The Globe and Mail*, those were reportedly subject to behind-the-scenes warnings that NAFTA ISDS claims would be brought against Canada if the government proceeded with those new rules. I haven't followed the file closely, but I certainly haven't seen any public reports that the government proceeded with those rules. I'm not saying that was due to ISDS, but just that it's an example of how policy interests can conflict with this very potent system.

The Chair: Thank you, sir.

Your time's up, Ms. Ramsay.

I'd also like to welcome the member from London North Centre, Peter Fragiskatos.

Mr. Peter Fragiskatos (London North Centre, Lib.): Thank you very much for having me here on the committee today.

The Chair: It's good to see you here.

As you can see, this is one of the most vibrant, active, and lively committees on the Hill, so welcome.

Mr. Peter Fragiskatos: Yes, thank you.

The Chair: On that note, we're going to move to the Liberals. Mr. Peterson, you have five minutes.

Mr. Kyle Peterson (Newmarket—Aurora, Lib.): Professor Van Harten, I'm going to follow up a little on the ISDS provisions. As a lawyer, I don't necessarily share the sentiment that just because lawyers make money, it's inherently bad. Anyway, I'm just teasing.

Voices: Oh, oh!

Mr. Kyle Peterson: I take a keen interest in the ISDS provisions of this trade deal and others. I want to make sure I'm clear on your position. I don't hear that you're necessarily against some sort of

settlement dispute mechanism, but you see that this one as flawed for the reasons that you indicated.

What sort of dispute mechanism do you think would be appropriate for trade deals going forward? What sorts of elements should be present in such a mechanism?

Dr. Gus Van Harten: I'm not against lawyers making money either, because I still am a lawyer.

It's more about the so-called judge, who sits working on the side as a lawyer, not having a set salary, not having security of tenure, and not having the conventional safeguards of institutional independence we're used to in public law that are all missing in ISDS.

What is the alternative, and how should foreign investors be protected in the world?

Foreign investors in the marketplace should make judgments about which country they're going to invest in based on the risks that everyone assesses in the marketplace about particular countries. The primary place to go is domestic court. What should be part of their risk assessments are domestic courts in particular countries. If they're not happy with the reliability of domestic courts in a particular country, they can buy political risk insurance in the marketplace. They can also negotiate for arbitration clauses in their contracts, especially with government entities.

When it comes to the international level, I think there's a role for state-to-state international adjudication, like at the World Trade Organization, where the remedy is a forward-looking remedy that doesn't create anywhere near the same regulatory chill that the retrospective damages awards in ISDS create.

I do think there may be a role for ISDS with respect to some countries, but it should come with a duty to exhaust local remedies and a duty to go to the local courts, unless the foreign investor can show there's something wrong with the domestic courts and they shouldn't be held to that requirement.

That's the standard approach in customary international law and under other treaties that allow private claims against the state. It creates room, as you'll understand as a lawyer, for all kinds of mischief when you can skip domestic courts, or go to them first and then challenge their decisions. Even in Canada, with the experience under NAFTA and ISDS, there's some pretty troubling examples of that.

• (0940)

Mr. Kyle Peterson: I appreciate that.

Having practised as a commercial litigator, sometimes the domestic courts get things wrong, but I think having the appeal mechanism is a safeguard that should be in any dispute mechanism, which I don't think is necessarily present here.

I appreciate your comments.

Mr. Sinclair, I appreciate your comments, too.

I'm hearing an oft-repeated refrain that there are very few trade benefits in this agreement and that it's maybe not worthwhile. However, then we hear from Mr. Masswohl who's saying there are tariffs of over 30% on his products right now in Japan. Perhaps the trade benefits are not as large as one would hope, but I think Mr. Masswohl's not lying about the trade benefits his industry would realize with this agreement.

What do you say to those who would benefit from this trade agreement, and how can we reconcile both those positions?

Mr. Scott Sinclair: I think we have to look at the overall impacts on the Canadian economy and Canadian trade. We have to ask whether there's a net benefit. This is setting aside all the other chapters of the TPP that deal with these important regulatory issues we heard, from copyright to ISDS, temporary workers, and so on.

Looking at the trade barriers, I think everyone who's looked at the TPP seriously agrees that the overall benefits and impacts, positive and negative, are fairly small. That's for a simple reason. We already have tariff free access for our exports. Currently 98% of them within the TPP region go to countries with whom we already have tariff-free access, either with a trade agreement, or in the case of Singapore they don't apply trade agreements. For everyone who's looked at it seriously, and there are a couple of outliers, they predict it will have a very small impact.

Another important point for Canada is that the impacts are asymmetrical. Industries like oilseeds, pork, and beef, where tariffs are still high, will see new opportunities. At the same time, our manufacturing sectors have to be offset against the damage to supply management that will result from the agreement. That is clear—and they're in a unique situation.

We also have to look at the damage to the auto sector, which is going to be hurt by tariff elimination and the fact that our tariff will be phased out much more rapidly than the U.S. tariff, but also. It's also going to be harmed quite significantly by changes in the rules of origin, which are going to allow more non-TPP content from China, Indonesia, and other countries to be integrated into cars sold in the North America market.

The Chair: The time is up for your session, Mr. Peterson.

That ends the first round. I want to start the second round with the Liberals.

Madame Lapointe, for five minutes.

[*Translation*]

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

I want to thank the witnesses for joining us today. I appreciate their appearance before the committee.

I will put questions to Mr. Masswohl.

I would like to talk to you about the livestock industry. You said earlier that, by signing the TPP, we could double or even triple our beef exports to Japan. Is that correct? Do you also know what impact an increase in our exports would have on the number of jobs created?

[*English*]

Mr. John Masswohl: Right. That is what we expect in the Japanese market. If you think of our having done more than \$100 million in beef exports with a 38.5% tariff, bringing the tariff down to 9%—we would have liked to go to zero, but it is going to 9%—would result in increased margins for the Canadian side of the same size. We paid \$40 million in duty to the Japanese government on that \$100 million of exports. Now, if you instead take that extra nearly 30%, it's margin on the Canadian side. It means that the packers who process those animals into meat can pay more for the animals.

In terms of jobs, the University of Saskatchewan did a study on the economic impacts of the livestock sector in Canada. There are more than...I think the number is around 228,000 jobs directly in the beef sector in Canada. Every job in the beef sector generates 3.54 jobs somewhere else in the Canadian economy. When farmers get money, they don't sit on it; they spend it. They buy equipment, they upgrade their facilities, they expand. Any additional margin that we can bring back and put into farmers' pockets is going to be extremely positive for the overall economy in Canada, but particularly the rural economy in Canada.

• (0945)

[*Translation*]

Ms. Linda Lapointe: I would like to stay on the same topic.

Australia has signed a trade agreement with Japan. If we sign the TPP, do you believe we would get the same access to the Japanese market or the same export volumes as Australia? What is your assessment of the opportunities to increase our market compared to Australia's opportunities?

[*English*]

Mr. John Masswohl: That's an extremely important point. In fact, it was our objective to catch back up to Australia and go beyond. On day one of TPP's coming into effect, the Japanese tariff for Canadian beef will immediately drop to the same level that Australian beef gets, so we'll be equal again. Right now we're at about a 10% disadvantage.

That tariff is going to drop, as I said, down to 9%. In the Japan-Australia agreement, it only goes down to 18%, so we get an even better rate than the rate that exists in that Australian bilateral.

[*Translation*]

Ms. Linda Lapointe: In addition, Canada is closer to Japan than Australia is.

[English]

Mr. John Masswohl: In terms of the ability to compete, Australia has a bit of a geographic advantage over us. They have a slightly different beef. We have very different genetics in Canada; we have a northern, cooler climate; we produce beef that marbles better and has very good quality that the Japanese consumers particularly like. We tend to be more at the high end of the market. We probably won't do the same number of tonnes as Australia, but we're going to do very well on the value and the ability to compete on our advantages.

[Translation]

Ms. Linda Lapointe: Thank you.

You also said earlier that Malaysia and Vietnam would also become important markets, since middle-class people will have higher incomes.

What is your assessment of that?

[English]

Mr. John Masswohl: That's very much the case. Many people think of Vietnam right now as being, as Hong Kong was 30 years ago, poised. If you look back at where we exported beef to 15 years ago, before the BSE scenarios, we exported almost nothing to China and Hong Kong. They weren't very high among our priority markets. Even five years ago, when China reopened, our prediction was that maybe within 10 years we could get to about \$100 million in the Chinese market. Last year we did \$255 million in China.

[Translation]

Ms. Linda Lapointe: I have another question.

You also said that we should take steps if Canada does not sign the agreement and that we should

[English]

“take care of our own interests”

[Translation]

and come to an agreement with Japan if we don't participate in the Trans-Pacific Partnership.

Could you tell me about those issues, as we have a few more seconds?

[English]

The Chair: It will have to be a quick answer, please.

Mr. John Masswohl: We think it's a very viable strategy that should be explored.

[Translation]

Ms. Linda Lapointe: Thank you very much.

[English]

The Chair: We're going to move over to the Conservatives now for five minutes.

Mr. Ritz.

Hon. Gerry Ritz (Battlefords—Lloydminster, CPC): Thank you, ladies and gentlemen, for your presentations today. They're always good.

The struggle we always have is finding a balance. It is a very diverse country, and wants and needs differ greatly across it.

John, you made the point that you'll see in Japan an increase of \$300 million, and that this is going to create some jobs. We see studies that say there is going to be tremendous job loss if we do the TPP, but that's offset by....

You also said there are 228,000 jobs in the beef sector, which is double what is in the auto sector—not to diminish either one; they're both extremely important. When you look at the jobs that are out there and the jobs that will be expanded, certainly, through TPP and trade.... We have seen tremendous opportunities, especially in the agricultural sector; it's fundamental.

I just wanted to make those points.

From the chemical industry, David, you gave an excellent presentation. Thank you for that.

There must be certain products that you have a proprietary interest in such that the expansion of the coverage in other countries is very important to you.

Mr. David Podruzny: The market access that is specifically being opened up will be Japan and Australia. I think there is one other area that's material.... We already have Singapore, and it's already duty free.

Those are the two main ones.

We are going to have an opportunity to move existing Canadian production into the Japanese market, with basically a 6% to 10% tariff elimination. We've unilaterally eliminated that tariff in Canada already, so this is all improvement in access. It's specifically for a number of chemicals that they are beginning to shut down in their country because it's not viable to make them. They don't have natural gas, as we do; they have to import the raw material—oil—and so we have a competitive advantage, once that tariff is gone, to access that market with the things we're making right now, which will be backed out of the U.S. because the U.S. is starting to make the same product.

● (0950)

Hon. Gerry Ritz: Right, yes.

The nature of multilateral trade like that is that it draws out the strengths of each country so as to rely on and move those products within that bloc of countries. That's what multilateral trade is all about.

Mr. Van Harten, I want to make one point. You were talking about lawsuits, and certainly we have to be aware of the fact that there are lawsuits out there and that there is the potential for lawsuits, but of course it's reciprocal. Canadian firms can also sue other countries.

But I want to clarify. You were pointing to NAFTA, and NAFTA so far has driven \$5.3 trillion in economic activity. The total number that Canada has paid out now is \$171 million, which is a big number as well, but when you look at the \$5.3 trillion in economic activity, \$170 million has been paid out for a number of different issues, and \$130 million of that was because Danny Williams nationalized Abitibi, which everybody said was wrong. When you look at what's at risk, it's a pretty slim margin, and I think we have it right. There are always better things to do, and I rely on my friends, such as Mr. Peterson, who is a lawyer, to do that.

The Canadian Labour Congress made the point that our auto sector is going to be at risk because we're removing the 6% in five years and said how terrible that is; but we did Korea in two years, and it hasn't been harmful. We're actually seeing the Japanese investing in Canada. Eighty-five percent of our Japanese autos come in through the U.S. now. That is not going to change, but we're seeing investment from Japan. We're not seeing investment from Korea yet, and Kia and Hyundai are the two largest-selling vehicles in Canada.

I'm a little bit concerned that you seem to have missed the reaction that other countries look at—the investment in Canada to get access to the European market, and so on.

I would also point out that the largest manufacturing sector in Canada is agriculture, food-based and so on, and it's predominantly unionized. The service sector, such as banks and so on, which is going to take a huge advantage from TPP, is unionized. The provinces that support this are predominantly unionized, and they all took part in the consultations and were part of driving this agenda forward.

I'm not sure why you guys missed out, then. If we forgot to call you, I apologize. I'm not sure why, as Mr. Masswohl said, you wouldn't have picked up the phone and said, "Hey, we're here; talk to us".

Mr. Hassan Yussuff: Well listen, it's a two-way street. Let's be clear. Much of the discussion leading up to the TPP was not very public. I want to be very blunt about that. It was not very public.

Hon. Gerry Ritz: There were lots of leaks in the newspaper every week, so....

Mr. Hassan Yussuff: By the way, we wrote your government a letter, as my colleague just reminded me, and to you specifically, then, as minister.

But let's go back to the point you made about the auto industry. Clearly the Korea agreement has not enhanced our auto industry. They have huge access to our country with very little commitment to investment because, I think, it was flawed as it was put together without any commitment.

It is true that the Japanese auto companies have invested in Canada, but our concern is that future investment will be very much diminished, because now they'll have complete access to the market without having any restrictions in that regard. That's the point we're making here. Yes, they have invested; there are two Japanese companies that have put major investments in Canada. We don't, however, see those being enhanced with this agreement, going forward.

Our American friends got a longer period for phasing out their tariff. The question is, why couldn't we demand the same thing, because the—?

Hon. Gerry Ritz: Does that not chase investment away?

Mr. Hassan Yussuff: No, it does not chase investment away. The reality is that we want to protect the industry at the same time as the Americans are trying to protect their industry. We could have demanded the same thing.

We didn't, and ultimately I think it's going to have a detrimental impact on the industry.

The Chair: Thank you, sir. The time is well over here.

We're going to move over to Ms. Ludwig for five minutes.

Go ahead.

• (0955)

Ms. Karen Ludwig (New Brunswick Southwest, Lib.): To respond to your question, Mr. Yussuff, we are looking into and following up with Global Affairs, and they will be conducting an economic impact study.

Mr. Hassan Yussuff: Thank you.

Ms. Karen Ludwig: Thank you for asking that question.

Mr. Hassan Yussuff: Will that be made public?

Ms. Karen Ludwig: Yes, it will.

Mr. Hassan Yussuff: Thank you so much.

Ms. Karen Ludwig: My next questions are for Mr. Masswohl and Mr. Podruzny.

In relation to the job market itself, we have heard one oft-referred to study state that there will be a loss of 58,000 jobs. When we have our economic impact studies done, we'll have a much clearer picture on the Canadian system.

However, looking at agriculture, as well as the chemical sector, what might be the impact on jobs in both of those areas for Canada, and manufacturing as well as beef, if the U.S. ratifies the TPP and Canada does not?

Mr. John Masswohl: I think that's a really important area where some analysis needs to be done. I know that people talk about there being a small benefit overall. It's a positive benefit, but you don't hear a whole lot about the negative impact of not going forward, because there is no status quo.

If people think we're just going to stay where we are by not doing this deal, that's a fantasy. There are going to be negative impacts. That is something that we're extremely worried about. If we're not part of this deal, Australia has already gone ahead. They're already eating our lunch in Japan. If we have the Americans going ahead and we're not part of it, we can forget about most of our exports to the Japanese market, as well as other markets in the TPP region.

We probably won't lose it entirely. Like I say, we compete on other things, with quality; we have other advantages. Also, there's always a market for beef where price is no object at some restaurants for some people. However, that's not the majority of the market, so we'll keep a little bit.

I guess in terms of the actual job numbers, maybe I should submit the report I mentioned earlier, the study of the economic impact on the livestock sector in Canada. I'll submit that to the committee.

Ms. Karen Ludwig: Would you project job losses if we do not ratify the TPP and the United States does?

Mr. John Masswohl: I think so, absolutely.

You have to look at the investment in the meat packing sector in Canada, and the cattle-feeding sector. If the United States has that advantage and you're a company....

Of the three largest beef packers in Canada doing about 90% of the federally inspected slaughter in Canada, one of them is an American-owned company and the other is a Brazilian-owned company. They don't need to be in Canada if they don't have the ability to export their products around the world. They're going to look at those investment decisions.

Ms. Karen Ludwig: I'm going to ask my friend over here the same question.

Mr. David Podruzny: The chemical industry in Canada is making its products from natural gas. The chemical industry in Japan makes theirs from oil. There is a significant advantage to making them from gas.

The U.S. makes its chemicals from gas too. There would be a significant disadvantage. That Japanese market is five times the size of our market. It's a real opportunity.

Ms. Karen Ludwig: What about the opportunities for market diversification? You mentioned specifically that in the chemical sector there is a heavy reliance right now on exporting to the United States. Also, there is a need for market diversification.

Do you think companies are prepared for export in terms of looking at different markets other than the U.S.? If they're not, how can we better prepare them?

Mr. David Podruzny: I think we'll have to take that in two parts.

When it comes to the industrial chemicals area, every one of our members already has experience in exporting, in going after international markets. The concern today is that we are going to lose some of the American market because they will replace imports, where they've had a deficit for a long time, with domestic production. That forces us to look around the world, and we'll even be competing with them in third markets.

I think we have the opportunity, we have the skills. We have the competitive advantage because of the low cost of our feed stock.

One of the complications I mentioned in my opening remarks is that it is not just chemicals that we'll have to move. We're going to have to move natural gas too, because it has to come out of the ground before we can bid on some of that to convert it into chemicals. If it stays in the ground, we're in trouble.

• (1000)

The Chair: Thank you. That wraps up your time, Ms. Ludwig.

We are going to move over to the Conservatives. Mr. Van Kesteren, you are up for five minutes. Go ahead, sir.

Mr. Dave Van Kesteren (Chatham-Kent—Leamington, CPC): Thank you, all, for being here. It is another interesting discussion.

As you heard from our chair, we have done quite a number of consultations. We have gone across the country. There is a reoccurring theme: small, medium-sized, and even large businesses—with the exception of Ford—all agree that this is really a good thing, that this is something that must be done. Yet we hear repeatedly from labour, and from other groups not necessarily directly involved with industry, that this is a bad idea.

I am going to do something a bit different. We have labour here today. I am going to ask you to wrap up, really quickly, some key points and politely tell David why he is wrong. Then, David, I am going to give you an opportunity—just like the TVOntario show—to respond and say why he is wrong.

Why don't you give me about a minute and a half, and tell Mr. Podruzny why his position is absolutely wrong?

Mr. Hassan Yussuff: Sorry, I didn't even know David until I got here today. The last thing I want to do is offend him, to tell him that he is wrong.

Mr. Dave Van Kesteren: We are not here to offend anyone. We just want the truth.

Mr. Hassan Yussuff: More importantly, I believe that our perspective on the TPP agreement needs to be put in context. Clearly, trade has benefited our country, and it is important for us, of course, to have a diversified market. We are not here to argue that somehow we should lock ourselves up and not trade with other countries. That is not our objective.

Looking at this agreement objectively, we have looked at some of the provisions within the agreement and have some major objections to the challenges it would place on the economy and, more importantly, how is it going to help workers? In addition to that, of course, is it going to limit our sovereignty in regard to our ability to regulate in the sectors we want to?

We think there is going to be significant damage.

David may be right about the opportunity for the chemical industry to export to other parts of the world. I don't question his judgment about the potential of that to happen. I am not here to do that.

At the same time, as we are going to open our markets to allow for this agreement to be possible, are we going to create further damage to the economy of this country and limit the sovereignty of our governments to regulate? We think this agreement is problematic. Fundamentally, we have a difference of opinion.

Mr. David Podruzny: Okay. No offence, please....

Thirty-eight per cent of our employees have university degrees. That is second to IT in manufacturing. They have 41%. This is a good sector to grow. Trade agreements have dispute settlement mechanisms, but trade agreements are about giving up a little bit of sovereignty so you can get unfettered access to that other market.

I will depend heavily on dispute settlement mechanisms so that this can be fair trade. That is important. It has to be fair trade.

We need to get into international markets and large capital investments. An ethylene plant is an \$8.5-billion investment. That is a lot of risk. If you can't market 80% of the output of that, because the Canadian economy is so small, you won't invest here. You won't have those high-quality jobs. This is a risk, but it is a risk about going towards quality and towards a future where the world is our marketplace.

Let's not kid ourselves. They have access already. We gave up our tariff protection, for all of manufacturing except a few small areas like autos, about five or ten years ago. The tariffs were unilaterally reduced in Canada to zero in our sector. We compete already. We just want the same access there as they have here.

The Chair: You have another minute.

Mr. Dave Van Kesteren: Good. We hear a recurring theme. I want to go to Mr. Sinclair. We are going to let you square off with Mr. Masswohl as well.

It is only a percentage. There is not a whole lot of gain in business. I am in business, too. I know the difference between making it one year and losing it in another year. It is usually just a difference of a few percentage points.

I am going to ask John a really simple question. How important are those few percentage points that we are talking about?

• (1005)

Mr. John Masswohl: Farmers operate on razor-thin margins. A few per cent can be the difference as to whether you keep your farm or not.

I would also say, on dispute settlement, that the Canadian beef industry has been a good user of the dispute settlement system. It helped us resolve the country of origin labelling dispute with the United States. It helped us re-establish our trade with Korea, back in 2012. It is a bit of a different dispute settlement mechanism, but again, there is another side to the story, that Canadians benefit from having these mechanisms.

The Chair: Thank you.

Mr. Scott Sinclair: I just want to say very quickly that I don't dispute that the beef industry will gain new opportunities through tariff elimination in these key markets, but your job as parliamentarians is to look at the overall net benefit of this to Canada. That includes the many other issues that are separate from these fairly limited commercial opportunities that are going to be created by tariff elimination, which many people throughout these hearings have been raising.

This will be my last point. If you want to look at the impacts of this type of treaty, what the impacts of tariff liberalization will be under the TPP, I suggest that you look at our experience so far under the Canada-Korea FTA, where our deficit has increased, our manufacturing sector has suffered, and in the first six months of this year it's increasing again; and even in the case of beef, despite signing a free trade agreement, we were shut out for most of last year.

The Chair: Thank you.

You were way over time. I think you broke the record, Mr. Van Kesteren, but there was good comment and dialogue here, but be careful with loading up the questions on the end.

We're going to move over to the NDP now. We have Ms. Ramsey for three minutes.

Ms. Tracey Ramsey: I think that fundamentally the concept that you would be pitted against each other is so wrong to me, because I feel this isn't about saying someone is wrong and someone is right about this deal. It's about looking at it on balance for Canadian workers. I know that Mr. Yussuff represents hundreds of thousands of Canadians—

Mr. Hassan Yussuff: Specifically 2.3 million....

Ms. Tracey Ramsey: —millions of Canadians. So we're sitting at this table with folks who represent millions of Canadians. On my part, I have to look at the people I represent in my riding, the people whom we have all been sent here to represent; and that's farmers, that's working people, that's libraries in our communities, that's those in educational institutions, that's every single piece.

Therefore, it's not fair to say that you're going to benefit, but you're not, and so you should battle it out. I think we know that this would be of benefit to the agricultural sectors and to certain ones like beef. Japan has been mentioned numerous times by representatives of the agricultural sector.

Building on my colleague Madame Lapointe's question, I want to ask you, Mr. Masswohl, about this stalled deal with Japan. We were in a bilateral talks with Japan. We got into the TPP, and those talks ended. The Prime Minister and the trade minister have just visited Japan. I wonder if you've heard any updates from them since they returned on pursuing the tariff reductions that you're seeking.

Mr. John Masswohl: I have not heard that they've scheduled another negotiating round.

Ms. Tracey Ramsey: I think it's clear that it's something you would like to see pursued, understanding, of course, that this is a 6,000-page document and that the six chapters that apply to the trade that you're talking about I think you would find large Canadian support for—and Mr. Podruzny as well.

Mr. John Masswohl: The only update—

Ms. Tracey Ramsey: What I want to talk about now are wages. We talk about Canadian workers and income inequality in our country, which is increasing dramatically. It's affecting the lives of all Canadians.

Wages are a huge factor. I want you, if you can, Mr. Yussuff, to expand on how you feel that the provisions in chapter 12, which is essentially the labour chapter, would affect the wages of Canadian workers or lead to job losses. We look at Malaysia, a really low wage economy; and we've seen jobs bleed out of our country to Mexico, another low wage economy. What is your forecast of our ability to compete with those TPP countries?

Mr. Hassan Yussuff: The labour provisions in the agreement don't specifically require the countries to even meet the core ILO labour standards provision. While countries may be expected to enforce their laws, we're not sure specifically what laws they will enforce if they don't already have adequate laws on their books.

It's not for us to tell other countries, of course, how to conduct themselves in labour relations, but more importantly, the ILO has been a governing body on behalf of labour rights for the world, and most of these countries participate in it. The TPP agreement does not require them to enforce the core labour standards of the ILO agreement.

Secondly, there are no sanctionable penalties for countries that are not meeting that requirement, in my view. Clearly, I think we're a country that has continued to enhance the protection of our workers. We think this agreement will have a ratcheting down effect on labour, on the wages of workers within our country. I think it will continue to put that downward pressure on wages, as we have seen with Mexico and the other countries that we have negotiated trade agreements with, because they are not required to raise their very low labour standards. There's a deep concern about that.

The studies that we have seen say that it's going to put enormous pressure on the challenge of improving labour conditions within these countries.

• (1010)

The Chair: Ms. Ramsey, sorry, you are a minute over. I know that you're on a roll too. Everybody's on a roll today. It must be Thursday, but we have to move to the member from London North Centre.

Go ahead, Peter.

Mr. Peter Fragiskatos: It's great to be with you today as you address this very important issue.

Professor Van Harten, you discuss the state-to-state mechanism as an alternative to ISDS. Isn't that based on the premise that states will want to pursue a claim that's being advanced to them, to take that forward?

Dr. Gus Van Harten: Thank you for raising that question because, first, we need to be clear. When we talk about dispute settlement, the standard approach is state-to-state dispute settlement. That's what we have in the Canada-U.S. Free Trade Agreement. That's what Australia got with the United States after NAFTA. There's no ISDS in the Australia-U.S. free trade agreement, in the Canada-U.S. Free Trade Agreement, in the softwood lumber agreement. There's no ISDS at the World Trade Organization, because foreign investors, like everyone else, are expected to rely on their own state to represent their interests and to make decisions about net benefit for their country as a whole.

For example, we've had cases under NAFTA. Foreign investors have brought claims that have challenged the interpretation of NAFTA given by the governments of all three countries—the U.S., Canada, and Mexico—and the arbitrators have agreed with the foreign investors and expanded international law in a way that the States would not have allowed under their own treaty.

That gets at the sense of how profoundly ISDS changes the dynamic in ways that are highly unpredictable and highly risky. I

want to make this clear because I know lots of people have views about ISDS. ISDS is not something you have to give up to get trade. We have lots of trade agreements that don't have ISDS. In the TPP itself, some countries have side letters excluding ISDS.

We could pursue the same side letters with those other countries—and just to stress this, why do I care so much about this? I have two quick points in this regard. One, Canadian investors have never won an ISDS under NAFTA. Two, hedge funds are speculating in ISDS claims against countries in London right now. It's a very new development. This is a bit scary.

Mr. Peter Fragiskatos: I look at the need in a market economy for businesses to have a predictable environment that isn't changed arbitrarily. When that happens, I think it's necessary to have a mechanism in place that allows claims to be brought forward, and your focus on the state-to-state approach assumes that a state will want to bring that claim forward. You still haven't dealt with the question.

I have a question for Mr. Yussuff and Mr. Sinclair. Are there trade agreements that you favour? Suppose that NAFTA weren't in place right now, Mr. Yussuff, and we were negotiating NAFTA. Would you counsel the Government of Canada to go forward with NAFTA, for example?

Mr. Hassan Yussuff: Not with the current provision in NAFTA. I would certainly exclude the ISDS clause and I would have stronger protection for workers under the labour chapter agreement.

Mr. Peter Fragiskatos: Let me be even more direct. Do you favour NAFTA or any trade agreement?

• (1015)

Mr. Hassan Yussuff: I think we had a very good trade agreement with the United States under the Auto Pact. We had a reciprocal commitment for investment and jobs in our respective countries, which benefited both of us in the development of the auto industry.

Mr. Peter Fragiskatos: Mr. Sinclair, do you favour NAFTA or any trade agreement?

Mr. Scott Sinclair: The approach I would favour is perhaps the one that Canada took when it negotiated the free trade agreement with EFTA, that is, with Iceland and Switzerland and countries outside the European Union. It's essentially a tariff liberalization agreement that relied mainly on the World Trade Organization to address all these other issues around services and investment and standard-setting.

Mr. Peter Fragiskatos: So if we were negotiating NAFTA right now, would you counsel the Government of Canada to sign NAFTA?

Mr. Scott Sinclair: I was involved in the debate on NAFTA and critical of that agreement, but at the time if I'd known more about investor-state dispute settlement, I think I would have been even more opposed to it.

Mr. Peter Fragiskatos: Okay. So you favour international trade—maybe.

Mr. Scott Sinclair: No, you're putting words in my mouth. I'm saying that the many regulatory issues that have been glommed onto international trade negotiations have provided a very convenient way for corporate lobbyists to get regulatory changes they find difficult to achieve through the front door of the democratic process.

Mr. Peter Fragiskatos: I don't often hear—

The Chair: Your time is up.

Mr. Peter Fragiskatos: Okay.

The Chair: Gee, for a new guy on our committee, you're chomping at the bit.

Some hon. members: Oh, oh!

The Chair: That wraps up our dialogue today, folks.

Thank you very much for coming. This has been a very active meeting with good dialogue and good questions from the MPs. Enjoy the rest of your day. If you have anything else you want to send to us to be put into the report, feel free to pass it along.

We're going to suspend for a few minutes and then go in camera.

[Proceedings continue in camera]

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

SPEAKER'S PERMISSION

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

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

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

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

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

PERMISSION DU PRÉSIDENT

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

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

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

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