



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Standing Committee on Finance

FINA • NUMBER 219 • 1st SESSION • 42nd PARLIAMENT

EVIDENCE

Tuesday, June 11, 2019



Chair

The Honourable Wayne Easter

Standing Committee on Finance

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[English]

• (1540)

[English]

The Chair (Hon. Wayne Easter (Malpeque, Lib.)): We shall call the meeting to order. Pursuant to the order of reference of Monday, June 10, we are considering Bill C-101, an act to amend the customs tariff and the Canadian International Trade Tribunal Act.

We have a number of officials on this issue. From the finance department we have Mr. Halley, director general, international trade policy division, and Ms. Govier, senior director, trade rules. From the foreign affairs department, we have Mr. Layton, executive director, trade remedies and North American trade division.

I'm not sure if you have an opening statement, Mr. Halley. We'll start with you and then go to a series of questions. Welcome.

[Translation]

Mr. Patrick Halley (Director General, International Trade Policy Division, International Trade and Finance, Department of Finance): Thank you, Mr. Chair.

My name is Patrick Halley, and I am the director general of the International Trade Policy Division at the Department of Finance. I am joined by Michèle Govier, senior director within my division, as well as John Layton, executive director of the Trade Remedies and North America Trade Division at Global Affairs Canada.

It is a pleasure to be here with you to discuss Bill C-101—

[English]

Mr. Francesco Sorbara (Vaughan—Woodbridge, Lib.): Mr. Chair, I'm having trouble hearing this.

The Chair: Yes. I was having a hard job hearing as well.

You'd better start over, Mr. Halley. Speak directly into the mike, if you could.

[Translation]

Mr. Patrick Halley: Okay.

It is a pleasure to be here today to discuss Bill C-101, An Act to Amend the Customs Tariff and the Canadian International Trade Tribunal Act.

Before I provide a description of the amendments proposed in the bill, it is relevant to remind you of the current context that has led to the bill.

Global safeguards are trade measures that may be imposed under World Trade Organization rules and Canadian law where there is evidence that an increase in fairly traded imports has caused, or is threatening to cause, serious injury to domestic producers. In October 2018 the government imposed provisional safeguards for a period of 200 days on imports of seven steel product categories: heavy plate, concrete reinforcing bar, energy tubular products, hot-rolled sheet, pre-painted steel, stainless steel wire, and wire rod.

In accordance with Canadian law, the government also asked the Canadian International Trade Tribunal, the CITT, to inquire into whether final safeguards that could last up to three years on these products were warranted. At the beginning of April, the CITT shared its findings that final safeguards were warranted on imports of heavy plate and stainless steel wire. As a result, the provisional safeguards on the remaining five product categories were terminated on April 29.

The customs tariff currently prevents the reimposition of safeguard measures on products that were subject to previous safeguards for a period of two years following their last imposition. As such, for the five products for which provisional safeguards expired on April 29, safeguards may not be imposed on them until April 2021. The amendments being proposed in Bill C-101 would temporarily remove the two-year moratorium on the imposition of safeguards for products that were recently subject to such measures.

As well, consequential amendments are being proposed to the Canadian International Trade Tribunal Act. These amendments are intended to be temporary. That's why they've been structured as follows.

First, the provisions setting out the prohibition on further safeguards in the customs tariff would be repealed upon royal assent. That's in subclause 1(1) of the bill. A consequential amendment is also made to the CITT Act to remove those references to these provisions during the period of time during which they are repealed. That's in subclause 2(1) of the bill.

Second, the same provisions that are being repealed would be reinserted two years after royal assent on both the customs tariff and in the CITT Act. These are in subclauses 1(2) and 2(2). The coming-into-force clause, which respected the two-year period after which it would be reinserted, is in the coming-into-force provision of the bill.

The amendments would give the government the flexibility, should the need arise during the two-year period, to respond quickly and appropriately by imposing safeguards where a substantiated surge of fairly traded imports harms, or could harm, Canadian producers and workers. The conditions for the application of safeguards, as provided for under Canadian law, remain unchanged, and would still need to be met in order for any further safeguards to be put in place.

That concludes our presentation. We'd be happy to take any questions you might have.

• (1545)

The Chair: Okay.

We'll go to five-minute rounds. We can go a number of rounds for sure, if we have to.

Ms. Bendayan.

Ms. Rachel Bendayan (Outremont, Lib.): Thank you, Mr. Chair.

[*Translation*]

Mr. Halley, thank you very much for joining us today and for your testimony.

Since you made your presentation in English, I will also put my questions to you in English.

[*English*]

You mentioned in your opening remarks that the conditions for imposition of safeguards measures have not changed. I'm wondering if you could similarly confirm that the manner in which CITT conducts its inquiries has not changed either, and will not change, should this legislation pass.

Ms. Michèle Govier (Senior Director, Trade Rules, International Trade and Finance Branch, Department of Finance): Yes. Nothing is being changed from what's laid out in the CITT Act or the customs tariff with respect to the conduct of the CITT's inquiries. What happens in such cases is that a reference is made to the CITT requesting that they undertake the inquiry. The terms of it are set out there. All of the standards they have to follow are set out in the law. None of that is changing.

Ms. Rachel Bendayan: Okay.

Perhaps just for Canadians watching and for everybody's benefit, even in this committee, you could take us through the steps, if you will, of what would happen should the legislation pass and the government determine, based on changing market circumstances, that safeguards should be put in place. Could you just take us through what the process would look like?

Ms. Michèle Govier: I can just walk through what was done previously, since we expect that it would follow a similar process.

In October provisional safeguards were imposed. Provisional safeguards can be imposed under the law where the Minister of Finance makes a report to the Governor in Council and there's a decision to impose provisional safeguards. There's a requirement at the same time, if you are imposing provisional safeguards, to immediately refer that to the tribunal for inquiry. The tribunal then undertakes its process. It would notify potential interested parties and solicit information. They do their own internal analysis. They hold hearings. They hear arguments from parties, both for and against the imposition of safeguards. They would then issue a report to the government recommending whether or not safeguards are merited on the products in question.

In doing their analysis, the key factors they would be looking at are whether there's a surge in imports—a meaningful increase in imports in the period in which they're looking—and whether that increase in imports has caused, or could cause, injury to the domestic producers of the steel products. They would be conducting that analysis.

Ms. Rachel Bendayan: I'm sorry to interrupt, but when you say “they”, you mean—

Ms. Michèle Govier: This is the tribunal process.

Ms. Rachel Bendayan: The independent tribunal.

Ms. Michèle Govier: Yes, that's right. They would be conducting that.

Yes, I think it's important to indicate that it's an arm's-length tribunal that reports to the government, but the government does not have a direct role in that process. Once the recommendation comes to the government, there is then another decision point as to whether or not the tribunal's recommendations would be followed. If they recommend four safeguards, the government still has the choice of whether to impose them or not, following their recommendations. If the recommendation is not to impose safeguards, then there is not the discretion to do so under the law.

Ms. Rachel Bendayan: Thank you.

The Chair: Go ahead. We've got lots of time.

Ms. Rachel Bendayan: I'm wondering if you could confirm this. While the CITT is analyzing the safeguards and conducting its examination, pending the result of its final decision, the provisional safeguards are in place, are they not?

Ms. Michèle Govier: That is the case, as happened last fall when provisional safeguards were undertaken. They were in place for the entire time that inquiry was taking place. Provisional safeguards, as Patrick noted, went until the end of April. The CITT issued its report early in April. So that would still be the case.

That said, it is optional to impose provisional safeguards. There is another route the government could potentially take, which is simply to refer the matter to the CITT for their inquiry and not impose provisional safeguards, but as I said, last fall the decision was to impose provisional safeguards and do the inquiry concurrently.

• (1550)

Ms. Rachel Bendayan: That was instead of waiting an indeterminate amount of time for the tribunal to make its decision.

Ms. Michèle Govier: That's correct.

Ms. Rachel Bendayan: Thank you very much.

The Chair: Before I turn to Dean, could you give us the time frames for that as well?

Ms. Michèle Govier: Provisional safeguards can be imposed for a maximum of 200 days. That's because of—

The Chair: No. The Minister of Finance and cabinet refer it to the tribunal for inquiry. What are the time frames following that?

Ms. Michèle Govier: When it's referred to the tribunal, the time frames are actually built into that reference. We can make them as long or as short as possible, because the provisional safeguards were in place for a maximum of 200 days, and 175 days was given to the tribunal to report back in order that the government would have its report before the provisional safeguards expired.

The Chair: Okay.

Mr. Allison.

Mr. Dean Allison (Niagara West, CPC): Thank you very much, Mr. Easter.

I didn't know if you guys were coming today and thinking that we were going to ask about what's been collected and stuff. I know that you've been before our trade committee a few times—some of you have, anyway. Do you have any indication of how much money has been collected in tariffs, duties and from all of this stuff on steel to date? That's the first question.

Second, how much has actually been paid out to small and medium-sized enterprises? Do we have those numbers at all, or ballpark numbers? I know that you were before our committee back in the fall, and I know that that number has grown, so I'm just curious.

Mr. Patrick Halley: If I understand you, this is not with respect to the surtaxes that were imposed during the provisional period for safeguards. It's surtaxes in the context of the countermeasures against the United States.

Mr. Dean Allison: Yes, just in general, what we've collected exactly.

Mr. Patrick Halley: Okay. I think the last number we have is to the end of April, and it was \$1.3 billion.

Mr. Dean Allison: Do we have any indication at all of what actually has gone back out to businesses?

Mr. Patrick Halley: There's a long list here. There have been remissions. There have been three orders, and that's \$395 million. There was a duties relief program from the CBSA that I think is about \$30 million. It's \$31 million or \$32 million.

Then there were the programs that were announced. There was a \$100-million program announced in March for small and medium-sized enterprises. There was strategic innovation funding, from June 29, of \$250 million, and there was another \$250 million that was topped up—

Mr. Dean Allison: I'm aware of the programs that were announced. My question is related to how many dollars have actually gone out. I know that they've announced that most of the money was going to go out. Do you have any idea of what actually has gone out the door?

Mr. Patrick Halley: No. We can get back to you. We can come back to the committee with the exact number.

Mr. Dean Allison: It would be great if we could get that at some point, just to get a balance and a number.

I have a bunch of questions, but I'm running short on time here.

I read the report, but could you explain this to people? The CITT makes a ruling and says, "These are the only two areas of steel we want to cover, and on the other four, we didn't see any kind of injury." Explain to me how that happens if they say that's not the case, but the government thinks differently. That's part of the reason why we're here with this legislation: because they don't agree with the announcement.

Talk to me about the CITT's ruling versus where the government wants to go on this particular issue.

Ms. Michèle Govier: I don't think we should assume that we think there's anything wrong with the CITT report or any of the findings it came up with. It was looking at a particular period of investigation, a particular moment in time, and did its analysis based on that.

I think the intent here is to be prepared for changing circumstances. We're in a very volatile time in the steel industry, as I think people are aware. The idea here is just to give the flexibility to be able to respond should the conditions present themselves and should action need to be taken. If the government did move forward with imposing provisional measures and referring the measures to the CITT, they would be looking at an updated dataset, if you will, that reflects more recent information, and so could potentially lead to a different result.

• (1555)

Mr. Dean Allison: Okay, and with the flexibility, of course, it's not to have to wait the 200 days, or whatever the case may be, to reapply them.

Ms. Michèle Govier: Yes.

The Chair: You can take more time, if you want, Dean. Go ahead. We're pretty flexible around here.

Mr. Dean Allison: All right.

I guess the other question is with regard to the issue with safeguards. We get that fact. We're trying to actually figure out ways to keep cheaper steel from being taken through here. I guess the question is, how do you guys manage what is actually going on in terms of products?

I ask because one of the concerns we hear from small and medium-sized enterprises is that sometimes the reality on the ground with what's coming in, and the quota, or whatever the case may be, don't always reflect the timeliness of when these products are available and the safeguards. There is product that's available at a lower tariff rate, and then, all of a sudden, because all of that quota has been taken up, safeguards get stamped on.

What measurements are in place to help manage that? I find that the safeguards aren't the issue as much as the management or the execution of the day-to-day stuff is, depending on whether you're in western Canada or eastern Ontario, whatever the case may be, which present different challenges.

Do you have any thoughts on that? I know it's a broad question, and it's more around the operation of how that happens.

Ms. Michèle Govier: Yes, there were certainly some issues that came up during the provisional safeguards with ensuring that there was still a situation that was relatively predictable and workable for people who do still need to import steel. Provisional safeguards previously were imposed as tariff rate quotas, so a certain amount could come in without any surtax. After that, there would be 25% on it.

At the time, we did not have legal authority to allocate that quota and to tell importers, for example, that "you get this share of the quota" and "you get this share of the quota". Since that time, an amendment was made to the Export and Import Permits Act, which does allow for allocation. I think that if safeguards were to be reapplied, if they were to take the form of a tariff rate quota, there would be a more predictable situation that we could put in place for importers to minimize some of those impacts.

The other thing that came up and that I think led to a bit of uncertainty was that goods were in transit when the safeguards were applied. We did retroactively deal with that issue, given the concerns that were raised, but it's certainly something that we could consider doing up front to manage some of those issues when there's uncertainty as to when it's going to come into force to just allow people to plan accordingly.

The Chair: Thank you. We can come back to you again, Dean.

Mr. Dusseault.

[*Translation*]

Mr. Pierre-Luc Dusseault (Sherbrooke, NDP): Thank you, Mr. Chair.

I thank the witnesses for coming to explain Bill C-101 to us.

First, we are talking about provisional safeguards, but are permanent safeguards planned? Is that a possibility the government is considering?

Mr. Patrick Halley: As we said, the process in terms of the provisional safeguards started in October. After its inquiry, the Canadian International Trade Tribunal concluded that, for two types of products—heavy plate and stainless steel wire—the safeguards established, although not permanent, had a maximum length of three years, under our WTO obligations. So there are already longer safeguards for those products than the temporary 200-day safeguards.

Mr. Pierre-Luc Dusseault: A decision from the tribunal was necessary to be able to establish that.

Mr. Patrick Halley: That's right.

As we mentioned earlier, nothing changes in the legislation in terms of the process, the standards that must be met or the solutions that can be implemented. The only change proposed in the bill is the

obtaining of a two-year moratorium in terms of the period during which a new safeguard measure cannot be imposed for a product that had already been subject to a safeguard.

Mr. Pierre-Luc Dusseault: There must be a reason the legislator decided on this procedure. Today, we are being asked to change a rule that was established in the legislation several years ago by members who came before us. There is surely a reason that, once a safeguard expires, two years must go by before a new one can be imposed.

Can you tell me what the reasoning behind that change is? Why should we change it today?

Mr. Patrick Halley: It should be understood that safeguards apply to fairly traded goods. We are not talking about imports that are subject to dumping or subsidizing, which go through the normal trade remedy system. So the safeguards apply to imports that are not subject to market distortions such as dumping or subsidizing. It's just that, when products are imported in excessive quantities, a temporary measure must be applied to enable domestic producers to adapt to the change.

Under the circumstances, we are not talking about measures against unfair or inequitable trade. Measures have been implemented to prevent the situation from persisting. Trade partners who have obtained concessions from Canada during various negotiation cycles at the WTO, for example, could see their benefits reduced because of this. That is the context involved.

Like we said in the beginning, those kinds of measures apply only during somewhat more difficult periods in terms of trade, when the environment is a bit less predictable. That provides the necessary flexibility to apply those safeguards in a less staggered manner.

• (1600)

Mr. Pierre-Luc Dusseault: Is that because it could not be proved that dumping was used in the steel and aluminum industry?

Mr. Patrick Halley: Currently, for steel products, there are 77 anti-dumping and countervailing measures against 25 countries. There are still a number of measures in place and trade remedies to counter dumping and subsidizing.

In this case, safeguards are in response to the import increase, which is higher than expected and difficult to manage. It is a global phenomenon.

Mr. Pierre-Luc Dusseault: I want to come back to the tribunal, to which you gave the mandate to inquire. It turned out that two steel products out of seven had to be subject to safeguards. Were you expecting the tribunal to decide that it would be seven products out of seven?

We feel that the problem is that we are getting involved a bit late and have to backtrack to adjust. We did not anticipate this situation.

Did you expect the tribunal to request safeguards for only two of the seven products?

Mr. Patrick Halley: Provisional safeguards can be implemented under critical circumstances. We then have 200 days to try to stabilize the market and, parallel to that, an independent inquiry takes place.

So there were not really any other specific expectations. Safeguards can even be viewed separately—in other words, an attempt is made to stabilize the market for 200 days, while an in-depth inquiry is conducted on those imports.

Mr. Pierre-Luc Dusseault: My question was more about whether it was expected that this situation could occur one day. Perhaps it should have been considered previously that the tribunal could possibly make that kind of a decision at some point. This decision led to a lack of safeguards for certain products now that the provisional safeguards have expired. So Canada is leaving itself open when it comes to those products.

Mr. Patrick Halley: The bill is trying to give the government flexibility to take the necessary measures if the circumstances change. As Ms. Govier said, during the process, we relied on the data for a certain period of time. The global steel market, for example, is especially subject to significant distortions. Market conditions can change fairly quickly. Should that happen, the government would have the flexibility it needs to implement other safeguards, if necessary.

[English]

The Chair: We'll have to come back to you, Pierre.

Ms. Rudd.

Ms. Kim Rudd (Northumberland—Peterborough South, Lib.): Thank you.

Thank you for coming on what I know is short notice.

I have just a couple of things. The unpredictability and fluidity of the global markets relating particularly to steel, but certainly to other products as well, have put Canada and other countries in a place where we have to be nimble. I think that is exactly what this bill does: It allows us to address those special circumstances that come up unexpectedly.

There are a couple of things in this process. There has certainly been a huge amount of consultation with the steel sector to get us to this place. There have been a number of mayors of communities like Sault Ste. Marie and a number of CEOs of steel companies who have come and said they want this flexibility. They want us, as a government, to be able to respond, and I think we all agree that we are in a very different world, if you will, in this particular space from where we were even a few years ago.

I have a couple of questions specifically on that. You mentioned that everything else stays the same. Are there exemptions still allowed within this process? One of my small or medium-sized enterprises, which Mr. Allison asked about, was able to obtain an exemption in the last round of temporary measures that were put on, and that made a big difference to their business, because the product they need is not manufactured in Canada. There is no other supplier.

We are very aware that circumstances like that will come up, and they do affect the SMEs especially.

Can you just respond as to whether or not they are still in there?

• (1605)

Ms. Michèle Govier: There are two ways, I guess, we can address those issues. There may be a product that falls under one of the broad product categories that we would be looking at, but perhaps there's a particular item in there that's not produced by a Canadian producer. For some of the products where perhaps trade remedies have already been in place, we were already aware, through previous processes, of some of these products, and they could be removed from the scope out front. That sounds like the situation you may have been describing. There could be others that we're not aware of up front. However, what we're doing in the current process, with the current safeguards that have been applied, is that after the government decided to apply the final safeguards on the two products, a reference was sent to the trade tribunal to hear people basically asking for these types of exclusions, to make the case...if they're not available in Canada. Then all parties who have an interest in it could provide their views. The CITT will make recommendations to the government on those exclusions.

To the extent possible, then, it's trying to minimize the impacts of that.

Ms. Kim Rudd: A proactive approach, I guess, is what it sounds like. That's good to know, certainly.

My colleague asked about the CITT process, and you walked through that. What is a typical time frame this would occur in? Or is there a typical time frame?

Ms. Michèle Govier: Canada doesn't have a lot of experience with safeguards, so I don't know if we can say what's typical. I would say that certainly if we are in a situation with provisional safeguards, we would largely be driven by that 200-day time frame during which those occur. I think we would certainly want that process wrapped up before the expiry of that 200-day period.

If an inquiry is based on an industry complaint—not one that the government has started, but one where an industry itself has come forward and asked the CITT to please look into it—those time frames are longer. I think part of the benefit and interest in having the government move forward is to do so on a faster time frame.

Ms. Kim Rudd: Probably my last question will be around the surge of imports. That is the trigger that may come from industry or from government, or possibly other sources. We did hear that the surges are examined to determine whether or not they indeed are a surge that would warrant the process going through, or whether there's some particular unique situation that's causing it for another reason. I don't really understand what those reasons might be—i.e., yes, there's a surge, but there's a good reason for it, and here's what it is. I wonder whether you are aware of a particular infrastructure bill, maybe, that is causing a certain specific type of steel that needs to come into Canada.

Ms. Michèle Govier: With the surge analysis, that is a little more straightforward. It is looking a little bit more quantitatively at what imports look like and whether they've increased in absolute terms, as well as relatively, compared with what the market is or what Canadian producers have been selling.

Where you can look into these other issues, it's more on the injury side. You're trying to determine whether the surge has caused injury or could cause injury. There could be other factors in the market that are harming Canadian producers for different reasons, or having an impact on producers. For example, on the energy side, perhaps a downturn in the energy sector is having impacts, and there's less of a market in Canada, which is causing difficulty. The CITT in its analysis will look at some of these other factors. Parties can bring them forward for them to examine. They will look at that as part of their analysis on whether it's the surge that's causing, or threatening to cause, the injury.

• (1610)

Ms. Kim Rudd: Thank you very much.

The Chair: We'll turn to Mr. Poilievre and then to Mr. Fragiskatos.

Hon. Pierre Poilievre (Carleton, CPC): I want to be clear with regard to Mr. Allison's questions. What is the total amount the Government of Canada has collected in countermeasures against the United States for its steel and aluminum tariffs, plus the total amount that was collected through the Canadian safeguard tariffs or other actions the government has imposed?

Mr. Patrick Halley: As I said, with respect to the countermeasures, the number we were provided with up to April 30 was \$1.3 billion.

Hon. Pierre Poilievre: Those are from the countermeasures against the United States?

Mr. Patrick Halley: Against the United States, from when were imposed on July 1. These numbers can change because of CBSA accounting and the fact that companies can modify that, but that is the number we have right now.

With respect to the safeguards, as Michèle mentioned, the form of the safeguard was a tariff rate quota where a quantity was coming in surtax-free, and only the products that were above the quantity were hit with a surtax. We can get you the exact number, but I think the surtax that was collected was about \$10 million or \$12 million.

Hon. Pierre Poilievre: It was \$10 million or \$12 million.

Mr. Patrick Halley: That's right. But we'll get back to the committee with the precise figure.

Hon. Pierre Poilievre: Again, the question we were asking earlier for you to get back to us on was how much of that money was given back to the businesses that suffered as a result of the trade conflict in the first place. We're not looking for a list of announcements. We're looking for dollars transacted.

For my next question, I just want to make sure I understand the full scope of this legislation. Clause 1 repeals sections that require a 180-day delay between the removal of safeguards and their reimposition. Is that an accurate summary of what clause 1 does?

Ms. Michèle Govier: It's a two-year delay.

Mr. Patrick Halley: Clause 1 removes the prohibition against further orders where there's a two-year period.

Hon. Pierre Poilievre: A two-year period; so it removes the two-year delay.

Mr. Patrick Halley: That's right.

Ms. Michèle Govier: Yes. There are actually two clauses that talk about delay. The prohibition against further orders that you see in the first paragraph of clause 1 is the two-year period. It's saying that if you've imposed safeguards, you have to wait two years until you impose them again. Under that, there's an exception that says that if you've had your safeguard in place for fewer than 180 days, you have to wait only one year.

Hon. Pierre Poilievre: But the bill repeals all of that.

Ms. Michèle Govier: Yes.

Mr. Patrick Halley: That's right. They remove the moratorium of two years, and if the previous measure was less than 180 days, the moratorium is one year. These are repealed for a two-year period and reinstated two years after royal assent of the bill.

Hon. Pierre Poilievre: Does clause 2 have a similar effect?

Ms. Michèle Govier: There's a reference in the Canadian International Trade Tribunal Act to those provisions, so it's just making a consequential amendment to remove that reference.

Hon. Pierre Poilievre: Clause 2 is just consequential to clause 1.

Ms. Michèle Govier: Yes.

Mr. Patrick Halley: Correct.

Hon. Pierre Poilievre: And clause 3 is a coming-into-force clause?

• (1615)

Ms. Michèle Govier: Yes.

Hon. Pierre Poilievre: Okay. So that's the whole bill. I just wanted to make sure there were no surprises.

Has the Canadian International Trade Tribunal in the last, let's say, five years found that other countries have engaged in steel or aluminum dumping in Canada?

Mr. Patrick Halley: The dumping and the subsidization—the countervailing process—are complaint-driven. Companies would complain first to the CBSA, the Canada Border Services Agency, and the CBSA determines whether or not there is dumping—

Hon. Pierre Poilievre: And have they?

Mr. Patrick Halley: —or subsidization.

In a parallel process, the Canadian International Trade Tribunal looks at, if there is dumping, whether or not that dumping is injurious to Canadian producers. The CITT really looks at the injury portion of the process and does not determine whether there is dumping occurring in the Canadian market. That's done by the Canada Border Services Agency.

Hon. Pierre Poilievre: Have either of those bodies found that dumping has existed in the last five years with respect to steel and/or aluminum?

Ms. Michèle Govier: Yes. I think Patrick referred earlier to 77 measures being in place, with anti-dumping and countervail cases against a number of different countries related to steel products.

Hon. Pierre Poilievre: What were they? What was the time frame during which those dumping incidents occurred?

Ms. Michèle Govier: Some of them go back quite a long time. Measures are generally imposed for five years, but they can be extended if it's found to be warranted and if it's likely that the dumping and subsidization that are causing injury are likely to continue. For some products, I think it goes back even 10 or 15 years.

Hon. Pierre Poilievre: Is China on the list of countries?

Ms. Michèle Govier: Absolutely. I think for virtually all products, China is one of the countries that are subject to those measures.

The Chair: If there's more later, Pierre, we can come back to you.

Mr. Fragiskatos.

Mr. Peter Fragiskatos (London North Centre, Lib.): Thank you, Mr. Chair.

Thank you to the officials for being here.

I want to ask a question about international legal obligations from a trade perspective. Can you tell us how this legislation is consistent with Canada's international legal obligations in that regard?

Mr. John Layton (Executive Director, Trade Remedies and North America Trade Division, Department of Foreign Affairs, Trade and Development): I think the legislation is consistent with our legal obligations in the sense that there's no obligation to have this time period or moratorium on new measures. There's no obligation to have that in our law. However, if Canada imposed another measure within the two-year period, because we've removed it from our law, I think other WTO members would have questions about how that were consistent with the obligation in the WTO agreement. That is the obligation, but it only applies if we impose another safeguard measure.

Mr. Peter Fragiskatos: Okay, but just to be clear, as far as this bill is concerned, we are not offside with the WTO in any way? We wouldn't face any complaint or anything like that?

Mr. John Layton: I think we will face questions about why we're doing it, but my understanding is that there wouldn't be a WTO dispute launched because of our law.

Mr. Peter Fragiskatos: Okay, that's important to put on the record.

Ms. Govier, you spoke about the surge analysis. Can you go into the methodology around that? How do we know that a surge is taking place, for example? How do we distinguish that from a small spike, for instance? What's the data gathering process around that? Who does it and how and issues like that?

Ms. Michèle Govier: As part of the CITT's process, I can speak to it a bit at a distance, because I'm obviously not involved in that process. Typically they would look at data over a three-year period and look for trends over that period, as well as looking at a more.... In the last finding, they did look at the first half of 2018 and compared it with the first half of 2017 to identify whether there were patterns that showed what looked like a significant increase.

I did mention previously, as well, that you can look not only at whether there's an absolute increase in imports but also at whether there's a relative increase in imports. So if the market's growing, you see something growing or similarly if the market is shrinking, maybe

the imports are stable but they're taking up a larger share of the Canadian market.

The data they use is, I think, based on input they are getting from the questionnaires they issue as part of their process, so they could be relying partly on StatsCan information as well as on information supplemented by other participants in the process.

Mr. Peter Fragiskatos: It sounds as though there are tools in place to keep up with what is a fluid situation.

Ms. Michèle Govier: Certainly within the CITT process, they're well positioned to gather all of the information they have and, for the government's part, we have import permits for steel. We do have reasonably good data on steel, which is looked at on a regular basis.

• (1620)

Mr. Peter Fragiskatos: Okay.

I also want to ask you about how our approach compares with what other democracies have done in this area, the E.U., for example, or other examples you could cite.

Ms. Michèle Govier: The E.U. does have steel safeguards in place for a number of product categories. Those have been in place as final measures since January of this year. The United States does not have a safeguard in place, but as we know, the section 232 tariffs that were imposed on steel and aluminum have a very similar effect. There are a number of other countries that have safeguard measures. Some of them are fairly targeted in terms of the products they are looking at, but I wouldn't call them the larger countries. It's not, you know, Australia or whatnot. I would say that the E.U. is the main one. The U.S. has those protections, as do certain other countries.

In the case of steel products, the global overcapacity definitely means that countries look for different ways to address some of the import challenges they're facing. There are a lot of trade remedies in that sector and we're seeing a lot of safeguards in that sector, as well, for those reasons.

Mr. Peter Fragiskatos: I have a final question, if I may, Mr. Chair.

Could you speak to the level of engagement or consultation with the steel sector in the development of this particular legislation, or in general terms if you don't want to...?

Mr. Patrick Halley: Maybe I'll answer in general terms.

Certainly since, let's say, March of last year, when the prospect of section 232 tariffs being imposed was raised in the United States, we'd been working quite closely with the steel sector. We took a number of measures during the spring of last year with respect to any concerns on transshipment of product. We made changes to marking regulations, all of which has been done in close consultation with the steel industry. When we moved to a situation where we were facing the section 232 tariffs in the United States, we added a number of measures in place to assist the sector, but we've also established a federal-provincial union and industry committees to monitor the situation and work closely on these issues.

There's been, I would say, a fairly continuous process of engagement with the industry.

Mr. Peter Fragiskatos: It sounds like it. Thank you very much.

The Chair: Thank you all. Maybe just before I turn to Mr. Poilievre, I have two questions.

These measures are put in place basically to protect the steel industry, but will this bill help us in terms of our maybe being accused by the United States of transshipment of some products through Canada to the U.S.? Would it be helpful in that regard?

Second, do you see any implications for some of the smaller players in the system who may use or bring in steel from certain countries, Turkey or wherever, and basically sell most of their products domestically, whether they're making patio tables or whatever the heck it might be? Are there any implications for those kinds of operations from this bill?

Mr. John Layton: On your first question, I think the United States would be interested in seeing what Canada is doing to address offshore steel imports. They have the same concerns as ours with the global overcapacity and market distortions, so I think they would notice what we do. I think they've said there are issues with transshipment. We haven't seen evidence of that, but I think they do watch what we do in terms of our measures on steel.

The Chair: Okay, and on the second question, Ms. Govier.

Ms. Michèle Govier: On the second question, we've certainly been in touch not just with the steel producers but also with some of the smaller players you were talking about that might import steel for various purposes in using it in Canada.

Certainly, with the way that safeguards were imposed on a provisional basis last time, and in looking at how the final safeguards are structured, it does allow for a certain amount of surtax-free trade to occur, reflecting historical levels. I think that's an important component of ensuring that people can still get in supplies they require to do business.

Also, the amendments that I was talking about to the Export and Import Permits Act, whereby you can actually allocate...so that people have a more sure supply of what they're able to import, are going to further help the predictability and the ability to import where needed from these countries.

• (1625)

The Chair: Thank you.

Mr. Poilievre, and then back to Mr. Sorbara.

Hon. Pierre Poilievre: Do you have a summary of the consultations the department did with companies that import steel?

Mr. Patrick Halley: We had consultations prior to the imposition of countermeasures in June. That was one. We also had consultations prior to the imposition of provisional safeguards, which were solely on steel. The countermeasures were broader, of course, because there were suggestions with respect to imposing countermeasures on steel, aluminum and other products from the United States.

Hon. Pierre Poilievre: What consultation has the department done on this bill with businesses that import steel?

Mr. Patrick Halley: With respect to this particular bill, there hasn't been a discussion with any stakeholders at this point.

Hon. Pierre Poilievre: We haven't had any conversations with the many companies across the country that use steel as an input?

Mr. Patrick Halley: What we're doing now in a parallel process, which is going to loop back to concerns that we've heard about this bill, although not as part of a specific consultation on this bill.... On April 26, there was an announcement by Minister Morneau of consultation on a further strengthening of the trade remedies system. We've had discussions with the steel industry and with other stakeholders as well, including downstream manufacturers and users of steel, with respect to some of these issues and the trade remedy system. As part of those conversations, some views have been expressed with respect to Bill C-101.

Hon. Pierre Poilievre: What are those views?

Mr. Patrick Halley: I'm sorry?

Hon. Pierre Poilievre: What are those views?

Mr. Patrick Halley: What are they? First of all, I think people are asking questions, and certainly we've heard some concerns with respect to the potential re-imposition of safeguards, but they are very much separate from the consultation process that we're working on with these stakeholders. These are some of the concerns that have been raised, but they are very preliminary at this point.

Hon. Pierre Poilievre: Okay. That's all I have.

The Chair: Dean, do you want to go now or do you want to come back?

Mr. Dean Allison: Sure, if you don't mind.

The Chair: Go ahead.

Mr. Dean Allison: I'm just hoping that I can review the timelines a bit. In order to put the safeguards on, it's just order in council. It's not difficult to do. It could be done any time in terms of the process, correct?

Ms. Michèle Govier: Yes, it's an order in council.

Mr. Dean Allison: Yes, exactly.

I believe the U.S. has been asking us since the summer of 2017 to deal with this issue of leakage and transshipments, and all of that kind of stuff. That's what I get from the media. I'm not asking you whether or not you can confirm that; we know these safeguards went in last year, in 2018.

In your opinion, when we look at the steel and aluminum tariffs that we've had to deal with over the last little while, is this the result of our not dealing with the issue of safeguards? Is this an issue of the U.S. asking us to deal with an issue that we, quite frankly, ignored for over a year? Are there any thoughts at all on that?

Mr. John Layton: I don't think the U.S. tariffs have anything to do with Canada imposing measures on other countries. While there have been reports that the U.S. was concerned about transshipment, we never had discussions with the United States about specific concerns of theirs with transshipments; nor did the U.S. ever ask us to impose measures to address transshipment.

The timing of the safeguard inquiry and the provisional measures that we had, I don't think had any impact on the fact that the U.S. imposed section 232 tariffs against Canada.

Mr. Dean Allison: Do you not think that even though, for a year or so, Mr. Trump talked about the fact he wanted us to do something about that, and we didn't, and the fact we had section 232 tariffs thrown at us, had nothing to do with the fact we didn't deal with any of the leakage or transshipment of steel?

Mr. John Layton: I don't think so. At the beginning, he mentioned the link to NAFTA. At first we thought that. We did explore the issue of whether there was something we could do on transshipment, but we never discovered what the problem was with transshipment.

• (1630)

Mr. Dean Allison: Okay. Thanks.

The Chair: It's always good when someone has President Trump figured out.

Mr. Sorbara.

Mr. Francesco Sorbara: Thank you, Mr. Chair.

Welcome and thank you for the answers to some of these in-depth connected issues.

I want to back up and get on the record that between the CITT and the Department of Finance, there are seven categories of steel or steel-related products that we are speaking of—backing up in terms of the process that has gotten us to where we are.

Ms. Michèle Govier: There were seven steel product categories on which provisional safeguards were imposed in October. Then the CITT ruled on those. Two of those categories now have final safeguards applied, and there are five that do not have safeguards applied.

Mr. Francesco Sorbara: My question is with regard to the import of steel that which we may not have sufficient domestic production of. Let's say you're building a pipeline and you need to import steel from overseas, and the monthly data comes in from CBSA and the Department of Finance. We will account for that. If there's a surge one month, or say there's an increase one month in the amount of steel coming in, we're not just going to look at that month and say

that something weird is going on. We're going to look at that month and say this is related to a project that is going on in Canada. For example, in western Canada, some steel consumers may need to purchase their steel overseas because there's just not enough domestic production.

How technical is that? Can you explain that process, please?

Ms. Michèle Govier: On the surge, you're right. If it's a one-month thing, that would likely not trigger the government to impose provisional measures or the CITT to conclude that this is a surge according to the definition required by the WTO rules. They do look at a longer period. Certainly, in determining whether provisional safeguards would be warranted, we would look at patterns during a particular period to see whether they constituted a surge and action needed to be taken.

I spoke earlier about whether certain product types could be excluded if there are things that aren't actually made in Canada, and there might be other mechanisms to address situations in which we know that the imports are required because of contractual reasons, or whatever.

Mr. Francesco Sorbara: Exactly. Thank you for that, because I think what we need to get on the record is that we have a really robust, healthy steel industry in Canada. We've removed the uncertainty of the section 232 tariffs that were placed by the U.S. administration. We've come to an agreement there, which is great.

At the same time, while we ensure that we can guard against surges in imported steel—steel that I would argue is made in some jurisdictions under less environmentally stringent methods and procedures than those here in Canada—we can also ensure that any domestic consumers of steel, when the steel cannot be sourced locally in Canada, the United States or Mexico, will have access to that steel without the predicament of then having CITT investigate an increase—I'm not going to call it a surge—of steel over a two- or three-month period related to a specific project.

Mr. Patrick Halley: Maybe in addition to what Michèle was saying, I think that if safeguards are imposed in the manner of tariff free quotas, there is a quantity that reflects historical imports from offshore sources and that would be surtax free. The aim is not to disrupt the marketplace for those who use offshore imports, but to at the same time prevent surges from happening that are injurious.

Maybe I'll just add that we faced that situation with the countermeasures imposed against steel from the United States, where we had situations in which people were coming to us and saying they could only source it from the United States, for example. We worked under a remission framework that we published, and we did provide remission to importers.

We worked fairly well with the industry in asking our steel producers whether these were products that were really in short supply in Canada and not made in the quantity needed by importers. I think that under the circumstances, that process has worked out as well as it could.

• (1635)

Mr. Francesco Sorbara: Chair, could I add something?

The Chair: Go ahead.

Mr. Francesco Sorbara: Thank you, Chair.

As an economist by training, the circumvention of trade rules is obviously something that I studied extensively in graduate school years ago, but it's something that concerns me quite a bit.

When you have steel-producing country A, then you ship via country B and it's tagged by country B, and it ends up in the Port of Vancouver or the Port of Halifax, whichever one in Canada, that could cause distortions in our market and we obviously need to track it quite closely. I know that within budget 2019 there were extra resources provided to CBSA. Then it falls to the CITT to do that.

Are the resources in place for those officials on the ground to ensure that we can track it if there is a surge in a certain category of steel that does not have a safeguard on it today, resources that could be in place tomorrow if they needed to be?

Mr. Patrick Halley: As you mentioned, more resources have been given to the Canada Border Services Agency, I believe, to hire up to 40 new officers to deal with compliance issues. The 40 officers are a 50% increase in the number of people doing that kind of work, so it is a meaningful increase.

At the same time, to prevent situations like that, other changes were also made to the rules for marking of products to make sure that when it says it's made in a certain country, it is really made in that particular country and not being masked as an import from elsewhere to circumvent the rules. These changes were made last spring to really beef up and strengthen compliance with the trade rules in Canada.

The Chair: Mr. Dusseault.

[*Translation*]

Mr. Pierre-Luc Dusseault: Thank you.

I would like to come back to certain things that have been said so far, including the fact that five product categories are currently unprotected, so they are not subject to any safeguards.

Following the passing of this bill, when do you expect to apply new safeguards to those five product categories?

Mr. Patrick Halley: As I said, the bill provides some flexibility if market conditions change and the conditions set out in the legislation are met. Those conditions remain unchanged. So there must be an increase in imports and the potential of serious injury caused to domestic producers. None of that is changing.

The process the government followed to impose provisional safeguards in October was in response to an official request by industry. In August, a 15-day consultation was held. Afterwards, the situation was analyzed. It was announced—I think on October 11—that provisional measures would be imposed as of October 25. We think that process was justified and that it could be used again.

Mr. Pierre-Luc Dusseault: In other words, there will not automatically be any new provisional measures. It will depend on a process similar to the one used in the past.

Mr. Patrick Halley: Some conditions must be met.

As Ms. Govier was saying, the increase in imports is more quantifiable and it may be easier to obtain data on that, even for us, while we continue to closely follow steel imports in general.

However, the law also requires injury to be caused or potentially be caused to producers. It is up to producers to inform us; that is the way to justify the existence of injury or threat of injury.

Mr. Pierre-Luc Dusseault: The bill we are preparing to pass in committee and in the House will have a two-year lifespan. So it will no longer be valid two years after the royal assent. Have I understood correctly?

• (1640)

Mr. Patrick Halley: Yes, that's right.

Mr. Pierre-Luc Dusseault: Why is that?

Mr. Patrick Halley: The intention was to provide some flexibility, but on a temporary basis, given the situation of the market as a whole. The trade environment is fairly complex for many products, but even more so for steel.

So this is about providing flexibility to use safeguards again during that two-year period, as needed. If final safeguard measures were imposed, they could stay in place. That is the case for stainless steel wire and heavy plate—products for which final safeguards were established for three years. In other words, if, during the two-year period, the conditions are met and final safeguards are imposed, they can come into force as late as the last day of that two-year period and end, for example, three years later.

Mr. Pierre-Luc Dusseault: As far as I understand, the 200-day measures remain. In the two-year period following the royal assent, you will have the possibility to impose provisional measures again that will last a maximum of 200 days.

Mr. Patrick Halley: Yes.

Mr. Pierre-Luc Dusseault: During that period, a ruling from the tribunal could make it possible to extend that period by three years through final safeguards.

Mr. Patrick Halley: That's right.

Mr. Pierre-Luc Dusseault: How did you decide on that two-year temporary period? Is it related to our international obligations?

Earlier, it was not clear. We were being told that other countries proceeded in that manner, but that our international obligations did not require such a system with a tribunal and provisional measures that expire after 200 days.

If there are no problems with our international obligations, why choose this?

Ms. Michèle Govier: We have proceeded in this way in the past, by including in our legislation the two-year period prescribed by the WTO rules.

I think the intention is to confirm the temporary nature of that change. A two-year period is long enough to analyze the situation and decide whether it is necessary to impose safeguards. I think that, if the period was shorter, the 200-day time frame would expire and the tribunal may lack time to finish its process. The selected period gives us enough time to decide whether or not to impose measures.

There is nothing scientific about it. The intention is to confirm that the change is temporary and that we will afterwards go back to applying the law as it was.

[English]

The Chair: I don't believe we have any questions on the government side.

Mr. Poilievre, I believe you have one or two, or more. Your tie looks good.

Hon. Pierre Poilievre: Thank you, Chair.

The question I have is a little broader than about the legislation. Steel dumping or dumping of any product implies that the selling country is actually losing money or selling below its cost to gain market share. I've never quite understood why a country would want to do that. There's an old ironic expression that the company loses money on every sale but makes it up on volume. Anybody or any country that's selling consistently at a loss is actually draining its own wealth. Why do countries do this?

Ms. Michèle Govier: That is a larger question. Dumping is the behaviour of individual companies, so I think we need to distinguish between dumping and subsidization. I think on the subsidization side, where a government is providing assistance to a company, the company itself is not necessarily losing money on that. They can charge lower prices because the subsidies make up for that.

On the dumping side, there could be a number of reasons. Steel is a very capital-intensive product to make. Once you get a steel plant in place and it's running, it is perhaps in your economic interest to produce as much as you can with that investment, even if for some of it you're not selling at as high a price as you can.

I'd also point out that dumping is a comparison, fundamentally, between the price it's being sold at in the export market and the price it's being sold at in the producer's own domestic market. It's a comparison of those two things. It's a differential pricing type of situation, so there might be different reasons why companies pursue a strategy where they're selling things at a different price. Obviously if they're selling below cost for a lengthy period of time, that is not sustainable. I'm not sure that companies are in that situation, necessarily, but it's a fairly complex calculation that goes into whether dumping is occurring or not. It is possible that companies can sustain it over a longer term because of the other factors involved in their production.

● (1645)

Hon. Pierre Poilievre: In the case where they're selling at a lower price to foreign markets than they sell in their own market, how does that advantage the company? If it can get a higher price at home and it doesn't have to pay any transportation costs, then why would it sell for a lower price abroad?

Ms. Michèle Govier: It depends on what the demand is in their domestic market, for one thing. I think part of the overcapacity that we're seeing in the steel sector is because there's an overshooting of investment in steel production compared with global demand. That is part of it; you're just trying to unload it in whatever form you can to whatever market you can.

Hon. Pierre Poilievre: In the case of export subsidies, again, the country as a whole is losing money on each sale if the price received is lower than the total cost of production, with government subsidies included. What advantage does that confer on a country?

Ms. Michèle Govier: Countries may have different strategic reasons for doing that. If they want to increase their global market share in a particular product category, that might be a reason, but I think you'd have to speak with individual governments as to the calculus they're making on that.

Hon. Pierre Poilievre: I think it's relevant to us because we're considering legislation that's supposed to respond to surge pricing and surge supply of a commodity and it's important for us to understand what would motivate surge phenomena, which could be dumping or government subsidization of the losses of its exports. What is the real motivation? What is the real benefit to the exporter from doing that? I've really never had anyone explain that to me.

Maybe one day we'll get someone who can figure out why a country would want to lose money by giving a product to a foreign country at a loss on a large scale.

The Chair: Since we're kind of having a discussion here, I'll add that I think sometimes it's done to keep their plant running until they figure things will turn around. It happens in the farm sector. You sell at a loss and you keep producing in the hope that things are going to turn around, but they don't necessarily do.

Are we all in, all done?

Okay, thank you very much, folks. We had an interesting and general discussion beyond the bill itself, so we appreciate your appearance before the committee on short notice. Thank you for that.

For committee members' information, I know the clerk is calling all the witnesses that members or parties have presented to him. We're having some difficulty, in that we can't do teleconferencing tomorrow because we don't have a room and it takes 24 hours to arrange it or whatever, but we'll try to work that through. We will meet tomorrow at 3:30 in the afternoon.

With that, the meeting is adjourned.

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