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Chair

Mr. Merv Tweed

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•(0845)

[English]

The Chair (Mr. Merv Tweed (Brandon—Souris, CPC)): Good morning, everyone. Welcome to the Standing Committee on Agriculture and Agri-Food, meeting number 54.

Orders of the day, pursuant to the order of reference of Tuesday, October 23, 2012, are Bill S-11, An Act respecting food commodities, including their inspection, their safety, their labelling and advertising, their import, export and interprovincial trade, the establishment of standards for them, the registration or licensing of persons who perform certain activities related to them, the establishment of standards governing establishments where those activities are performed and the registration of establishments where those activities are performed.

Joining us today are: from the Canadian Association of Importers and Exporters, Keith Mussar, vice-president, regulatory affairs; from the Canadian Cattlemen's Association, Dennis Laycraft, executive vice-president, and Ryder Lee, manager of federal-provincial relations; and from the Canadian Federation of Agriculture, Christian Lacasse, vice-president.

Welcome.

I think you have appeared before committee, so you know that you present and then we'll move right to members' questions.

Mr. Mussar, would you like to start, please.

Dr. Keith Mussar (Vice-President, Regulatory Affairs, Canadian Association of Importers and Exporters): Thank you, Mr. Chair and members of the committee.

My name is Keith Mussar. I am with I.E.Canada, the Canadian Association of Importers and Exporters. It is a privilege to appear before the committee to testify with respect to Bill S-11, the safe foods for Canadians act.

I.E.Canada, the Canadian Association of Importers and Exporters, is a national trade association that has been speaking on behalf of the Canadian trade community for more than 80 years. Our members include food manufacturers who import and export food, Canadian importers and exporters, wholesalers, distributors, and Canadian grocery retailers. We represent some of the largest food manufacturers, importers, and exporters in Canada, as well as small and medium size businesses. Our members import and export food across most food categories.

Bill S-11 will replace and modify the existing statutes governing food safety, packaging and labelling, and inspection under the Meat

Inspection Act, the Fish Inspection Act, the Agricultural Products Act, and the food-labelling provisions of the Consumer Packaging and Labelling Act. It will also introduce new requirements on businesses that manufacture, import, and export food.

The bill provides authority to the minister to issue a licence to persons authorizing them to import, export, or convey food from one province to another. This builds on the CFIA regulatory initiative that will license importers of food in the non-federally registered sector. The bill extends the authority of the minister to license all food importers and exporters. In addition, the bill provides the minister with the authority to prescribe conditions to license, such as the requirement to implement a preventive food safety control system as a condition for obtaining and maintaining a licence.

The bill would allow for a number of other improvements, including tougher penalties for non-compliance, enhanced powers of the inspectorate, and consistent inspection and enforcement across all commodities. Also, the bill could provide for the creation of regulations to establish pre-clearance requirements for any imported food commodity. The latter could facilitate the movement of imported food commodities into Canada and would be consistent with provisions being proposed under the U.S. Food Safety Modernization Act .

While the objective to increase food safety is clear, the bill as currently written will have severe negative implications for Canadian food manufacturers and Canadian consumers. First, Canadian food manufacturing jobs will be lost. Canadian jobs will be moved to the United States or other foreign countries. Second, Canadian food exporters will lose access to foreign markets. Third, Canadians, particularly those in ethnic communities, will have less choice of safe, healthy, and nutritious foods. The following examples serve to illustrate these concerns.

First, many Canadian food manufacturers produce food exclusively for export to and sale in the United States or other foreign countries. It is common for such products to contain ingredients that are not permitted for use in Canada, yet are allowed in the foreign country of destination. Such products cannot be sold in Canada as they are not compliant with Canadian regulations. Clause 12 of the bill, which prohibits a person to have in his possession for the purpose of exporting a prescribed food commodity, unless it meets the requirements of the Canadian regulations, will preclude the manufacture of such products in Canada. Multinational companies that have manufacturing plants both in Canada and the United States will have no choice but to move the manufacture of these products from Canada to the United States.

Second, subclause 10(3) of the bill prohibits a person from exporting a prescribed food commodity unless the food commodity meets the requirements of the Canadian regulations. In other words, a prescribed food commodity that is exported to a foreign country must meet the requirements of the Canadian regulations as well as those of the foreign country of destination. This requirement will limit the export of Canadian manufactured products to foreign countries. For instance, the food and drug regulations require Canadian milled flour to be fortified with vitamins such as folic acid. Canadian manufactured products such as cookies, crackers, pasta, and breaded fish products, to name a few, if required to contain fortified flour, will not be allowed access to countries in the European Union, where fortification of flour with folic acid is prohibited.

● (0850)

Canadian companies are allowed under current Canadian regulations to import product that does not comply with Canadian regulations, provided it is brought into compliance before being offered for sale in Canada. This is allowed without prior notification to CFIA. CFIA inspectors visit Canadian companies and ensure compliance of these products with Canadian regulations as they would for any domestic manufacturing facility. This practice is used in particular to correct non-compliance related to food product labelling and often on products for smaller market segments, such as ethnic markets. Correction of non-compliance prior to sale is a cost-effective and efficient alternative to producing products in unique packaging exclusively for the small Canadian market. The prohibition to import non-compliant product under subclause 6(2) of the bill will prohibit this practice and limit food choices, particularly for consumers in small market segments.

In addition, it is estimated that 50% of the volume of spices imported into Canada are further processed in Canada to be made safe for consumption and compliant with Canadian regulations. The prohibition to import products that are not compliant with section 4 of the Food and Drugs Act will preclude the importation of such raw spices into Canada, resulting in the loss of these Canadian processing jobs.

I.E.Canada members have also raised concern regarding two other aspects of the bill.

First, the unrestricted authority for inspectors to take photographs under paragraph 24(2)(g) raises concerns over security and the possibility of intentional or unintentional disclosure of confidential

information, such as processing, equipment design, and function. Many companies have taken steps to prohibit the use or possession of cameras, cellphones, and other devices with picture-taking capability by employees and guests in manufacturing facilities to minimize this risk.

Second, incorporation of documents into regulations by reference is an important authority that will allow regulations to maintain currency and allow for changes in a timely manner that will keep pace with the rapid changes in innovation. While desirable, a process is required to ensure stakeholder consultation is undertaken to allow those impacted by a change to have an opportunity to express their views. Additionally, a process is required to ensure that proposed changes to documents incorporated into regulation by reference are communicated internationally and an opportunity is provided to those impacted to provide comment.

● (0855)

The Chair: Mr. Mussar, I'll have to ask you to wrap up, please.

Dr. Keith Mussar: In closing, while the food safety objectives of the bill are clear, there are provisions which, if not amended, will result in considerable loss of Canadian jobs and consumer choice. Our members are committed to consultation with officials to address these concerns.

On behalf of I.E.Canada and its member companies, I would like to thank you for the opportunity to be here today on a matter that is vitally important to all Canadians. I would be pleased to respond to any questions you may have.

The Chair: Thank you.

Mr. Laycraft.

Mr. Dennis Laycraft (Executive Vice-President, Canadian Cattlemen's Association): Good morning and thank you for the opportunity to appear today. I'm the executive vice-president of the Canadian Cattlemen's Association, CCA.

On behalf of our 83,000 members from coast to coast, we want to emphasize that we consider food safety an absolutely critical issue for us every day.

I'm also the industry co-chair of the beef value chain round table and the industry co-chair of the agriculture subcommittee on food safety, which was created at the request of the various value chain round tables that represent industry in agriculture.

With me is Ryder Lee, who works in our Ottawa offices, and whom many of you know.

One of the bedrock pieces of our industry success and our brand promise—and you have seen this logo in many locations throughout the country, on many menus, the Canada beef advantage licensed logo that only certain people who meet our requirements can use—is our food safety system in Canada. Canada's food safety system as it currently stands is world-class. The system compares favourably to those in other developed countries, including the United States and European Union countries. Recently, as it was examined, it was considered one of the superior systems in the world. We believe that suggesting otherwise, as has happened recently, sends an inaccurate signal to Canadians that somehow foreign, imported foods are safer than Canadian food.

The reality is that all food for sale in Canada must be in compliance with rigorous Canadian food standards regardless of where it is produced. It is this strong world-class system that enables us to export our beef to much of the world; in fact, over half of what we produce is regularly exported. This export activity further enhances the safety of our system as it includes ongoing third party examination of the Canadian Food Inspection Agency's processes and performance by a rotating list of importing countries. We probably are the most inspected country in the world.

We believe Bill S-11 is a positive step in the continuous improvement of Canada's food safety system. This legislative step complements the regulatory modernization process now going on at the CFIA. We support these dual steps as they are important to the competitiveness of beef farmers and ranchers, and to the modernization of meat inspection as we continue to move forward with new technology, improved testing procedures, and the statistical analysis that becomes part of a robust system.

As you heard on Tuesday, increasing uniformity of regulation, consistency of enforcement, and enabling stronger reaction to tampering and other issues that endanger our food are all positive steps this bill enables.

The ensuing regulations from this legislative change will be important. How meats and foods are traced through the system is important to primary producers as well, as we've learned in the past couple of months. We hope the contents of this bill and its ensuing regulations can enable improved response, remedies, and resumption of production where inadequacies are discovered in the future.

These are regrettable occurrences, but the reality is they do happen. How we respond usually has a longer lasting impact than the initial event itself and really has a great deal to do with how people view the credibility of our system.

This bill also amends the Health of Animals Act regarding the traceability of live animals. It's our understanding the live animal traceability is governed by the Health of Animals Act rather than this bill. The CCA has long been a supporter of national individual animal identification and actually brought forward the recommendation that created that system and has been working with governments as we look to implement the next steps of live animal traceability.

This bill fits into the bigger legislative and regulatory agenda. As part of the current agenda, we appreciate the government's commitment to a one-for-one regulatory regime where new regulations have to be offset by eliminating the same number of

existing regulations. We're also highly supportive of the Regulatory Cooperation Council's work with the United States. We urge lawmakers to do what they can to ensure this undertaking lives up to its potential. We really operate in an integrated market in our industry in North America.

As regulations are drafted with these commitments in mind, we'll work with the government to ensure Canada's competitiveness is improved along with improving food safety.

● (0900)

We had previously mentioned a small concern in the language that could leave the door open one day to increasing the registration or licensing burden on producers of livestock. We will continue to monitor that. We are visiting with those particular provisions in mind to ensure that this bill does not add an extra degree of regulation that would be unnecessary.

We look forward to the questions, and thank you for this opportunity to comment on this legislative process.

The Chair: Thank you very much.

Mr. Lacasse, welcome.

[*Translation*]

Mr. Christian Lacasse (Vice-President, Canadian Federation of Agriculture): Thank you, Mr. Chair.

Good morning, ladies and gentlemen, members of the committee.

I am Christian Lacasse and I am a farmer in the Bellechasse region in Quebec. I am the vice-president of the Canadian Federation of Agriculture.

First, I would like to congratulate you on your election, Mr. Chair. I wish you success in your new responsibilities.

To begin with, the Canadian Federation of Agriculture supports the bill in principle. For several years, food safety and traceability have been matters of great importance to farmers in Canada.

As well, you are undoubtedly aware that farmers have been involved in food safety programs, through their farm organizations, for the last 20 years or so, since the early 1990s. Their goal has been to improve their practices and their control measures, to ensure that farm commodities are of very high quality. I think this speaks well of the commitment farmers made to this objective some years ago now. These food safety programs are based on national standards, but they could be applied globally.

We have also worked with Agriculture Canada and the Food Inspection Agency since 1998 to ensure that the food safety programs used by farmers on the farm and at other stages in the process meet global requirements, both in administrative terms and in relation to the various controls. It is important to note that together, these food safety programs cover 99% of primary agricultural production. This means that all production is now covered by these food safety programs.

In addition, these programs attest to the high degree of sensitivity to food safety that farmers have developed. As producers, our objective is to be able to meet consumer demand, whether here or abroad, by supplying very high-quality products. Over the years, Canada has distinguished itself well in that regard.

We do still have some concerns about the bill, however. I will list a few of them.

First, it seems that producers will require a licence to export, that is, to send their animals or commodities to other provinces. On the other hand, producers who do not need to send their commodities to another province, since there are processing establishments in their own province, do not need to obtain a licence.

● (0905)

We would note the same problem for the prevention and inspection mechanisms. Producers who have to send their animals to other provinces must undergo additional inspections. We would seriously question this. We hope that regardless of the province they are in, farmers will be treated equally. We hope they do not have to obtain additional licences or undergo further inspections just because there are no processing establishments in their province.

Our second concern relates to traceability. You know that farmers, with other partners, have been in the vanguard when it comes to implementing traceability systems. We are not questioning this objective or these approaches. I think traceability is a very important factor in ensuring that we are on top of the situation and have good control mechanisms. The bill provides new powers relating to traceability, but they are not clear. The bill is lacking in precision. We would like to have more information and clarification.

The traceability systems put in place create an administrative burden for producers. I reiterate that we are not opposed to traceability, but it has to be arranged so that these systems do not make too many additional demands on farmers.

Last but not least, there is the question of access to certain confidential information. The bill says that inspectors could have access to computers on farms. I would remind you that these computers contain a lot of confidential information that is not related to food safety. We hope that access to information by way of the computers on farms will be limited and will always be justified. This is also a business issue for farmers, since their farms are businesses operating in competition. We would therefore like assurances that this information will remain confidential.

In summary, the Canadian Federation of Agriculture supports the objective of greater harmonization of the various inspection platforms. We support the objective of greater consistency in the performance of inspection activities. We support the inclusion of new offences for tampering with a food commodity, threats to render

a food commodity injurious to health, and so on. I think these are among the deterrent elements that are needed in the act.

We are particularly pleased to see the provisions that will establish a level playing field with foreign competitors. We have been raising the question of reciprocity in standards for many years. We hope the passage of this bill will bring about new tools to control imports that do not meet Canada's requirements.

● (0910)

As a final point, I would say again that we support the objectives of this bill. However, this bill is going to lead to reform of the regulations, and we do not, at present, know what the various elements of the reform will be. The regulations are what will enable us to determine whether the bill, or the reform, is satisfactory, whether it enables us to achieve our goals, and whether it is responsive to the concerns we have raised. We do not know what that reform will consist of, but we hope to know that as quickly as possible and to be brought into the process, so that the broad objectives of the reform will make it genuinely possible for us to achieve our objectives, and for Canadian food commodities to continue to be in the vanguard when it comes to food safety.

Thank you.

[English]

The Chair: Thank you, Mr. Lacasse.

Mr. Atamanenko.

Mr. Alex Atamanenko (British Columbia Southern Interior, NDP): Thank you very much to all of you for being here.

This is a very important part of the process. We have a bill to improve food safety in this country and I'm sure all of us here want to strengthen it even more. Your input is very valuable.

[Translation]

Before moving on to other questions, I would like to ask you something, Mr. Lacasse.

If I understand correctly, you want your federation and other federations to be involved at the point when drafting of the regulations begins. Is that correct?

● (0915)

Mr. Christian Lacasse: Exactly. As I said earlier, we agree on the broad aims of the bill, but it raises a lot of concerns and it calls for considerable clarification. Those answers will come with the regulations, undoubtedly, but it is essential that our organizations be brought into the process.

Mr. Alex Atamanenko: Thank you.

[English]

Mr. Mussar, I'd like to turn my questions to you, if I may.

I think nobody around this table would like to see jobs lost in Canada. How do we ensure we have food safety and at the same time we don't keep jobs at the expense of safety? We have to somehow reach that goal so that Canadians are protected.

You mentioned clause 12 of the bill, which would preclude manufacture in Canada because certain ingredients are not permitted in Canada and therefore these companies would move their operations elsewhere. I'd like you to expand on that a little bit, please.

Dr. Keith Mussar: Thank you very much for your question.

In Canada, Canadian companies produce product for export sale only. Because the requirements in Canada are different from what they are in certain other countries, we are allowed to use ingredients that are not permitted in Canada for the manufacture of those products, provided those products are for export sale only.

The concern that's been raised by our members is that if the products they export out of Canada are required to meet the Canadian regulations as well as the regulations in the foreign jurisdiction, they will not be allowed access to those ingredients that they need to manufacture the products that are permitted in a foreign country.

Mr. Alex Atamanenko: So basically we could have two streams.

Dr. Keith Mussar: Right.

Mr. Alex Atamanenko: If I understand this correctly, you mentioned clause 10. Because it hits our exports, and you mentioned flour, as the bill proposes, all flour would have to be fortified and yet in the European Union, this is not acceptable. Could you expand on that, please?

Dr. Keith Mussar: It's very much the same kind of thing, only it's the reverse. In this case we are required to include ingredients in our products under regulation that are not permitted in a foreign country. Because of that, our products will not be acceptable in a foreign country if they have to meet our requirements. Currently, a company can manufacture a product for export sale that contains flour that's not fortified, and as a result, it is perfectly permitted in a foreign country.

Mr. Alex Atamanenko: It doesn't present a problem on the ground. There's no contamination. It's workable. Is it at a flour mill, for example?

Dr. Keith Mussar: It's a legislative conundrum. It's an unintended consequence of how the legislation is written. If we did not have the export provision in the bill, the risk that I talked about regarding the loss of Canadian jobs, aside from the specific example that has to do with spices, would not exist.

Mr. Alex Atamanenko: Thank you.

The Chair: Thank you.

Mr. Alex Atamanenko: That's it? I was just getting going.

The Chair: That's it.

Mr. Hoback.

Mr. Randy Hoback (Prince Albert, CPC): Thank you, Chair.

Welcome here this morning to everybody. It's nice to see you all at the table.

I think we all agree that if there is one thing that's important to Canadians, it's to have safe food. That has to be a priority and job one here as we go through Bill S-11.

Mr. Mussar, of course a priority of this government is jobs and trade. You can't give up safety for jobs but in the same breath you've got to try to accommodate what makes sense when it makes sense.

You used the example of spices for Mr. Atamanenko, I believe, where you're bringing in ingredients from another country that you're going to export back to another country. I think that the regulations, when they come forward, will address those concerns. Do you not think that? Do you think it actually has to be in the legislation itself?

Dr. Keith Mussar: We've had discussions with CFIA and we've had discussions about how that might happen. Again, as my colleague has raised, until we see those regulations we do not know whether or not the regulations will adequately address the concerns that we have.

Also, one of the challenges we face with the regulatory process in our country is that once we have a regulation in place, it is very hard to change a regulation that does not meet the requirements of Canadians or industry. For instance, we need to have a sponsor for the regulation within the bureaucracy, and on average it takes two years to execute a regulatory amendment. We're better off if we can get the act written correctly to avoid having to patch it.

● (0920)

Mr. Randy Hoback: I wouldn't disagree with you, but in the same breath, the act has an umbrella and the regulations serve a purpose, and to change an act is even harder than to change regulations. I think we have to make sure that we clarify what should be in the act and what should be in the regulations, but that's a different debate from what I want to get into today.

In the Senate committee you talked about the example of the prohibition of imports that are going to be, and I'm not sure if manufactured is the right word. Maybe you could give me an example to help everybody understand. This is when an ingredient is brought in and it goes through the process, and when it first comes to Canada it doesn't meet the regulations but once it goes through the process in Canada, it meets the regulation.

Can you give me an example of a food product or a spice in that situation?

Dr. Keith Mussar: Currently, many spices that are imported into Canada are not safe for human consumption either because of a high microbial load or because they may contain sticks and stones and other natural substances that have to be removed.

What Canadian processors do in Canada is they treat them so they're microbially safe and they process them to remove the sticks and stones. Then they're packaged for either sale directly to consumers or for further processing with other Canadian manufactured and exported goods.

If these products are prohibited from being imported into Canada, which is what the act currently says, access to those raw spices, which currently support those jobs in Canada, will be lost.

Mr. Randy Hoback: Okay, so you'd need an exemption for those types of situations. Again, the regulations would probably come into play there.

Dr. Keith Mussar: Spices are just one example. The challenge is going to be going through and identifying all of those specific exemptions and finding a way to incorporate them adequately in the regulation.

Mr. Randy Hoback: Okay.

One thing this bill is doing is bringing the different departments together. Instead of having three different types of food inspection, there is one. How do you see that's going to impact the importers and exporters? I would assume that's going to be viewed fairly favourably.

Dr. Keith Mussar: I think there's an opportunity for this bill to do a lot of very good things for the import community.

First, one of the areas that we've had challenges with is the compartmentalization of the inspectorate. For instance, if a truck comes to a border crossing in Canada from the United States and there is a meat inspector there, that meat inspector cannot open that truck to inspect it if it has fresh fruits and vegetables or other commodities.

One of the things this bill will do is make general food inspectors, which will then allow that individual to inspect a broad variety of product commodities. That's going to enhance the movement of goods across the Canadian border. It's going to prevent delays of trucks getting to their final destination. There are a lot of good opportunities.

Mr. Randy Hoback: Okay.

I'll leave it there, Chair.

The Chair: Thank you.

Mr. Valeriote.

Mr. Frank Valeriote (Guelph, Lib.): My questions are for Mr. Mussar and Mr. Lacasse. You've each expressed concern about unintended consequences. I wrote that down.

Mr. Mussar, you talked in your last answer with respect to the possible incidents of shutting down the export industry when you spoke of flour being fortified in Canada but it is not allowed in Europe.

Mr. Lacasse, you discussed issues relating to traceability, I think it was, and the requirement that there would be certain licensing if your produce remained within the province as opposed to being exported out of the province for sale or processing.

This is an important question because we're not making rules for a children's board game here. This is legislation that's going to be around for a long time and, as everybody knows, it's going to take a long time to amend. Are you concerned that the legislation itself needs amendment and needs deeper thought and review in consultation with the stakeholders? Or are you satisfied that these concerns you have can be addressed through regulation, and before those regulations are made you want more consultation? If it's the legislation, then we've got to deal with it here, and not wait.

Mr. Mussar, if you would answer that first, and then Mr. Lacasse.

• (0925)

Dr. Keith Mussar: Thank you very much for your question.

Our clear preference is to amend the legislation rather than allow the regulations to address the concern. Not having seen the regulations, we don't know whether we can adequately address it through regulation.

Again, one of the biggest challenges is going to be how we carve out the set of exemptions when we're looking at a broad cross-section, potentially, of Canadian food products that are exported to foreign countries. We have a habit of having positive lists in our country, which runs the risk of having somebody or a product always left off the list. If that happens, then what do we do?

Mr. Frank Valeriote: Go ahead, Mr. Lacasse.

[Translation]

Mr. Christian Lacasse: We think the way the issue of traceability has been incorporated into the bill is rather vague. It talks about new powers that could result in new traceability requirements. The definition is going to be included in the regulations; we understand that principle. However, if the regulations are written without us being consulted or brought into the process and there are negative elements that we do not find acceptable, it could be too late to react.

We hope, at least, to know what the objective is in the case of the new powers included in the bill. We do not have that information and we want clarification in that regard, so there are no unpleasant surprises when the new regulations are ready.

[English]

Mr. Frank Valeriote: One of the risks we have is that we hear from the minister first; we hear from the CFIA first; then we hear from those who it really impacts later. We're not given the opportunity to ask the minister and the CFIA to clarify the issues that you bring before us. That is regrettable, particularly when we have limited our time in reviewing the bill.

Mr. Chair, I think if you seek it, I'm hoping you'll find consent that we add a couple of days at least to this review of the bill. We all agree with the value of the bill and the need for reform, but I'm concerned that a number of amendments and suggested amendments have come forward.

We only have until tomorrow to prepare, submit for translation, and get the amendments to you, and we're hearing witnesses on the eve of the day that those amendments have to be submitted, which is logistically impossible. Because this is important legislation, we're all trying to be participatory in this and make it good. I don't think we can assume that the comments these witnesses have made are irrelevant. They are quite relevant. If we're going to give them the weight they deserve, I think we should give ourselves a few extra days, bring those from the minister's office before the committee and ask them for that clarification. By necessity we'd need an extension for the date in which to submit amendments as well, Mr. Chair.

The Chair: Your time has expired. I will say it's not the chair that makes that decision; it's the committee. If you are prepared to make a motion—

Mr. Frank Valeriote: I am prepared to so move.

The Chair: I have set aside time at the end of this meeting for that discussion. If you want to deal with it now, we can.

Mr. Frank Valeriote: I have said what is necessary for the purpose of the motion. I would move it.

We want to get it right. For the sake of an extra week, I think there is value in our bringing people from the minister's office before us so that we can ask them direct questions about traceability, about confidentiality of information that Mr. Lacasse has referenced, and about the impact on exporters that needs to be clarified, so we can determine whether or not, in fact, these issues can be dealt with by regulation or whether it needs to be dealt with in the bill. Yes, I would move, then, that we add at least two days onto these hearings for the purpose of clarification and satisfying all of the stakeholders that we're going in the right direction.

● (0930)

The Chair: There has been a motion put forward—it's on the floor and it is open for debate—that the committee extend the discussion of Bill S-11 by two meeting days.

Mr. Hoback.

Mr. Randy Hoback: I think we should get through the witnesses first. Perhaps you could set aside a block of time at the end to deal with this. I think that would be more appropriate, if you would agree with that, Mr. Valeriote.

Mr. Frank Valeriote: I'm happy to do that.

Mr. Randy Hoback: I just don't want to use—

Mr. Frank Valeriote: No, that's quite fair.

The Chair: Thank you. I have actually booked some time at the end of this meeting to deal with some committee business. We'll defer it until then.

Mr. Payne.

Mr. LaVar Payne (Medicine Hat, CPC): Thank you, Chair.

Thank you to the witnesses for coming today. It's important that we hear your issues and concerns in regard to Bill S-11. I believe most of you have already said this is potentially a really good bill to ensure food safety. I think Canadians across the country are certainly in agreement with that.

That has been very much highlighted as a result of XL Foods in Brooks, which is in my riding. I am happy to also say that they are up and running again. I think they processed about 1,200 to 1,500 head of cattle over the last few days. That's very positive not only for the community, for the employees, and for the company, but also for Canadians across the country. I believe CFIA has done its job to make sure that the facility is up and running and that they meet all the requirements set out.

I thought I would make that comment up front.

Mr. Hoback, Mr. Valeriote and a number of you have talked about the regulations. It's certainly much more difficult to change the bill. The regulations are probably the right place to address all of these issues and concerns you have. I understand there will be an opportunity for consultation on those regulations. I think that's an important point to note, that there will be an opportunity. I suspect you will be able to get that information into the appropriate officials at Agriculture and Agri-Food Canada or CFIA to ensure that in fact happens and help allay any of those concerns you may have.

There are a couple of concerns. Mr. Laycraft and Mr. Lacasse talked about licensing for producers. I don't think that is anything in terms of the bill itself. That is contained under the Health of Animals Act. I don't think there's a concern there. If you want to make any other comments on that, please feel free.

Mr. Dennis Laycraft: Thank you.

I would like to make a comment about the consultation on regulations. From the beef sector, I can say that every time we have a beef value chain round table, we are fully updated on the progress of the modernization work that's being done and we've been invited directly to participate actively in those regulatory changes. From our sector's point of view, we've been closely consulted on those changes, so I feel pretty confident in saying there is a fairly strong process of consultation on the development of the regulations as they impact the beef cattle sector.

We're hearing discussion between lawyers as to what it really means in the act. We're not sure how to respond to all of that, but our concern is that it appears that if you're moving animals from one province to another, and there are people who routinely do that as part of their ordinary business, we don't want to see a time when they would have to be licensed in order to do what they've normally done. If we can be shown that the bill will not lead to that, we'll be happy. If not, in our opinion it would be fairly easy to create an exemption so that a licence is not required to move animals from one location to another, which now takes place in the ordinary course of business for a farmer or rancher.

● (0935)

Mr. LaVar Payne: You're talking live animals, not slaughtered.

Mr. Dennis Laycraft: Live animals.

There's quite a bit of concentration in the processing industry in this country. You cannot move an animal without some traceability requirements, and a lot of that's provincial in nature. We're working on things that go beyond what's looked at. We're looking at national livestock manifests, different things that can be done efficiently. There are ways for us to develop tools that will enhance our system without creating more red tape and cost to the taxpayers of this country.

The Chair: Thank you.

Your time is up, I'm sorry.

Ms. Raynault.

[*Translation*]

Ms. Francine Raynault (Joliette, NDP): Thank you, Mr. Chair.

Mr. Lacasse, in the document you gave us, it says that collaboration between farmers and the federal government has led to a number of important developments. One paragraph refers to "post-farm programs".

What are they, exactly?

Mr. Christian Lacasse: When farmers adopt a food safety program, they have to buy the inputs. Buying inputs is one thing that falls under the definition of "post-farm". Ultimately, the commodities that farmers sell are a result of agricultural production for which they purchased certain inputs.

Food safety programs ensure that the products that farmers buy to use in agricultural production meet food safety objectives. That ensures that the end product is of very high quality.

That is one of several examples. You have the inputs suppliers. It is the same thing at the distribution stage. When a farmer's fruits and vegetables leave the farm, they will be subject to the same process in order to get into the supply chain.

The aim is to have farm-to-table food safety systems, or traceability systems, that allow the commodity to be followed at all stages and that provide assurance that the product is of very high quality when it reaches the home.

Ms. Francine Raynault: Thank you.

A moment ago, you spoke a little about registration and licensing. It seems that farmers do not really understand this very well.

How do you want this problem to be solved?

Mr. Christian Lacasse: You say that farmers do not seem to understand the system very well, but I am not sure that is the case. We are questioning the idea that, in order to ship their commodities to another province, farmers have to obtain additional licences, meet further requirements or undergo another inspection process.

If we have a good traceability and identification system, we will be in a position to know at all times what route the commodities follow. That being the case, then even if the commodities go from one province to another, there is no need to add more inspection standards or licences. We wonder what purpose that is going to serve, what need it is going to fill, given that a good traceability system means that all movements of food commodities are known, regardless of where they are moved about in Canada. In that sense, it is not necessary to establish additional standards or inspections.

• (0940)

Ms. Francine Raynault: Thank you.

Mr. Laycraft, Bill S-11 says that inspectors are acquiring new powers. They are losing the power to arrest and administer oaths, which the present Fish Inspection Act allows them to do.

Do you think the new powers will make inspectors more efficient, and ensure that requirements for food safety are met by industry stakeholders?

[English]

Mr. Dennis Laycraft: I assume you're referring to players in the field, to farmers and ranchers. In this country a lot of the provisions that are more relevant to them are governed under the Health of Animals Act. We've been assured on a number of occasions that this bill largely deals with the matter of animals after they're processed and the impact of the traceability in the system from the point of processing forward, which interestingly is where over 94% of food safety risk actually occurs. If you're going to focus your attention, that is the right place to focus it.

We believe this comes under a number of other bills that are probably the appropriate places to deal with these issues. Let's not forget there's provincial legislation, and in some cases that's on top of federal legislation and overrides within the province. This is largely addressed, in terms of live animal movement, and I think would be the main issue. We work directly with the provinces and through the industry on a whole range of initiatives that we think in the longer term are the right solution, everything from our verified beef production systems to how we are able to look at various training programs for the industry. One thing everyone is gratified with is that virtually every industry in Canada—and I know the meat, cattle, and hog industry—treats food safety as what we refer to as a non-competitive issue. We need to share information freely and we need to share technology freely.

As we take a look at enhancements, and I mentioned a new national manifest, we're trying to get the federal government to modernize its system so we can start to use electronic certification. We've had those discussions for over seven years now, and we're still hearing 2016 as the date that will be completed. If you concentrate on the right areas and get those fixed, I don't think it's a lack of regulation that we're going to find will add other enhancements to our system. It's how we can embrace technology and how we can work together with systems that will improve the overall advocacy of food safety in this country.

The Chair: Thank you. That concludes the first portion of today's meeting. I thank our guests for being here. It has been very informative.

We'll take a recess and invite our other guests to come to the table. We'll suspend and proceed in about three or four minutes.

• (0940)

_____ (Pause) _____

• (0950)

The Chair: Thank you, and welcome back to the second part of our study today on Bill S-11.

Joining us from the Centre for Science in the Public Interest is Mr. Bill Jeffery, national coordinator. We have from the Consumers' Association of Canada, Mr. Mel Fruitman, vice-president, and as an individual, Mr. Keith Warriner, from the University of Guelph. Welcome.

I'm not sure if everybody has presented before a committee, but we open the floor to you to make a brief presentation, and then we'll move directly to questions from the members. I will advise the members that we have blocked off a few minutes at the end of the meeting. When we have about 15 minutes left in the meeting, I'll interrupt the proceedings, and we'll do some of our committee business.

With that, Mr. Jeffery, you have the floor.

Mr. Bill Jeffery (National Coordinator, Centre for Science in the Public Interest): Thank you, Mr. Chair.

The Centre for Science in the Public Interest is a non-profit health advocacy organization specializing in nutrition and food safety. We don't accept funding from industry or government, and we are supported by 100,000 subscribers to our newsletter, a nutrition action health letter. We have on average about one subscribing household within a one-block radius of every Canadian street corner.

Although the express focus of this meeting is on the food safety implications of Bill S-11, I would like to draw the committee's attention to the fact that, according to World Health Organization estimates, approximately 48,000 Canadians die every year as a result of nutrition-related illnesses, such as too much sodium and trans fat, and not enough fruits and vegetables. We believe that there are some implications in Bill S-11 for that.

Bill S-11 could improve the Canadian Food Inspection Agency's ability to protect public health and safeguard consumers against fraud and help public confidence, but it could do better if a number of concerns were addressed.

Number one, the impact of raising fine maxima may be minor in light of the history of very low fine levels in relation to the current fine maxima. While there are significant exemptions to the proposed higher fine caps, that's the increase from \$250,000 to \$5 million, in 2011 as an example, the average fine was approximately 5% of fine maxima for indictable offences; nearly two-thirds of fines were for 1% or less of the fine maxima; no fine exceeded 20% of the fine maxima; and the total quantum of fines for all prosecutions under about a half a dozen acts that the Canadian Food Inspection Agency administers was slightly more than \$400,000, which works out to a little over \$100 per year per inspector. As such, we wonder whether the government's desire to raise fine maxima is matched by the Canadian Food Inspection Agency's and the minister's willingness to impose higher fines and to do so more often.

Number two, Parliament needs to raise corresponding fine limits in the Food and Drugs Act to the levels that are specified in the safe foods for Canadians act. If the government's aim is to raise the fine limits to \$5 million, and in some cases at the discretion of the board of arbitration, it should also do so for limits currently in place in the Food and Drugs Act, which will continue under the authority of the courts rather than the board of arbitration.

Number three, the Canadian Food Inspection Agency currently devalues nutrition information on food labels as a quality or a minor consumer preference issue, not as a health and safety issue. According to the fines information published by the Canadian Food Inspection Agency, the website for the period January 2010 to September 2012 shows that not a single fine was levied for inaccurate nutrition information on food labels, despite the fact that at least two of the agency's own product sampling surveys demonstrated significant, widespread inaccuracies in nutrition information provided on prepackaged foods and restaurant websites. We welcome amendments to Bill S-11 to stipulate that nutrition-related offences are as serious as acute food safety ones, without trivializing the importance of addressing mass frauds concerning food quality factors.

Number four, evaluating the impact of food safety measures on public health requires better and more transparent surveillance of

outbreaks of food-borne illnesses and the deaths and significant illnesses caused by those outbreaks.

Number five, the bill proposes a due diligence defence, which could significantly insulate companies from prosecution. We urge the committee to consider whether the proposal to permit a due diligence defence in subclause 39(2) would significantly weaken existing protections, whether it would diminish Canadians' confidence in our food supply, and whether it would meet the European Union's confidence in our exports. Apparently, the United Kingdom recently rejected a proposal to so amend its food safety legislation for this reason.

● (0955)

Number six, private prosecutors need stronger measures to discourage risky behaviour by food companies. If the federal government aims to rely on private parties, such as class-action law firms, to enforce consumer protection laws, as it did in the case of the Maple Leaf listeriosis outbreak, which killed as many as 23 Canadians, yet led to no fines, the Food and Drugs Act and other legislation should at least be modified to give courts ample authority to impose punitive damages, triple damage awards, profit disgorgement, or other extraordinary measures to better discourage dangerous, fraudulent, and reckless corporate behaviour.

Number seven, a public interest intervenor mechanism is needed at the board of arbitration and tribunal to balance the interests of companies, on one hand, and advocates for public health and consumers, on the other. Such a mechanism has long been in place to create a modicum of balance in proceedings of the Canadian Radio-television Telecommunications Commission, the CRTC. Also, the proposed power in clause 105 of the bill, for companies to challenge CFIA recall orders, may be dangerous in circumstances when swift action is vital.

Number eight, the proposal to incorporate by reference standards may permit conflicts of interest to influence policy-making and could abdicate government oversight entirely, even in two organizations with commercial conflicts of interest.

I'll leave it there, Mr. Chair. I'd be happy to take questions afterwards, of course.

The Chair: Thank you, I appreciate that.

Mr. Fruitman, welcome.

Mr. Mel Fruitman (Vice-President, Consumers' Association of Canada): Thank you, Mr. Chair.

The Consumers' Association of Canada, CAC, is pleased to appear before you today.

For 65 years, the CAC has represented the interests of ordinary Canadians in their role as consumers of goods and services as provided by both the public and private sectors. Our mandate is to inform and educate consumers on marketplace issues, advocate for consumers with government and industry, and work to solve marketplace problems in beneficial ways.

Bill S-11 has the potential to provide significant improvements in the matter of food safety, paralleling the mechanisms introduced last year in the Canada Consumer Product Safety Act covering non-food items.

We are pleased to note the intent to make efforts to ensure the safety of all food products sold in Canada no matter what the source and that the bill will strengthen enforcement powers on imports and deliver stiff fines to anyone who purposely endangers the safety of our food. We have always been puzzled and concerned that there was a possibility imported foodstuffs would not necessarily receive the same scrutiny as domestic products. Even though deliberate food tampering is rare, the new prohibitions and strong penalties should dissuade most mischief-makers and make it easier to prosecute miscreants. Hopefully, it might even deter those sick individuals who do things such as putting razor blades in apples that they were handing out last night on Halloween.

The increased traceability requirements should make it easier to determine where foodstuffs came from and where they are at any time in the distribution system. This will enhance the capability to enforce the provisions prohibiting the sale of food that is the subject of a recall order under subsection 19(1) of the Canadian Food Inspection Agency Act. Unfortunately there does not appear to be clarification of what is meant by a recall order, beyond the fact that the product may be recalled or sent to a place designated by the minister. Consumers interpret the term "recall" to mean if they have in their possession the offending product, they are supposed to return it, presumably to where it was purchased. Consumers also expect that they should not have to suffer financially as a result of having purchased a food commodity that is subsequently recalled. It is unacceptable that consumers should be expected to throw it out, as has been suggested by a CFIA official.

Even though we support this bill, we hope that you are not lulled into believing that it will alleviate the deficiencies in our food health protection system. Note that our supportive comments use the conditional tense. There is much more that could or should be done, both preventively and operationally.

There are now available several vaccines designed to reduce *E. coli* in cattle. A recent study by Kansas State University concluded that they can reduce *E. coli* levels by 50%. At least one of these vaccines has been approved for use in Canada, the United States, and the U.K. While it is still unclear what the actual cost would be, there have been estimates that it would cost \$50 million to inoculate all Canadian cattle.

An additional harm-reducing procedure is irradiation, which was recommended by Health Canada 10 years ago for use on ground beef along with other items. Health Canada concluded that food irradiation could improve food safety and quality by reducing levels of pathogens such as *E. coli* and salmonella, extending shelf life and reducing insect infestation. A survey conducted for our association earlier this year, before the XL Foods problems, revealed that 70% of Canadians are concerned with potential bacteria in meat products and that three in five unfortunately had not heard of food irradiation. However, when told about its current uses, two-thirds would support its use as a choice for consumers when purchasing these items.

We recommend that vaccination and irradiation be given serious consideration as part of a package designed to deliver to Canadians the safest possible meat products. Bill S-11 will provide new tools. However, tools are only effective if they are used and if they are used properly. The CFIA has adopted a risk-based approach to achieving consumer safety. This can be an efficacious and cost-effective approach. In a risk-based system, procedures are developed to give the desired result. In the early stages of development, each of the steps has to be closely monitored to ensure that it is having the desired result. If it is not appropriate, changes are made. As the process matures, constant monitoring is not required and the emphasis shifts to maintaining documents showing adherence to procedures, spot testing, and auditing for verification. In addition, statistically valid sampling at the end of the process is essential as an overall check that the desired results are being consistently attained. Theoretically, if the testing and auditing procedures are followed, there should not be any problems.

● (1000)

However, if the statistical sampling reveals that contaminated products are coming off the end of the line, there should be no hesitancy in stopping shipment to consumers. Then, as quickly as possible, it should be determined what potentially contaminated products have already been shipped and should be subject to a mandatory recall. Finally, it has to be determined what failed and how to correct it.

Unfortunately this is not what happened with the XL Foods fiasco. Shipment stoppage and recall orders, which for some reason or other were voluntary, not mandatory, were not timely. The delays in gathering information also suggest that the necessary monitoring procedures were not being conducted. There's also the appearance that the proprietors of XL Foods were given time to mount a public relations response, at which their failure is a textbook example of what not to do.

Finally, and maybe most importantly, we feel that many of the shortcomings were because there is a cultural identity problem within CFIA. Are they guardians or promoters? The preamble to the CFIA Act refers to “contribute to consumer protection and facilitate a more uniform and consistent approach to safety and quality standards and risk-based inspection systems” and that the “Government of Canada wishes to promote trade and commerce”.

The agency reports through the Minister of Agriculture, who is responsible for all matters relating to agriculture. This includes supporting agricultural productivity and trade, stabilizing farm incomes, and being responsible for the inspection and regulation of animals and plant life forms.

As we have seen from the XL Foods fiasco, CFIA has failed on both fronts. It allowed potentially harmful meat to reach the marketplace, and this resulted in the suspension of beef exports to the United States. It is our belief that the dual responsibilities that led to cultural schizophrenia inhibit CFIA's capability to proficiently do its prime job which is to protect the Canadian consumer from harmful food products. Unfortunately, concerns about how certain domestic actions and publicity may be viewed by our trading partners have an effect on the timing, details, and efficacy of response.

• (1005)

The Chair: I'll ask you to wrap up, please.

Mr. Mel Fruitman: At one time, there existed a federal consumer affairs department. We recommend that such a department be re-established and that the CFIA, with a clear “guardian” mandate, be brought into that department.

Thank you. I'll be pleased to answer any questions.

The Chair: Thank you.

Mr. Warriner, go ahead, please. Welcome.

Dr. Keith Warriner (University of Guelph, As an Individual): Thank you, Mr. Chair.

I wish to express my thanks to honourable members for the invitation to testify with respect to Bill S-11, the safe food for Canadians act

In the way of background, I'm a faculty member at the department of food science, University of Guelph. I also hold the position of program director for the food safety and quality assurance program offered through the department, which aims to train the next generation of managers, HACCP coordinators and inspectors, among others.

In general, I'm supportive of the bill as it makes a decisive decision to follow an outcome-based approach. That makes inspection much more efficient and increases the accountability of processes to produce safe food.

The underlying philosophy of the bill is that you cannot inspect your way to safety. This is underlined by the fact that Canada has a two-tier food safety system, one provincial and the other federal. If anything, history has told us that food safety incidents can occur from the smallest to the largest processor if procedures are not followed, irrespective of the level of inspection.

Bill S-11 will bring Canada in line with its trading partners and provide for a more efficient, dynamic inspection service.

The legislation on tampering, clauses 7 to 9, is timely, given the trend of deliberate adulteration of foods. The new legislation outlined in clauses 10 to 13 is an important part of the new act, given food safety issues linked to imports and the increased concern of counterfeiting foods.

There are, however, some concerns that I would consider when implementing the new act.

Clause 73 represents the main thrust of the bill by combining the commodity-based acts into one. At the same time, clauses 39 to 45 increase the authority of inspectors to work with greater independence.

With power comes responsibility, obviously, and there is concern that inspectors will have insufficient knowledge and/or experience to undertake this task. One has to question if inspectors could inspect muffins one day and fish the next. They are very different products with very different hazards associated with them. Can we expect inspectors to be jacks of all trades?

If we now overlay the increased authority of inspectors, then the chances of incorrect calls being made are highly likely. In one scenario, the inspector could always follow the side of caution and overreact, resulting in disruption to the company that could very well send ripples throughout the sector. Yet, this has to be balanced with consumer safety.

It's interesting to note in subclause 32(1) that the inspectors need reasonable doubt for assessing the safety of imported goods, but this does not extend to domestically produced products.

The freedom to disseminate producer information under clauses 46 and 47 is also potentially damaging beyond the processor under scrutiny. Therefore, it's paramount that the next generation of inspectors will require a broad background and strong decision-making skills. In the meantime, it would be prudent to include in the bill a sort of consultation among inspectors before exercising their power.

I now turn to accountability. Clause 59 provides protection of liability of inspectors and government. Subclause 39(5) provides protection from prosecution of whistleblowers, who could potentially be the very ones causing non-compliance.

In a bid to increase the food safety culture, it is important that everyone is accountable and there are consequences for knowingly causing non-compliance. If this means placing fines on workers, then this should be considered. I doubt a \$5-million fine to companies will play on the minds of these workers, the very people who perform a task.

In terms of liability, I would also like to clarify under subclause 105(4), if the implementation of a HACCP plan can be used as a due diligence defence. As we heard earlier, this could counter any sort of prosecution.

My final point relates to the effectiveness of HACCP to control hazards. It would be prudent to include the term “validated and verified HACCP plan” under clause 51. It's not only a case of applying HACCP, but it needs to be sure that it's effective.

In summary, the bill is indeed a major change in the philosophy of how food is inspected, with an increase in self-regulation by the industry. It is my opinion that this is the only effective way to ensure food safety. However, the success of the act will depend on both the industry and the inspection service fostering a food safety culture. This, in turn, will depend on having a carrot to go along with the stick that the bill offers.

Thank you for listening, and I will be very happy to invite questions.

•(1010)

The Chair: Thank you very much.

Ms. Brosseau.

Ms. Ruth Ellen Brosseau (Berthier—Maskinongé, NDP): I'd like to thank all the witnesses today.

I don't think we will have any witnesses come to our committee and say they are against a food safety bill. In principle, we're all on the same page. We need to modernize and move forward, but from the testimony we've heard today, the devil is in the details. It's how we move forward, how consultation happens afterwards with the regulations.

I think we're moving forward, but I still am worried about certain aspects of the bill.

Mr. Warriner, you mentioned inspectors being jacks of all trades. That's something that kind of worries me, too. If you're a specialist in something, for example, meat, how do you move to fish or produce? We did have cuts to the CFIA, and I'm worried. Will these people be bombarded? Will our inspectors be overwhelmed with more responsibility? Will they be able to adequately do their jobs when they're inspecting multiple things?

Dr. Keith Warriner: It's a very good point.

The reality is that to become an inspector doesn't take only qualifications; it takes experience. To be an experienced inspector in one commodity is challenging. One of the big concerns about the act is that, while it's nice to put acts together into nice, simplified form, there's a reason we have different acts and different inspectors.

The way I can only see it happening is that the food industry itself will be ultimately responsible for ensuring food safety and the inspectors will be going in there to verify paperwork. They'll certainly take them off the front line, because they won't be qualified to actually assess anything, and that's a big concern. Essentially, we are handing food safety to the industry. We just have to hope they're capable of handling it.

To suggest somebody who inspects fish can equally be relied upon to inspect fresh produce, I think, is very optimistic.

Ms. Ruth Ellen Brosseau: I've worked in restaurants. I have been a manager of a restaurant, and I know how important it is to create a safe culture. It's everybody working together. Whether you're a busboy, a server, a sous-chef, or a person who cleans, there has to be

a culture and a good environment to nurture food safety. Everybody has to be on the same page. It's a team environment.

I was just wondering—I guess I could ask this to all witnesses—what you thought of an audit of the CFIA? Would you think it's something we should do to create a baseline to find out where we are now and how to move forward?

Dr. Keith Warriner: I'll start since the microphone is on.

The trouble with a baseline is that you've got to remember we're changing the standards, so any baseline we have now would be totally irrelevant. What we have to look for is what the new standard will be. That's my point.

Mr. Mel Fruitman: It's not a bad idea. I'm not too sure about the baseline. As I suggested, we think there are problems with the way the CFIA is operating against its methodology. Perhaps an audit would help show that and show where it needs to make improvements, the type of audit the Auditor General does, which looks at what it's doing, how it's doing it, and if that is having the desired results.

Mr. Bill Jeffery: Certainly there's a benefit to having an external party evaluate what the Canadian Food Inspection Agency has done. Obviously the Auditor General has a strong authoritative voice. That has to be complemented by information. It's possible it's already been collected but certainly not reported.

We don't know how many people, according to the Canadian Food Inspection Agency, die from food-borne pathogens every year. They don't report the number of people who are dying from nutrition-related illnesses. We get that from World Health Organization multipliers. It's fine to say we've got the safest food supply in the world, but you have to demonstrate that with evidence. The Canadian Food Inspection Agency, maybe because it has a conflicted mandate, isn't reporting that kind of evidence.

•(1015)

Ms. Ruth Ellen Brosseau: Mr. Jeffery, how many Canadians did you say die every year?

Mr. Bill Jeffery: According to World Health Organization estimates, for countries like Canada about 20% of deaths are due to excess sodium intake or too much saturated and trans fat. It works out to about 48,000 Canadians. We've seen some published estimates. One of the witnesses who appeared at the Senate committee has published estimates of between 300 and 500 people dying from food-borne pathogens, but I haven't seen any Canadian Food Inspection Agency data on that.

Ms. Ruth Ellen Brosseau: Would Bill S-11 help in any way with salt intake? Would it help protect Canadians in that aspect?

Mr. Bill Jeffery: I don't think so. We're going to submit a technical brief to the committee with some specific recommendations for modifications. One specific thing we've noticed over the years to our surprise is the Canadian Food Inspection Agency re-characterizes nutrition as a food quality issue, and therefore they assign it lower priority. It seems strange that it's not a health and safety issue in the inspectors' perspective when it plainly is.

You can see that demonstrated. Even with the very low levels of fines and the infrequency of fines, virtually none of them is related to nutrition.

The Chair: Thank you.

Mr. Richards.

Mr. Blake Richards (Wild Rose, CPC): Thank you, Mr. Chair, and thank you all for being here. It's very clear that you're all very knowledgeable on the matter at hand, and we certainly appreciate your sharing your expertise with the committee today.

I hope I'll have enough time to ask some questions of each of you this morning. I'll start with you, Mr. Jeffery.

You submitted a written brief to the Senate committee on this bill, in which you wrote that you felt that this bill "could improve the CFIA's ability to protect public health, safeguard consumers against fraud, and enhance public confidence".

Could you elaborate on each of those three specific points and how you feel they would contribute to food safety in Canada?

Mr. Bill Jeffery: To be clear, sir, the submission I gave to the Senate committee was the same as the one I gave to this committee. It could achieve those three objectives if the nine or ten concerns that I laid out were addressed better.

The truth is because we don't have good data about the number of people who are dying from food-borne pathogens every year, we don't know how this—at some level it seems as if it's a good exercise to merge legislation. It sounds as if it makes things more efficient, but I am concerned about inspectors who are being forced to become jacks of all trades as an example.

I honestly don't know if it's going to lead to better outcomes, and I don't think anybody can know that if we're not monitoring the outcomes.

Mr. Blake Richards: Okay, I appreciate that.

Mr. Fruitman, I know you had a chance to testify before the Senate committee as well as here this morning. Can you give me some specific examples of how you think that will benefit consumers? I know you stated that you think the bill clearly will strengthen CFIA's ability to track, trace, and recall food.

Mr. Mel Fruitman: If they follow the procedures, and that's a big if, unfortunately, as far as I'm concerned. By having the capability of knowing the auditing procedures of what went on in the plant, and knowing what went where, where it came from, where it went in the plant, and where it's gone since it left the plant, if they do identify problems, I think that will offer the capability of a mandatory recall taking effect almost as soon as a problem is identified, if the product has left the plant.

Right now, it's a lengthy process to determine where, what, when, how, that sort of thing. The enhanced capability for prosecution in the bill, if they do prosecute, and the requirements for enhanced record keeping within the plant, should make the process work a lot better. It should make it easier to identify problems when they do occur, and find out how to correct them and what needs to be done to ensure that none of the product reaches the hands of Canadian consumers.

• (1020)

Mr. Blake Richards: You'd see that as something that would certainly enhance food safety and probably increase consumer confidence as well.

Mr. Mel Fruitman: Definitely. There's a big if in there though. It has to be done properly.

Mr. Blake Richards: Fair enough. Of course, as anything, you always want to make sure that it's done properly. I understand.

Specifically talking about the introduction of strong penalties for food tampering, I want to know what your thoughts are on how these might benefit consumers.

Mr. Mel Fruitman: Again, I'm not aware of any recent cases. Bill might be. I don't know where food tampering has actually taken place. However, if that does occur, the fines are heavy enough and could presumably be implemented, and jail sentences could be implemented much more quickly than through the civil process. That hopefully would deter anybody from doing anything to contaminate food. Again, we always think in terms of the Tylenol mess a number of years ago, when somebody deliberately put cyanide, I think it was, into boxes of Tylenol. Hopefully this would help dissuade any person from doing such a ridiculous thing.

The Chair: I have to stop you there. Time flies.

We'll go to Mr. Valeriotte.

Mr. Frank Valeriotte: Thank you, Mr. Chair. Thank you, gentlemen, for coming in this morning.

Mr. Jeffery, you've recommended certain amendments. I'm hopeful that later this morning the committee will consider an extension by at least a couple of meetings to consider the amendments you've proposed and that others before you have proposed, including the Retail Council of Canada and the Canadian Association of Importers and Exporters. I'm hopeful that will happen. Otherwise, it's virtually impossible to look at this bill and change it now. I don't want to sacrifice good legislation for speed, in this instance.

Mr. Warriner, I want to ask you a couple of questions.

You heard Mr. Fruitman speak of the dual responsibility that has led to schizophrenia. I concur with you. The minister has a very difficult position. He is responsible for making sure that trade continues and that food is safe. There's a conflict there. In light of that, and given that conflict, we have proposed a third party, independent, comprehensive audit of the CFIA now and every five years from now. That arises from the Weatherill report, which suggested that at that time, following the listeriosis crisis, they did not have an opportunity to understand the complexity of the human resources and other resources of the CFIA. It was just so broad. While a review was undertaken later, it was not an independent audit, which Carole Swan, the former president of the CFIA, said are two different things, essentially.

Given the dual responsibility, don't you think at the very least that rather than they themselves doing the examination, which clause 68 would now require every five years, somebody from the outside should be coming in? They would take a good look at the human resources and all the resources to make sure that they know what they're doing and know that they have the resources to support it.

I suggested to the group of witnesses who appeared before us on Tuesday that I had a concern that they were jacks of all trades and masters of none. I was assured by one of the witnesses that they could bring their inspection skills under one act to the next act. That may be true.

I'd like you to comment on both the independent audit and the jack of all trades and master of none issue.

•(1025)

Dr. Keith Warriner: It's a very good question. The trouble is that the CFIA have a sort of identity crisis. On one hand we expect the food industry to take full responsibility, with the CFIA just as overseers, but on the other hand, people suggest that the CFIA should be very hands on, doing front line inspection. Anybody coming in from outside probably wouldn't appreciate, as you said, the schizophrenic sort of way they have. The reality is that the roles of the CFIA are ill-defined.

This was brought up by the XL Foods affair. There were inspectors in the plants saying that they have a strict regime of duties to perform who seemed to be oblivious to the other things going on around them, whereas consumers may expect the CFIA to be more involved.

I think an internal audit would be much more successful than an external one, for the simple reason that the CFIA has to understand what its real role is. This is one of the benefits of the act, that it clearly defines that.

In terms of the second question about being a jack of all trades, I always say that people who are very confident about being able to do something might have some deficiencies in knowing the full scope of the problem.

This really comes down to what we expect of the inspectors and if we expect the inspectors to be very hands on and to be able to identify many different hazards. We could use an example of veterinarians trying to inspect animals coming in diseased. Would we expect them to look at a lettuce to see whether there is a potential pest that could devastate our agriculture?

Certainly being a jack of all trades is an issue. If we go down that route, whereby we have inspectors inspecting a diverse range of commodities, then our sense is that the CFIA will be there just to monitor paperwork and will have nothing to do with the front line. That's my opinion.

The Chair: Again, I have to stop you there. I'm sorry.

Mr. Lobb, you have the final comments.

Mr. Ben Lobb (Huron—Bruce, CPC): Thanks, Mr. Chair.

Thank you to the guests who are here today.

My first question has to do with Mr. Fruitman's comments. You commented about breaking up the CFIA—I think that's what you said—or splitting it off. Where does that idea come from?

Mr. Mel Fruitman: It's a long-standing concern of ours about the duality of the CFIA, that they are both guardians and promoters. At one time we had a department of consumer affairs that consolidated all the legislation of the consumer protection type and oversaw it.

Mr. Ben Lobb: It's realistic and logical to think, though, that an organization as large as the CFIA, which encompasses thousands of employees, would have the ability to do both jobs. We're talking of thousands of employees, so it's not very reasonable to suppose that this couldn't be done.

Mr. Mel Fruitman: Do you mean in its current form?

Mr. Ben Lobb: Yes, I mean in its current form.

Mr. Mel Fruitman: Our impression is that it's not being well done in its current form because of this duality. It sets up a culture in which it's difficult for employees to determine how to balance the duality: do they lean this way, or do they lean that way? Quite often there are trade-offs that have to be made.

Mr. Ben Lobb: To be honest, though, if you're looking strictly at the inspection functions at a processing plant, the entire inspection function would be based on science, working with manufacturers of the equipment throughout the entire chain to make logical decisions so that the inspectors who work in plant X are able to do the job that's required to provide food safety. The people who are doing the inspections aren't the same people who are working on trade missions with the minister.

Do you see where I'm coming from on this?

Mr. Mel Fruitman: I see where you're coming from, but I think you have to take a step back and look at the way the agency operates, and look at the higher levels of the agency as well, and indeed at the way the various directors of the agency have responded to the XL Foods mess. It is our feeling that they did not respond appropriately. They became very defensive and they did not take the types of actions that needed to be taken as soon as they needed to be taken.

If the senior levels are confused as to what the prime focus of their job is, that affects how the people lower down do their jobs.

•(1030)

Mr. Ben Lobb: I can't speak for what's inside their heads, but I would suspect they're very focused on the number one priority, which is the safety of food and the safety of all Canadians.

In my mind, the focus and idea behind these enhancements in Bill S-11 is to provide the people who are on the front line a better way of being able to do their jobs. The fact is, this is what it does, and it allows them to be able to carry on.

I have one question that I want to ask Mr. Warriner.

I thought what you said in your comments was that they were maybe doing their job but really not looking at what else might be out there on the plant floor. Is that what you were insinuating in your comments?

Dr. Keith Warriner: Insinuating? I thought it was a bit more direct than that.

It seems to me, and certainly XL Foods demonstrated this and the Maple Lead outbreak demonstrated it, that inspectors have a very defined role, and people suggest that—

Mr. Ben Lobb: Okay, but that defined role isn't whimsical in nature. As I mentioned to Mr. Fruitman, that defined role is based on science, based on working with the manufacturers. It's throughout the complete chain. They didn't just stick their fingers up in the air one day and say that maybe they should do this.

Would you agree that this is the case, that the inspectors are doing what they're supposed to do, which is to inspect, and that it's based

not just on what they feel like doing, but based on science and maybe even their own experiences?

Dr. Keith Warriner: No, I think it's based.... The science bit comes in developing the plan.

I think there's a culture that exists in the interaction between companies and the CFIA. I've noticed this first hand. I think that some inspectors, as I was mentioning in answer to the previous question, don't really know what role they're playing. That's the only way you could explain the fact that there were such deficiencies in XL and that the inspectors didn't seem to even notice it.

I think the questioner is saying that this is what they've developed and this is how they do their job effectively. But it's clear that they don't do the job effectively, and I believe this is because their duties are ill-defined, personally speaking.

The Chair: Thank you.

As stated earlier, I'm going to intervene now.

I thank our guests for being here and for their input.

I will ask that the committee room be cleared. We will go in camera to discuss committee business. We're going to take a short recess of a couple of minutes, and I would ask that visitors vacate the room.

Thank you. We will recess for two minutes.

[Proceedings continue in camera]

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