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Chair: Mr. James Maloney





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• (1530)

[English]

**The Chair (Mr. James Maloney (Etobicoke—Lakeshore, Lib.)):** Good afternoon, everybody.

Thank you for joining us for what is our first formal meeting of the committee in this session.

As everybody knows, we've been tasked by the trade committee to review some provisions of some legislation regarding the free trade agreement that's pending approval by the House.

We agreed on some witnesses last week, and we've been fortunate enough to be joined today by officials from the Department of Foreign Affairs and the Department of Natural Resources.

Lady and gentlemen, thank you for coming.

We have, from Foreign Affairs, Steve Verheul as well as Zachary Archambault and Nicola Waterfield; and Jeff Labonté, from Natural Resources.

I'm not going to go on at all about the process, because all of you know it probably as well or better than the people around this table do. I'll simply say thank you for joining us.

Each department has up to 10 minutes to deliver remarks. I understand that Foreign Affairs is going to lead the way.

Mr. Labonté, you're going to wait until the question and answer session to make some remarks.

Mr. Verheul, I'm assuming you're going to start us off. The floor is yours.

**Mr. Steve Verheul (Chief Negotiator and Assistant Deputy Minister, Trade Policy and Negotiations, Department of Foreign Affairs, Trade and Development):** Good afternoon, Chair and members of the committee. Thank you for the invitation to appear before the committee today. We look forward to answering questions regarding the outcomes of the Canada-U.S.-Mexico agreement, or CUSMA, following my opening remarks.

Signature of the CUSMA on November 30, 2018, followed 13 months of intensive negotiations. It brought together a broad range of officials and stakeholders, with a strong partnership between federal and provincial officials. That agreement achieved several key outcomes that served to reinforce the integrity of the North American market, preserve Canada's market access into the U.S. and Mexico, and modernize the agreement's provisions to reflect our modern economy and the evolution of the North American partnership.

On December 10, 2019, following several months of intensive engagement with our U.S. and Mexican counterparts, the three NAFTA parties signed a protocol of amendment to modify certain outcomes in the original agreement related to state-to-state dispute settlement, labour, environment, intellectual property and automotive rules of origin. These modifications were largely the result of domestic discussions in the U.S. However, Canada was closely involved and engaged in substantive negotiations to ensure that all of these modifications aligned with Canadian interests. Throughout the negotiations, Canadian businesses, business associations, labour unions, civil society and indigenous groups were also closely engaged and contributed heavily to the final result.

Just by way of context, we need to recall that the NAFTA modernization discussions were unique in terms of free trade agreement negotiations. First of all, it was the first large-scale renegotiation of any of Canada's free trade agreements. Normally, free trade agreement partners are looking to liberalize trade. In this process the U.S. goal from the start of the negotiations was to rebalance the agreement in its favour. The U.S. President had also repeatedly threatened to withdraw from NAFTA if a satisfactory outcome could not be reached.

The opening U.S. negotiating positions were, to put it mildly, unconventional. These included the complete dismantlement of Canada's supply management system; the elimination of the binational panel dispute settlement mechanism for anti-dumping and countervailing duties; a state-to-state dispute settlement mechanism that would have rendered the agreement completely unenforceable; a 50% U.S. domestic content requirement on autos, which would have decimated our auto sector; removal of the cultural exception; a government procurement chapter that would have taken away NAFTA market access, leaving Canada worse off than all of the United States' other free trade agreement partners; and a five-year automatic termination of the agreement, known as the sunset clause.

The U.S. administration also took the unprecedented step of imposing tariffs on imports of Canadian steel and aluminum, on the basis of purported threats to national security, but without any kind of justification. The U.S. administration had also launched an investigation that could lead to tariffs on imports of Canadian autos and auto parts.

In the face of this situation, Canada undertook broad and extensive engagement with Canadians on objectives for the NAFTA modernization process. Based on the views we heard and on our own internal trade policy expertise, Canada set out a number of key objectives, which can broadly be categorized in the following overarching areas. First of all, we wanted to preserve important NAFTA provisions and market access into the U.S. and Mexico. Second, we wanted to modernize and improve the agreement, where that was possible. Third, we wanted to reinforce the security and stability of market access into the U.S. and Mexico for Canadian businesses.

In terms of outcomes, Canada maintained NAFTA tariff outcomes, including duty-free treatment for energy products. We maintained provisions on the so-called chapter 19 binational panel dispute settlement mechanism for anti-dumping and countervailing duty matters. We preserved the temporary entry for business persons chapter and access. The cultural exception was preserved. State-to-state dispute settlement was not only preserved but also improved in the negotiations.

In the area of autos, changes were made to the rules of origin regime to encourage the use of more inputs from Canada, in particular by increasing the regional value content requirements for autos and auto parts and removing incentives to produce in low-cost jurisdictions. Together with the quota exemption from potential U.S. section 232 tariffs on autos and auto parts, secured as a part of the final outcome, these new automotive rules of origin will incentivize production and sourcing in North America and represent important outcomes for both our steel and aluminum sectors.

- (1535)

With respect to modernizing NAFTA, we modernized disciplines for trade in goods and agriculture, including with respect to customs administration and procedures, technical barriers to trade, sanitary and phytosanitary measures, as well as a new chapter on good regulatory practices that encourage co-operation and protect the government's right to regulate in the public interest, including for health and safety.

Commitments on trade facilitation and customs procedures have been modernized for the 21st century to better facilitate cross-border trade, including through the use of electronic processes, which will reduce red tape for exporters and save them money. New and modernized disciplines on technical barriers to trade in key sectors are designed to minimize obstacles for Canadians doing business in the U.S. and Mexico, while preserving Canada's ability to regulate in the public interest. The agreement also includes modernized obligations for cross-border trade and services and investment, including financial services, telecommunications and a new digital trade chapter.

On labour and environment, we have made important steps forward by concluding ambitious chapters that are fully incorporated into the agreement and ensure that domestic laws will not be deviated from as a means to gain an unfair trading advantage.

The outcome also includes a special enforcement mechanism that will provide Canada with an enhanced process to ensure the effective implementation of labour reforms in Mexico, specifically related to freedom of association and collective bargaining.

Finally, the outcome has advanced Canada's interest towards inclusive trade, including through greater integration of the gender perspective and better reflecting the interests of indigenous peoples, including through an exception for indigenous rights.

There were a few other outcomes of interest.

On supply management sectors, I'll start by recalling that the U.S. made an explicit and public demand for the complete dismantlement of Canada's supply management system, but in the end we preserved the three key pillars of supply management and granted only limited access to the U.S. The government has been clear in its commitment to provide full and fair compensation to farmers for losses in market access.

On intellectual property, certain outcomes will require changes to Canada's current IP legal and policy framework in certain areas, such as IP rights enforcement to provide ex officio border authority for suspected counterfeit or pirated goods in transit, as well as criminal offences for the unauthorized and wilful misappropriation of trade secrets.

In other areas, Canada has transition periods to implement its commitments, for instance, on the obligation to provide a copyright term of the life of the author plus 70 years. Again, it currently provides a term of life plus 50 years. We have a two and a half year transition period to implement this obligation.

Under the amending protocol, the parties agree to remove the obligation to provide 10 years of data protection for biologic drugs, meaning that Canada does not need to make any changes to its existing regime in this area.

With respect to energy specific obligations, the agreement addresses a long-standing request from Canadian industry to resolve a technical issue related to the use of diluents, a petroleum-based liquid that is often added to crude oil to ensure it flows properly through pipelines. This issue had previously added upwards of \$60 million a year in duties and other fees for Canadian businesses.

We also addressed an issue of concern to some Canadians by removing the energy proportionality clause. It also recognizes the parties' interests in harmonizing energy efficiency performance standards and test procedures.

Canada and the United States also agreed to a bilateral side letter on energy co-operation and transparency. It includes provisions that will help provide Canadian stakeholders with more assurances and transparency with respect to the authorization process to participate in the energy sector in the United States. For example, Canada and the U.S. agreed to publish information, including the application process, monetary payment and relevant timelines related to these authorizations.

In closing, I would like to underline that objectives for these negotiations were informed very closely by Canadian priorities and interests, close engagement with provinces and territories as well as a wide range of stakeholders.

This concludes my opening remarks. Alongside my colleagues, I would be pleased to answer any questions you may have.

Thank you.

• (1540)

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

Mrs. McLeod, are you going to lead us off?

**Mrs. Cathy McLeod (Kamloops—Thompson—Cariboo, CPC):** Thank you.

Certainly, I'd like to thank you and your team. It's probably been a very challenging year or two now, and we're into the final steps of dealing with this agreement.

First, I have a notice of motion, which I'll read and will hand out copies. Apparently the Speaker turned down the request for the emergency debate on Teck Frontier, so the motion is:

That, pursuant to Standing Order 108(2), the Standing Committee on Natural Resources immediately undertake a study on the cancellation of the Teck Frontier Mine; that witnesses for the study include the Minister of Natural Resources and officials from Natural Resources Canada; that the study be comprised of no less than 5 meetings; and that these meetings be televised.

Obviously, we will have this conversation at a later date because it is just a notice of motion.

Now I'll head into my questions.

As you're aware, we're the natural resources committee, and we really only had a small section of the legislation referred to us.

I come from British Columbia, and for me, one of the biggest trade irritants for years and years has been softwood lumber. Was there anything that precluded the government from making that a priority in the same sense that it suggested that gender and some other priorities...? As the government went into negotiations, was it feasible for it to actually make that a priority as one of its objectives?

**Mr. Steve Verheul:** I need to start by providing a little bit of context.

Softwood lumber is not outside of the agreement. The agreement provides that there should be duty-free trade between all three countries with respect to softwood lumber. The agreement also provides that the U.S. has a right to pursue anti-dumping and countervailing duties against imports if it sees fit to launch those investigations. If the U.S. breaches some of its own laws in doing those in-

vestigations and applying those results, then we have the right to challenge them under the chapter 19, now chapter 10, dispute settlement process that we managed to preserve.

I think, from our perspective, we didn't really want to lock some kind of managed trade situation on softwood lumber into a free trade agreement. Certainly, we would like the U.S. to stop pursuing us on these anti-dumping and countervailing duty investigations, but we're not sure that the place to solve that is within the free trade agreement.

• (1545)

**Mrs. Cathy McLeod:** You talked about a bilateral side letter. Did the government ever suggest that it wanted to have...? I mean, we have thousands and thousands of jobs in British Columbia that are being lost because of... The 20% duty is certainly a big contributing factor. Was there any discussion about perhaps having a side agreement? I know that many years ago, then president Obama and Prime Minister Trudeau committed to getting a resolution. That was many years ago now.

Was that brought up at the table in terms of a side letter discussion in the same way that you did for energy?

**Mr. Steve Verheul:** We did have many discussions on softwood lumber on the margins of the negotiations. Certainly, we would have a strong interest in resolving this issue, but what we heard from the U.S. side was that its domestic industry had no interest in negotiating an agreement at this point in time.

Since then, we have been continuing to pursue challenges, both at the WTO and under the NAFTA dispute settlement process. We have won an important case on that under the NAFTA, and I think that gives us a stronger position to negotiate an agreement at some point in the future. However, at this point, there is no appetite on the other side to come to the table.

**Mrs. Cathy McLeod:** Perhaps there's no appetite on the other side to come to the table, but there was also an appetite around what they wanted to do with supply management. It sounds like you believe that we ended up in a reasonable place because the government put a priority on preserving supply management.

It doesn't sound to me like the softwood lumber issues, although subject to maybe some side conversations, had that same push by our government in terms of getting to a resolution. I look at so many areas where you did come to some sort of resolution and agreement. Again, this one is really hurting, and it's hurting our secondary industries just as much or more.

**Mr. Steve Verheul:** I would certainly tell you that it is a priority for our department. We have a division dedicated to softwood lumber and we are working on that and trying to find ways forward all of the time. We just don't have a willing partner to negotiate on the other side.

What we need to do is continue to win in these cases so the U.S. has no choice but to come to the table. If we have a discussion now, I don't think we will see much flexibility in the U.S. position, which is something we've probed and tested and have yet to see any flexibility on. By winning these cases, as we most frequently do, then we have a much better position to negotiate from.

**The Chair:** Thank you. We're right on time.

**Mrs. Cathy McLeod:** I had so much more.

**The Chair:** The good news is you should get another chance.

Mr. Lefebvre.

**Mr. Paul Lefebvre (Sudbury, Lib.):** Thank you, Mr. Chair.

Thank you for being here and, as my colleague Ms. McLeod said, thank you for all the hard work in the past few years. There were a lot of sleepless nights back and forth. We were very proud of our team, and certainly the team representing Canada. We've heard some really good stories about all the hard work, and certainly it has paid off.

We're here today because there have been some delays going on, the machinations of Parliament. I want to ask you straight out, can we amend CUSMA, and if we do, what are the consequences of that?

**Mr. Steve Verheul:** We'd have to propose amendments. If we were to propose amendments to the U.S. and to Mexico, we would have to engage, if they were willing to do so, in a new negotiation to come up with a new balance of concessions among all three parties. I have to say that given the conversations we've had with the U.S., I find it highly unlikely that they would engage in those discussions with us. In fact, in their statement of implementation, they have included a provision which says that they could move ahead alone with Mexico and without Canada if we took too long or were not following what they want.

• (1550)

**Mr. Paul Lefebvre:** To the second part of my second question, what would be the consequences of that?

**Mr. Steve Verheul:** The consequences of that, I think, would be to risk our participation in the new agreement.

**Mr. Paul Lefebvre:** Lengthy delays in ratification certainly increase the uncertainty. In your view, what are the consequences of delaying the ratification of this agreement?

**Mr. Steve Verheul:** If we delay the ratification for a significant period of time, the U.S. has clearly indicated to us that they will proceed with Mexico and leave Canada behind.

**Mr. Paul Lefebvre:** I'll broaden my original question. What are the economic consequences of not being part of CUSMA?

**Mr. Steve Verheul:** I think they would be quite significant. More than 70% of our exports go to the U.S. We rely heavily on the U.S. market. We rely heavily on the North American market. The economic consequences would be quite significant. We will have an economic impact assessment coming out in the fairly near future that will indicate just exactly how much the losses would be in that kind of scenario.

We also have to keep in mind that if we are not part of the new NAFTA, the U.S. will likely reimpose steel and aluminum tariffs on us, because the condition for getting rid of steel and aluminum tariffs is that you have to have a free trade agreement.

**Mr. Paul Lefebvre:** Thank you.

I want to talk about the energy proportionality clause. I want to know, in your opinion, what the long-term benefits of having article 605 removed would be. What would the removal of that clause provide to our energy sector?

**Mr. Steve Verheul:** The removal of the clause gives us more flexibility. It means if we are going to be imposing any kind of restrictions on our exports or any kind of changes on our supply, then we are not required to provide a proportional amount to our supply of exports to the U.S. and to Mexico. We're not locked in. We can make policy decisions domestically in those areas without any obligations towards the U.S. and Mexico.

**Mr. Paul Lefebvre:** Do the expansions of Line 3, Keystone XL and Trans Mountain represent economic opportunities for Canada?

**Mr. Steve Verheul:** I believe they do, because we've made significant improvements in the text. In particular, we have a side letter with the U.S. on some of these issues, particularly a number of issues on which we're going to try to adopt more common regulatory standards and more transparency among us. I think a number of trade facilitation measures among us will actually enhance our exports to the U.S.

**Mr. Paul Lefebvre:** Those are my questions, Mr. Chair.

**The Chair:** Mr. Simard.

[*Translation*]

**Mr. Mario Simard (Jonquière, BQ):** Thank you for your presentation, sir.

I know that this does not deal with natural resources, but there has been talk about amending the agreement. You indicated that it could be quite difficult because it implies starting new negotiations. However, we know that there is a mechanism that makes the agreement a living thing, that can work by exchanging letters.

Do you think it would be possible to establish a mechanism of that kind so that aluminum would have more or less the same status as steel in the current agreement?

[English]

**Mr. Steve Verheul:** Well, yes. To make myself clear on that point, while I think there are certainly challenges if we were to make amendments to the agreement before we ratify the agreement, in other words, before it came into force, after it comes into force there are provisions in the agreement whereby we can propose changes to the agreement. We can propose areas where we want to make certain improvements or changes. With respect to aluminum, for example, we certainly have the ability to approach our other two partners and propose changes to the agreement, but only after we are part of the agreement, not before.

• (1555)

[Translation]

**Mr. Mario Simard:** So, it is your opinion that we could not have that kind of discussion until after the agreement is ratified. At the moment, before the process is finished in the House of Commons, it would be impossible for the parties to start a discussion on the situation I described about steel and aluminum.

[English]

**Mr. Steve Verheul:** No. I'm sorry. I think I wasn't clear.

I think we can certainly have those discussions. In fact, we have been having some of those discussions already. We can have those discussions, but what I was referring to that would be more challenging would be if we proposed formal amendments to the content of the agreement itself before ratification, because those would have to be agreed to by the U.S. and Mexico formally and they've already ratified the agreement.

[Translation]

**Mr. Mario Simard:** Okay. I understand completely.

Let me come back to softwood lumber for a few moments. The softwood lumber industry in Quebec is still affected by a tax that is somewhere around 15% today. You mentioned the negotiations that are currently going on at the World Trade Organization, the WTO. In your experience, what would a reasonable timeline for the WTO to render a decision look like?

[English]

**Mr. Steve Verheul:** We've actually initiated challenges both at the WTO and under the existing NAFTA provisions on softwood lumber. I think we're probably looking at both of those avenues as providing us potential benefits.

We already have some decisions from panels. In particular, we have a decision on injury, which is probably the most important element to be on the right side of, and if we can proceed further on that challenge, then we do have a good chance of greatly improving our position in relation to that issue.

[Translation]

**Mr. Mario Simard:** I saw a definition of renewable energy in the agreement, but nowhere does it say that we want to encourage the commercial development of renewable energy. Were there any fruitful discussions or, at the very least, preliminary discussions on the possibility of increasing this sector of activity around renewable energy? After all, we are faced with global warming and an energy transition. Were there any discussions with the United States?

[English]

**Mr. Steve Verheul:** Yes. We have had those discussions. We do have an environmental co-operation agreement under the new NAFTA that does incorporate areas that we're going to be looking to co-operate on in trying to move issues forward, including energy efficiency, alternative and renewable energy and low-emission technologies. All of that is on our work program to attempt to move forward, and all three countries have agreed to that.

[Translation]

**Mr. Mario Simard:** Thank you.

[English]

**The Chair:** Mr. Cannings.

**Mr. Richard Cannings (South Okanagan—West Kootenay, NDP):** Thank you for being here.

I want to start with a natural resource that I don't think is covered in this agreement, and that's water. I know that, on November 30, when the agreement was signed, there was a side letter between Mr. Lighthizer and Ms. Freeland about water. That letter states, "Unless water, in any form, has entered into commerce and becomes a good or product, it is not covered by the provisions of the Agreement. Nothing in the Agreement would oblige a Party to exploit its water for commercial use...."

There's a lot of concern that I hear from some of my constituents about water as a trade good between Canada and the United States. It's my understanding that, for instance, we have companies like Nestlé that bottle water in Canada and ship it to the United States or abroad, I don't know, and we are essentially.... The amount we charge Nestlé, or whatever company it is, is more of an administration cost. We're not charging them for the water.

I'm wondering why we do that and what the risk to Canada and its water resources would be if we treated water like a product. Would there be some obligation that fell from that, and what are those risks? Why don't we charge more for our water resources?

• (1600)

**Mr. Steve Verheul:** First of all, the side letter largely replicates what we have in the NAFTA as it stands now and, as you described it, water in its natural state is not affected by any provisions in the agreement. It's only when it becomes a commercial product that it's then subject to the various provisions relating to tariffs or relating to considerations of trading the product back and forth across the border.

The issue of the amount that would be charged for water that's being bottled by any particular company is a domestic policy decision. It is not anything that is governed by this agreement or any other trade agreement.

**Mr. Richard Cannings:** I'll move on then to follow up on some of the questions about softwood lumber. It's a big issue in British Columbia, where I live.

You mentioned that there are a couple of panels that have yet to make their decisions. You mentioned the one on injury that has made a decision.

I assume this agreement has no effect on the work of those panels, that they continue on and didn't have to be reconstituted in any way. I'm not sure if that's what Monsieur Simard was asking, but what might the timeline be on those next decisions?

**Mr. Steve Verheul:** As I said, there are, I think, two challenges at the WTO, and we have NAFTA challenges as well.

I'd like to ask our director of the softwood lumber division to come to the table to give some more precise answers.

**Mr. Colin Barker (Director, Softwood Lumber Division, Global Affairs Canada):** Good afternoon. I'm Colin Barker. I'm the director of the softwood lumber division at Global Affairs Canada.

As Steve mentioned, we do, in fact, have two challenges at the WTO that are ongoing and three under NAFTA chapter 19.

We're expecting one decision, our countervailing duty challenge, at the WTO to come out later this year, perhaps around the summertime, so that will be an important decision to have. Under the NAFTA, as Steve mentioned already, we have an initial panel decision on injury, which, of the three challenges we've launched there, is perhaps the most important for potentially getting an eventual decision that will be very helpful to Canada.

Unfortunately under the NAFTA process, it sometimes takes a little time. There can be remands back and forth between the panel and whichever government entity is the subject of the challenge. We've had one remand already in that process. We probably will expect at least one or two more this year. Hopefully we will get to a decision maybe in the next year on that one, which will be helpful.

**Mr. Richard Cannings:** I have another bit of detail while you're up here.

There was news recently of the U.S. Department of Commerce reducing tariffs it was charging, but there was nothing on reparations in terms of the tariffs that have already been charged and collected.

What's the mechanism for getting our money back, and how long might that take?

**Mr. Colin Barker:** You're quite right. There was an announcement from the Department of Commerce on preliminary duties as part of their first annual review of their investigation. These reviews will happen every year. In that preliminary decision, the duty rates were reduced quite significantly.

Now I'd caution that those preliminary rates don't actually take effect.... We have to wait for the final rates to come out in the summer. It's a sort of two-step process. These preliminary rates may be indicative of where those final rates will come out, but they're not a guarantee. We'll have to wait and see what the final rates are. If those final rates are lower, companies would then pay that rate going forward. They would benefit from the reduced rate.

Unfortunately, the way the system is set up, there's no immediate refund because of the ongoing challenges. The ongoing challenges

basically suspend any liquidation of those duties until those challenges are completed.

• (1605)

**The Chair:** That was right on time. Thank you.

We're now moving into round two, with five minutes.

Mr. Deltell, I believe you're going to speak.

**Mr. Gérard Deltell (Louis-Saint-Laurent, CPC):** Thank you, Mr. Chair.

Madame, messieurs, welcome to your House of Commons. It has been a real pleasure to hear you, and I appreciate your hard work. Through you, I want to pay my respects to all of our people on the team who participated in these huge, long and very exhausting discussions.

Behind you, I see a civil servant with a huge document. It's quite impressive. It reminds me of the famous quote by John Crosbie, who once said that he signed the deal, but he didn't read it because it was a little bit too heavy. Mr. Crosbie said that he sold dictionaries but he never read them. That was quite interesting.

[*Translation*]

My thanks to you all. Let me remind this committee that, as a free trade party, we are clearly in favour of free trade and of agreements that are positive for Canada.

We recognize that nothing in this world is perfect, but we still want to point out that a number of our members have gone to Washington in recent years to make Canada's case. Our two leaders—our interim leader, the Hon. Rona Ambrose, and the current Leader of the Opposition have advocated for Canada at those meetings, representing our party, as Canada's official opposition.

[*English*]

I would like to address the issue of aluminum. As you know, in Quebec this is a very big issue. Aluminum was everything but the winner in these negotiations, to say the least.

[*Translation*]

The situation has changed a lot since the first free-trade treaty in 1988. Everyone recognizes that. Everyone knows that, at the time, Mexico was not the port of destination for Chinese products.

[*English*]

However, this is the reality of the day.

I would like to express everybody's concern about the fact, and everybody recognizes it, that the deal is not very good for us, not very good for the aluminum producers, and especially those from Quebec, because we produce the cleanest aluminum in the world.

My questions are quite simple.

[*Translation*]

How can our companies ensure that Chinese products, which will literally be dumped in Mexico, can be considered in the same terms as the green products made in Quebec?

[*English*]

**Mr. Steve Verheul:** Let me start by just describing the outcome.

What we did with aluminum and steel in the original agreement from November 2018 is that we included a provision that said 70% of the aluminum and steel purchased by manufacturers had to be of North American origin. As you point out, if it's going to be of North American origin, chances are it's going to be from Canada, and chances are it's going to be from Quebec. We did, for the first time, have that 70% requirement.

It doesn't exist in NAFTA now. In NAFTA now, there are no requirements whatsoever for aluminum to be used in the production of automobiles. This is a specific requirement for aluminum that has been included.

On top of that, we have much stronger regional value content, going from 62.5% of an auto that has to be of North American origin, to 75%. On top of that, we have core parts that have to be at 75%. Along with a number of other provisions, it means there's much more pressure on manufacturers to use inputs from North America. They don't have any option if they're going to meet—

**Mr. Gérard Deltell:** But the point is that, coming from Mexico, is that coming from North America, yes or no? Did it come from China before? The Chinese people dump it into Mexico and then it suddenly becomes a North American product. Is it correct to say that? If so, this is everything but good for us.

**Mr. Steve Verheul:** The 70% requirement for both steel and aluminum applies to purchases by manufacturers. Any purchases by manufacturers have to be of North American origin.

**Mr. Gérard Deltell:** We all know that the last step of that production is in Mexico, but the major steps have all been done in China without any respect of the environmental law that we have here. Without a shadow of a doubt, there's no comparison with the clean aluminum we produce in Quebec and Canada.

Do you think it's fair for our producers, yes or no?

• (1610)

**Mr. Steve Verheul:** I don't disagree with your characterization of the industry in Quebec, but I think the treatment between steel and aluminum is not that different, other than what happens after seven years, if that comes to pass. After seven years, manufacturers will have to demonstrate that the steel was melted and poured—

**Mr. Gérard Deltell:** Aren't we talking about 10 years for aluminum instead of seven years?

**Mr. Steve Verheul:** There's a 10-year review after that. I can tell you that we have already begun discussions with the U.S. and with Mexico to start to monitor imports of aluminum from countries like China into the North American market. If we can demonstrate a case that it is happening and it is pushing out Canadian aluminum, then I think we have a very strong case to have the same kind of rules that are in place for steel.

**Mr. Gérard Deltell:** You can be assured that we are very concerned with that issue.

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

Ms. Jones.

**Ms. Yvonne Jones (Labrador, Lib.):** Thank you very much.

It's a great discussion. I really appreciate your being able to join us on short notice. It's my first opportunity as a parliamentarian to thank all of you for the hard work you've done on behalf of Canadians and Canadian industry. We certainly do appreciate it.

You talk about how this agreement has been modernized and improved. No doubt all of us at the table will see where that has occurred in many different sectors. We also talk about how you've been able to maintain the regulatory piece that has allowed Canada to be successful on certain industry fronts, although we know there was tremendous push-back by the United States. Like every agreement, there are always going to be questions and wondering whether we could do better in certain sectors or in other sectors.

I'm going to continue on the aluminum front. When I look at the agreement, I look at it from a little different perspective than some others in the room, but certainly I understand the points that are being made. It was my understanding that there were about 230 or more tariffs on aluminum going into the United States, and you guys were able to successfully negotiate those tariffs away. I'd like to know what that actually means for the industry in Canada. Surely it must mean an opportunity to grow the aluminum industry and to be able to see those sales increase, not decrease.

I know you responded to my colleague with regard to the guarantee that 70% of that aluminum would be in North America. His question regarding Mexico and the import from China is a very important one. I would like to know, even with that 70% guarantee, if there is any provision within the agreement that would allow Canada to maximize our productivity on aluminum and the use of aluminum under that agreement from where it is today going forward.

While it may not be the 100% that we were looking for or it may not have the origin as specific as we were looking for, do you see how it's going to project further growth and further opportunity in Quebec and in Canada by that account because of those two particular changes in the agreement?

**Mr. Steve Verheul:** Yes, I think there are two elements of particular interest here.

First, because we were able to negotiate an outcome to this agreement, we then subsequently managed to have removed the national security tariffs that the U.S. imposed on both steel and aluminum, the 15% tariff on aluminum in this case. Those countries around the world that don't have any kind of an agreement with the U.S. are still facing those tariffs into the U.S., so we have an advantage over those other countries.

We also have the provisions in relation to autos. As I mentioned, the 70% requirement does exist. As I explained a bit earlier, we have also introduced a requirement that means much more of any automobile manufactured in North America has to be produced from North American sources.

The fact that we have gone to 75% means there is a much stronger incentive to use products like aluminum for engine blocks, for other parts of cars, to have them come from North American origin because there are certain elements of cars that are not produced within North America. I have mentioned before in other committees that the screens we have in all our cars these days are not produced in North America. They are imported.

A number of products in a car have to be imported. That squeezes it even more. Every manufacturer is looking to use as much North American content as they can because they don't have a lot of flexibility. Between the removal of the 15% tariff on aluminum and the incentive to use further aluminum that's now contained in the agreement with respect to autos means that we do have incentives to use more Canadian, Quebec, aluminum in the production of cars and for other purposes.

• (1615)

**The Chair:** Thank you. You're right on time.

Mr. Melillo.

[*Translation*]

**Mr. Mario Simard:** Some confusion has arisen.

[*English*]

**The Chair:** Sorry, Mr. Simard. Mr. Melillo's next. You will have to wait a bit longer.

**Mr. Eric Melillo (Kenora, CPC):** Thank you, Mr. Chair.

I don't want to spend too much time echoing what has already been said, but thank you to all of you for being here today and for your hard work on this file.

I will change course from what we have been discussing. I would like to focus most of my time on the removal of NAFTA's energy proportionality clause, understanding that Canada will no longer be penalized for shipping less oil to the U.S.

I would like to know if Canada has a plan now to diversify our exports and reach new markets for Canadian energy.

**Mr. Jeff Labonté (Assistant Deputy Minister, Major Projects Management Office, Department of Natural Resources):** The removal of the proportionality clause essentially takes away one element of our energy policy space in its ability to be sold and traded around the world that basically had a restriction, that had a lien, if you will, that was both in an agreement with the United States, and one of which was never used, but certainly existed.

From an energy policy point of view, Canada's position on trade in energy products has always been and remains that it's an open market, and that market is either for investment into the energy sector or the sale and export of energy goods.

To put it in a more direct way, the diversification would be easier, if you will, without the proportionality clause, although it was never used and has never been a barrier to our trade at this point.

**Mr. Eric Melillo:** Thank you.

Did any industry representatives request the removal of this clause?

**Mr. Zachary Archambault (Deputy Director, Tariff and Goods Market Access, Department of Foreign Affairs, Trade and Development):** We had discussions with a broad range of stakeholders. Most calls for removal of proportionality came from civil society. We engaged with indigenous groups, civil society, as well as industry. I wouldn't say that industry was calling for that per se, but certainly members of civil society and indigenous...the working group certainly raised some concerns around the proportionality clause in NAFTA.

**Mr. Eric Melillo:** Were any foreign governments also requesting the removal of that clause?

**Mr. Zachary Archambault:** No.

**Mr. Eric Melillo:** Would it be correct to assume that now this clause doesn't appear in the agreement is a result of the United States' increased energy independence and their being less reliant on Canadian energy?

**Mr. Jeff Labonté:** I think, to take that question at a broader level, the movement of energy goods from Canada to other countries is one that's defined partly by the product that's being produced, the demand for what might be in place, as well as the existing infrastructure investments in the particular country.

In the U.S., for example, there is a fairly complex, large refinery industry that makes use of different crude oil inputs, as an example, to produce gasoline, diesel fuels and other forms of energy that are consumed. Many of those investments are seeking a particular type of crude, and that crude oil is one that Canada produces.

As an example, and I think I'm telling you something you already know, the ability for us to move energy to markets is defined by the demand, the supply, the cost and the infrastructure to get it there, as well as the different investments that already exist in those particular countries that are consuming what we're producing, whether it's electricity, gasoline or diesel, or crude or natural gas.

• (1620)

**Mr. Eric Melillo:** To change gears slightly, but still on the topic of oil and gas, the Canadian Association of Petroleum Producers has requested that oil and gas companies be given national treatment. Is that contained within the rest of this agreement?

**Mr. Steve Verheul:** Yes, there are national treatment requirements that did apply quite broadly, including that particular area.

**Mr. Eric Melillo:** Can you tell me any more about the investment protection for Canada's oil and gas sector?

**Mr. Steve Verheul:** Well, we did agree with the U.S., in particular, that we would not have investor-state dispute settlement processes continuing to apply between Canada and the U.S. If a Canadian investor in the U.S. had some kind of complaint, we would have to go through a state-to-state dispute settlement, rather than the investor-state dispute settlement process. We have never had a case go forward in the U.S., whereas the U.S. investors have had multiple cases go forward in Canada, so we considered that mechanism between Canada and the U.S. was of limited value. We retained that mechanism with respect to Mexico through the trans-Pacific partnership.

**Mr. Eric Melillo:** Thank you.

**The Chair:** Ms. Jones, we'll go back to you for five minutes.

**Ms. Yvonne Jones:** Thank you.

Maybe I'll just pick up on the proportionality clause and where you were going with that, because I see this as a longer-term benefit for Canada. When I look at it, I see it as an opportunity for us not only to expand our market access, but also to look at how we can use future projects that we're developing in Canada for gas and oil, and how that can feed into our ability to export to different countries and to have more options available to us. Maybe you can address that a little more. I'd like you to also talk about how this actually helps Canada maintain its own sovereignty over the oil and gas industry for the longer-term future and benefits of Canadians.

For me, I don't see a downside in what we've done with regard to that cause. My understanding of it is that it's a huge upside for Canada and it allows us opportunities that we have not had in previous agreements like NAFTA.

**Mr. Jeff Labonté:** I think the proportionality clause is one of the clauses in the existing NAFTA, and one that's been around for quite some time, with different interpretations from different perspectives. There's a perspective that would suggest that it ties Canada's hand in some way, shape or form by having that particular clause, and that it prevents us from being able to sell energy goods to other countries, if you will, under certain circumstances.

In fact, I think the clause was drafted originally as something that the United States was seeking and Canada provided in the original negotiations. The clause allowed and provided that we would sell it at market rates. The loss to Canada, if that clause were ever to be used, would have been the ability to sell something at a market rate to a particular partner that we had to sell it to at a certain proportion. It was already constructed in a way that was market-based, which means that the risk, if you will, to Canadian producers and Canadian energy companies was that they would have a market to sell their goods at a market rate. They just had to have a particular dance partner, if you will, should that clause ever be put in place.

From Canada's perspective, removing it means that's no longer the case. Of course, we sell our energy goods at market rates, and our ability to move those goods to other parts of the world.... In other parts of the world, demand and interest in Canadian energy goods are rising as different supply-and-demand dynamics around the world change. As cleaner energy and lower-emission energy become part of that supply mix, and the push to meet those commitments is made around the world, Canada's energy products have different opportunities to fare better, based on some of the circumstances under which we produce our goods and the fact that we have very rigorous environmental regimes that document, monitor and account for our ability to produce goods and to be able to present that data in very transparent ways.

As the world moves in that direction, if you can imagine that we don't have the proportionality clause but we have an ability to move more goods to as many places as we like, the market will still demand and drive what the returns in revenues will be for those products. The cost of transporting those goods is also factored into the returns that come. If you can move it somewhere closer to home, it's generally a little less expensive to do that. The infrastructure enables us to move it, by and large, to different places. With some of the things that are under way within the industry, we're seeing movement of the goods in different directions. We actually take in some of the U.S. energy now, more than we used to before, because it's actually less expensive for Canadians to consume that energy and it allows us to export more goods from other parts of the country to the United States.

We have a very integrated relationship. One of the key things on the energy side of the equation is to maintain the integration between the energy systems. It benefits both nations, because we're able to trade those goods where it's most cost-effective for particular regions, but it also creates a degree of resilience, particularly in the electricity transmission sector. When renewables are coming online in different parts of the country, the hydro load and ability to produce energy from hydro sources that are much more prevalent in Canada than in the United States provide a bit more base to the United States grid. By the same token, at certain points in the year Canada needs more electricity energy and the United States fills the void. There's a lot of integration between the two countries.

We've maintained that in the agreement. That was one of the objectives of the team, recognizing the sheer volume of the amount of energy being traded. It is one of the largest commodities in our trade circumstances and a place where Canada has a lot to offer the world. Again, that's something that was part of the agreement. The agreement has less ties, if you will, to our ability to move it around, so we have a much more flexible and broad ability to do that.

• (1625)

**The Chair:** Thank you.

Mr. Simard, the floor is yours for two and a half minutes. Then we will go to Mr. Cannings.

[Translation]

**Mr. Mario Simard:** Mr. Verheul, I am sure that you are going to forgive me for being fixated on aluminum, but I want to go back to it.

When the first agreement, NAFTA, was signed, we know that Canada, because of Quebec, was one of the world's leading producers of aluminum. Now, we produce almost nothing in comparison with what China is doing. Market access is therefore essential for the aluminum industry. Something we do not understand seems to have slipped into the agreement: the privileged status given to steel, but not to aluminum.

On that subject, when the agreement says that 70% of parts have to be produced in North America, we forget steel parts have to be smelted and poured in North America, which is not the case for aluminum parts. The most telling statistic on the matter comes from the market itself. From May to July 2019, exports of aluminum wheels from China fell by 60%. At the same time, those from Mexico increased by 240%. Today, they are apparently hovering around 260%. The big problem is that Mexico doesn't produce aluminum. As we are well aware, they get it from China.

If we are not able to plug that entry point for Chinese aluminum, the aluminum industry in Quebec is pretty much bound to disappear or to lose essential market shares. Could you clarify that? As you understand it, is the status of aluminum in the agreement similar to the status of steel?

[English]

**Mr. Steve Verheul:** There is certainly a difference between the treatment of steel and aluminum.

There is one difference between the treatment of the two, and that came about as a result of the agreement to the protocol on December 10. As you know, at that point there was a requirement introduced that steel would have to be melted and poured within North America in order to qualify for this 70% provision as it relates to purchases by auto manufacturers.

No such requirement exists for aluminum, that it be smelted and poured in North America. We did propose that, but didn't successfully achieve it. As I indicated earlier, this is not something that we consider to be a closed issue. We are going to be monitoring closely imports of aluminum, and we're very much aware of the situation you described with respect to China. We will be looking to build the case that we need to have the same treatment in aluminum as we have on steel, if we do see that the trend continues with respect to imports from other countries.

There are several measures in place against imports from China of both steel and aluminum, for anti-dumping reasons. There are broader discussions going on with respect to China's overproduction and overcapacity of these products. With respect to this issue, there are also discussions happening internationally.

We are approaching this issue from a number of different directions, but overall, there is a greater incentive in this agreement than existed in NAFTA for aluminum to be used in the production of cars.

• (1630)

[Translation]

**Mr. Mario Simard:** Do I have time to ask a quick question?

[English]

**The Chair:** You were actually about a minute and a half over already.

Mr. Cannings

**Mr. Richard Cannings:** I was going to ask a question about wine, but I guess it's out of the purview of this committee, and it's more of a WTO question. Maybe I'll try to get that to you offline, after we adjourn.

I'll go back to softwood lumber. Since the softwood lumber dispute, as you mentioned, it really isn't covered in this agreement, since it's more about U.S. claims of countervailing and anti-dumping tariffs. Is the end game of that going to be like it was before? After these various panels have had their say, we will then enter into negotiations around a new softwood lumber agreement, and that would be where we would hope to get some reparations of getting those monies back. Is that how it would work?

**Mr. Steve Verheul:** Colin.

**Mr. Colin Barker:** Certainly, you're right. In the past, that's how it worked. We have pursued litigation through NAFTA and the WTO. If we are successful in that litigation it increases our ability to negotiate a good agreement for our industry. That is certainly the approach we're pursuing this time. As I mentioned, it does take some time to get those wins under our belt to change the balance, if you will, and to encourage the U.S. industry to come back to the table to talk.

I hesitate to prognosticate because the past is not necessarily a prologue, especially these days, but certainly that is our current approach, and the Canadian side is ready and willing to negotiate. Of course, as Steve mentioned, we need a willing partner on the other side. Unfortunately, sometimes that just takes time before they are willing to do that.

**Mr. Richard Cannings:** The result of these coming panels would just say that these countervailing duties or these anti-dumping duties were wrong. They wouldn't say that therefore the Americans must repay these duties. That would have to come in another agreement.

**Mr. Colin Barker:** It is possible to pursue litigation to a conclusion, eventually, where perhaps there would be relief ordered, where duties would be ordered to be refunded. That takes a lot of time, so sometimes the decision is made that it's better to negotiate and get some certainty for business going forward than to simply keep litigating, because the U.S. can always simply relaunch a new investigation.

**Mr. Steve Verheul:** To add to that though, Colin, it is certainly true that we have in the past on many occasions gone through that process, won cases and had duties returned. The NAFTA dispute settlement process for these types of issues is the only process we have that actually allows the return of those duties.

**Mr. Richard Cannings:** All right, thank you.

**The Chair:** We've completed two full rounds. My intention was that we would at this point stop, which would then give us an opportunity to give some thought to the evidence we've heard. We could then reflect and give some direction to our analysts for drafting purposes. We've been pretty efficient with the use of our time today.

I know, Ms. McLeod, you have.... Here's the dilemma. If there are one or two more questions somebody may have, that's one thing, but otherwise, out of respect for the process and respect for the other members, we're going to have to have an entirely new round, and I don't know that there's an appetite for that around the table.

Go ahead.

• (1635)

**Mrs. Cathy McLeod:** This was on our agenda from 3:30 to 5:30. I recognize that we need to give some drafting instructions. I didn't anticipate that it would take very long.

Certainly, from our perspective I would love to have another opportunity to ask questions. If it's a whole round, if other people do...or otherwise, I don't know what the wishes of my colleagues are, but certainly it's in our schedule. We don't have a chance to delve into this all that frequently and I think it's important to keep going.

**The Chair:** I don't disagree with the sentiment.

What do others have to say?

**Ms. Yvonne Jones:** I think it's fair to say that all members have opportunities that are interchangeable at committees. At the trade committee this is one of the agreements that has been discussed extensively. After our other questions, I'm sure there will be many other opportunities, including in the House of Commons.

I certainly feel that the task we were requested to do as a committee by the trade committee has been completed today, and I really believe that we were able to address the recommendations that they asked us to look at.

**The Chair:** Okay, everything takes longer. The drafting instructions may take longer, and we have to be out of here by 5:30.

Let me ask a question. You've expressed an interest in asking more questions. I'm not extending an invitation to do so only because there's an opportunity.

Does anybody else have any burning questions?

Ms. McLeod, you have a couple of questions. Maybe we can indulge that and then move on.

**Ms. Yvonne Jones:** Do it now.

**The Chair:** I'd like an answer to my other question before I agree to that.

**Mr. Gérard Deltell:** I'd like to ask questions, for sure.

**The Chair:** Then Ms. McLeod will ask a few questions.

Is everybody agreeable to that?

**Mr. Gérard Deltell:** That's fine with me.

**Ms. Yvonne Jones:** I would suggest an extra 10 minutes, if that's sufficient.

**The Chair:** Here's what I'm going to suggest. Why don't we give Ms. McLeod five minutes and, at the end of that five minutes, if that gives rise to any other questions....

Mr. Simard, do you have a question?

[*Translation*]

**Mr. Mario Simard:** I need less than five minutes, it won't take long. I just have one quick question left to ask, if possible.

[*English*]

**The Chair:** Go ahead, Ms. McLeod.

**Mrs. Cathy McLeod:** Thank you.

I think you can see from the conversation we've had that the sections that have been referred to us are not burning issues. My telephone hasn't been ringing in terms of that particular feature, but as you're hearing, softwood lumber and aluminum are significant issues, and they really are part of the natural resources committee.

I understand that the U.S. is not naming judges to the WTO. To what degree is that going to hinder our ability to get a decision around softwood lumber at the WTO?

**Mr. Steve Verheul:** Certainly it will create some difficulties. Obviously, it doesn't affect our NAFTA challenges, the three challenges that Colin mentioned. I think one of the WTO challenges.... No, I'm thinking of something else. It's not that advanced at the moment.

**Mrs. Cathy McLeod:** Our challenges around softwood lumber are not impacted by the lack of judges to hear the cases.

**Mr. Steve Verheul:** At the WTO, it is a possibility that they could be affected, but we have a far stronger mechanism with the NAFTA dispute settlement process, and that's what we're focused on. The WTO challenges are also important but not as important as the NAFTA challenges.

**Mrs. Cathy McLeod:** Thank you.

This might sound a little obscure, but if a product is made in Canada where it's deemed to be not meeting some regulatory standards within Canada, and it meets regulatory standards within the U.S., is there anything that precludes export of that particular product to the U.S.?

In this case I'm thinking of an agricultural product and this regulatory alignment that is not legal in Canada but legal in the U.S. and made in Canada. Are there any challenges there?

• (1640)

**Mr. Steve Verheul:** Yes, and it would vary, of course, somewhat from product to product, but products produced in Canada generally have to meet our own standards for safety reasons, even if they are destined for export, in particular, health and safety requirements and those kinds of things.

To some extent, regulatory differences may be tailored to the market we are exporting to, but it wouldn't go so far as to be something that is illegal in Canada.

**Mrs. Cathy McLeod:** We did hear the comments of Mr. Lefebvre, and I've heard the minister talk about the importance of getting this agreement done. We certainly concur with her.

We offered to come back early after the election. We waited to see this legislation tabled in December, thinking it could have been studied by committee throughout the Christmas period. We thought we might be called back, but certainly from the Conservatives' perspective, we also don't believe that it's our job simply to rubber-stamp at all stages without having any process around it, so we're moving it forward with due diligence. We were very disappointed that we did not see it come to the table. I know that the government had said it always wanted to be in lockstep with the Americans in terms of their process, and when this was tabled on January 29, that certainly was not in lockstep.

I want to put that on the record, because I think the conversation we're having today is important, and we would prefer to have had it a month ago.

Thank you.

**The Chair:** Okay, the only other person is Mr. Simard.

I'll give you about two minutes, and then we'll be done.

[*Translation*]

**Mr. Mario Simard:** I will be very quick.

I do not understand the entire scope of eliminating the energy proportionality clause. But I particularly wonder about the repercussions it might have if Hydro-Québec concluded a process. We now know that they are in discussions with New York State with a view to providing hydroelectric services. Could this have negative consequences for Hydro-Québec?

**Mr. Jeff Labonté:** Thank you for your question.

It is important to know what the proposed agreement between Hydro-Québec and New York State is about. This is a discussion between two commercial parties seeking an agreement that would be positive and beneficial for both.

[*English*]

When we look at it, we see it would not apply. The proportionality clause is really one that's invoked in the event that there's a restriction on supply, and that a party on the other side, the United States or Canada, whichever it might be, would seek to secure that supply. A commercial agreement between Hydro-Québec and New York state would be a much more enduring outcome. Certainly that's why those agreements are of much more interest to the energy providers.

In the oil and gas sector, it's a bit more fluid. Things happen on a monthly basis and they're traded much more rapidly. In electricity, it's usually a standing agreement, with very precise elements that go over longer periods of time, because the nature of the electricity flows is harder to manage.

[*Translation*]

**Mr. Mario Simard:** Thank you, Mr. Labonté.

[*English*]

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

Thank you very much to our witnesses for taking the time to come here and being patient in answering all our questions. That brings us to a conclusion, so I will let them go.

We'll suspend for, let's say, a hard three minutes, everybody, and then we'll come back in camera and start talking about drafting instructions.

[*Proceedings continue in camera*]

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