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—
Chair

The Honourable Mark Eyking

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• (1105)

[English]

The Chair (Hon. Mark Eyking (Sydney—Victoria, Lib.)): Good morning, everyone. Welcome to the people in the audience and the witnesses.

Today we're dealing with a bill that's been sent to our committee that deals with trade. It's Bill C-13. We're trying to deal with it and get it back to the House this week. We have some witnesses who want to say a few words on the bill. From the Canadian Consumer Speciality Products Association, we have Shannon Coombs, and from CropLife, we have Pierre Petelle.

If you want to give your take on the bill that's been put forward to us, perhaps you could do that. You're both separate, of course, different organizations, so you have five minutes each and then we'll continue.

Go ahead.

Ms. Shannon Coombs (President, Canadian Consumer Speciality Products Association): Good morning, Mr. Chair, and members of Parliament. It's a pleasure to be here today to provide our perspective to the committee's review of Bill C-13.

My name is Shannon Coombs and I'm the president of the Canadian Consumer Specialty Products Association. For 18 years I've proudly represented the many accomplishments of our proactive and responsible industry.

Today, I provided the clerk with a copy of our one-pager "Imagine Life Without Us?", which illustrates the many types of products that CCSPA represents. I'm sure many of you have used them today.

We're a national trade association representing 35 member companies across Canada, collectively, a \$20-billion industry employing around 12,000 people in over 87 facilities across the country. Our companies manufacture, process, package, and distribute consumer, industrial, and institutional specialty products, such as soaps and detergents, domestic pest control products, aerosols, hard-surface disinfectants, deodorizers, and automotive chemicals, or as I call it, everything under the kitchen sink. We are the downstream users of chemicals, as our products are generally based on the chemistry developed by the upstream companies.

I'd also like to take a moment, Mr. Chair, to thank the MPs around the table who assisted CCSPA with our education campaign in the spring on lyme awareness, "Don't be ticked off by ticks", and on our fall campaign to educate children on the importance of handwashing. I hope that the education kits that CCSPA and the Canadian Institute

of Child Health delivered to you last week were put to good use in your ridings.

Why are we here today? Bill C-13 amends six pieces of legislation to meet our trade obligations under WTO's agreement on trade facilitation. Five of the acts impact members of CCSPA. That legislation includes the Food and Drugs Act, the Hazardous Products Act, the Canadian Environmental Protection Act, the Pest Control Products Act, and the Canada Consumer Product Safety Act.

CCSPA and our members support the World Trade Organization's agreement on trade facilitation; however, we believe some of the amendments drafted to ensure that Canada meets our obligations for the provision of in transit.... Am I speaking too fast? I got in trouble from the translators last time.

The Chair: No, no, go ahead.

Ms. Shannon Coombs: With that proposed amendment, we are looking to ensure predictability in the Canadian marketplace while meeting our trade obligations under WTO.

CCSPA is proposing amendments for two of the acts under discussion, the Pest Control Products Act and the Canadian Environmental Protection Act. We showed the clerk our proposed amendments in our submission, but we'd now like to explain to you our supporting rationales.

CCSPA member companies who manufacture domestic pest control products are regulated under the Pest Control Products Act. Our final products are designed for consumers, so they are personal insect repellents, ant traps, and rodenticides. Our ingredients, the end use, the packaging, the label, advertising, and reporting of those uses are all regulated, and they meet the rigorous requirements of the Pest Control Products Act and its regulations to ensure safety, value, and merit—the pillars of the act.

The amendments being proposed in the bill are meant to facilitate trade and goods in transit through Canada, but the amendment to define the definition of the pest control product label goes well beyond that as it applies to all activities under the act, so it impacts our day-to-day business here in Canada.

In Bill C-13 the definition of label no longer refers to the act or regulations, but instead uses a more generic language to include:

any written, printed or graphic matter that is or is to be applied or attached to or included in, that belongs to or is to belong to, or that accompanies or is to accompany, a pest control product or a package.

It's quite long.

In our opinion, the proposed new definition lacks clarity because of the inclusion of the words “belongs to or is to belong to”, and these words are broad and without clear meaning. Nothing that we have found helps to conclusively answer the question of whether the label includes marketing material not attached or physically proximate to the products such as a QR code or websites. There is nothing to suggest that it is not, and this is our concern.

We have proposed a definition of label that removes the ambiguity of “belongs to or is to belong to” and included the word “prescribed” in reference to the requirements of the act and regulation in the original definition. We believe this change will still allow Canada to meet our trade obligations while, at the same time, not expanding the scope of the definition of pest control product label.

I would now like to shift our focus to the proposed amendments to the Canadian Environmental Protection Act. CCSPA and member companies provide products that improve the lives of Canadians, and CEPA governs our ingredients, new and existing. Our ingredients and also the end use of the product—ant traps, disinfectants, and labelling—are all regulated under appropriate legislation. This is both for consumer use and the workplace.

In our opinion, the proposed CEPA subsection 118(1.1) is not necessary as it could cause some confusion by implying that illegal products with a final destination to Canada may be exempted from Canadian law.

The stated goal of Global Affairs is to be able to specify regulations allowing the import for export of in-transit products not saleable in Canada, as required under two new trade requirements. However, this ability is already in place in CEPA, division 1 of part 7.

The only regulation under the nutrient section of CEPA right now is the one limiting phosphorous in cleaning products, which is a regulation that was based on our industry-led initiative in 2008 to reduce phosphorous in household automatic dishwasher detergent to a maximum of 0.5% by weight.

To meet our trade obligations, the nutrient regulations under section 117 can be amended to accommodate import for export of in-transit products. Environment and Climate Change Canada have confirmed with the CCSPA that such a regulatory amendment would be necessary in any case. In our opinion, the focus should be on amending regulations, not on creating an unnecessary and confusing amendment to CEPA.

We again would like to reiterate our support for the intent of the WTO's facilitation agreement and Canada's participation in that. We believe that, with the amendments we are proposing, unintended consequences for those who deal with these pieces of legislation day to day will be avoided.

Thank you for your time today. I'd be pleased to answer any questions you might have.

Thank you, Mr. Chair.

●(1110)

The Chair: Thank you, Ms. Coombs.

We're going to move over to CropLife Canada.

Mr. Petelle, you have the floor.

Mr. Pierre Petelle (Vice-President, Chemistry, CropLife Canada): Thank you.

Good morning, Mr. Chair, members of the committee, ladies and gentlemen. Thank you for allowing me to present here today.

My name is Pierre Petelle. I'm the vice-president of chemistry at CropLife Canada. We're the trade association that represents the manufacturers, developers, and distributors of plant science innovations. These are the pest control products and products of modern plant breeding, which are used by a wide variety of sectors in Canada. Our members provide the tools that keep utility corridors clear, that protect home and gardens from a wide range of pests, and that allow Canadian farmers to produce the safe, abundant, high-quality crops enjoyed the world over.

The pesticide sector in Canada and around the world is a highly regulated one. Latest estimates show that it takes approximately 11 years and over \$286 million U.S. to bring a new active ingredient to market for growers, from the inception to the actual product on the shelf. Much of that cost is associated with meeting the regulatory requirements in various countries. Our members' top priority is the safety of their products for people, animals, and the environment. In fact, pesticides are among the most stringently regulated products in Canada. We're fortunate to have a relatively modern piece of legislation in the Pest Control Products Act in Canada. It has many transparency provisions and additional protections for human health and the environment.

We're supportive of the intent of Bill C-13, as stated by my colleague. We support the free movement of products in transit without unnecessarily being subjected to all the regulatory requirements of a product that would be intended for use in Canada. In fact, our industry, agriculture, is highly dependent on trade, so we're very supportive of that element of this proposal.

However, we do have some concern about the scope of the proposed label definition for pest control products, in particular as it relates to the electronic environment. The specific term “belongs to” or “belonging to” is particularly broad, and could inadvertently and then unnecessarily cover things like websites and unintended areas.

That said, we do support the language that would enable e-labels, electronic labels, in the future. Our industry is highly supportive of this initiative. We feel that moving in that direction will help the end-user better understand and better follow directions. Some of these labels can be quite long and complex. We're seeing our industry move in that direction, so we appreciate the attempt to try to get that language in there to allow for electronic labels in the future.

We support the amendment that's been put forward. We think it gets us to the place we want to be in terms of electronic label enabling. However, it defines the scope a little better. That said, we are open to alternative language, alternative proposals, if the committee or the department wishes to put some forward.

Those are my brief remarks.

The Chair: Thank you, sir, and thank you for being on time. That's good.

We're going to have one round of questioning on this topic with the witnesses. We're going to start off with the Conservatives for five minutes.

Go ahead.

Hon. Gerry Ritz (Battlefords—Lloydminster, CPC): Thank you, Mr. Chair.

Thank you for your presentations here today.

We're in the final discussions on implementing this particular piece of legislation, which came out of some meetings in Bali, I think it was, in 2015. There are a number of countries that have already signed on. Of course, the U.S. has already signed on.

The only question I have is whether there is any concern that the amendments you're discussing or putting forward would put us out of step with the U.S., our major trading partner. They've signed without this amendment. Is that a concern? How would you square that circle?

• (1115)

Mr. Pierre Petelle: When we look at the definition of label under FIFRA, the legislation that covers pesticides in the U.S., it doesn't have the "belonging to" scope. It also doesn't have the very specific "as required under the act and regs", so it's kind of in between.

That's why I said we're open to something that helps us achieve where we need to be. We don't want to be an impediment to moving this forward. However, we would like to see some parameters around this "belonging to" environment, just to keep that scope where it needs to be.

Hon. Gerry Ritz: Have you had discussions with your American counterparts along this line? Regulations can always be adjusted by the country of origin.

Mr. Pierre Petelle: We had some discussions in terms of trying to understand the scope and if they had any issues with their current definitions, and if, in an ideal world, they would change them.

There hasn't been any specific issues related to the definition down there.

Hon. Gerry Ritz: The beyond the border initiative's regulatory co-operation could address some of this, could it not?

Mr. Pierre Petelle: Potentially, it could. We've done quite a bit as you know around pesticides and environments, especially between Canada and the U.S. in harmonization, data packages, and that kind of thing. There's been a lot of work already done. Labels are country specific, though, and unique in that regard.

Hon. Gerry Ritz: Yes, we have major differences with the U.S. already with two official languages and with metric rather than

imperial. There's always those. I fully support what you're trying to do. I think it's a good initiative, and we'll get down to vote on it at some point. It's all about predictability and the stability of trade corridors. As you rightly point out, we're a large agricultural nation, but we don't develop a lot of these pesticides and chemicals. They're done elsewhere and then we import them. To have that ease of importation, we have the own use program and different things. There's a bit of a stigma attached when you have to go through all that extra work to get a product here. We already import the finished goods with those chemicals applied, but we don't allow the chemical here. It's problematic as well, so I support what you're doing.

Ms. Coombs, you also talked about the changes to the environment side in clause 31. This is basically targeting flow-through product.

Ms. Shannon Coombs: Do you mean the amendment we're making in CEPA? Yes, we think that the in-transit provision can be managed through the regulatory process, and we know they're going to have to change the regulations anyway. There's only one set of regulations currently under the nutrient section that's for our members' products. It's for laundry soap, automatic dish soap, and other cleaning products.

We do have the benefit of having a national regulation in Canada, so it's a level playing field for everyone with respect to the maximum present by weight that we can have. In the U.S., it's usually done state by state, or county by county. They have a different approach. I would say the majority of the U.S. has moved in the same direction as Canada with respect to that, so there aren't any trade issues.

Hon. Gerry Ritz: Okay, great. Thank you.

The Chair: We're going to move over to the Liberals. Madam Ludwig, go ahead.

Ms. Karen Ludwig (New Brunswick Southwest, Lib.): Good morning. Thank you both for appearing here. Ms. Coombs, thank you for your work online.

Ms. Shannon Coombs: Thank you.

Ms. Karen Ludwig: I'm wondering about the harmonization. We've heard a number of witnesses from coast to coast to coast talk about their concerns with the challenges for exporting and importing when non-tariff barriers, for example, are not harmonized. With any change that you're proposing here with this amendment, how would that impact harmonization of regulations from country to country?

Ms. Shannon Coombs: Under CEPA, we already are harmonized from our members' perspectives. On a North American basis, we sell those cleaning products with the same amount of phosphorous at 0.5% per weight, so there won't be any issues with consumers having products that make their dishes sparkly.

With respect to labels, Pierre, did you want to say anything?

Mr. Pierre Petelle: I think separating out the definition of “package” from “label” will enable exactly what you're saying. It will enable that trade to take place for products in transit. We're not proposing any changes to that element. The new label definition is quite a bit broader in scope. We applaud the attempt to add that “belonging to” language because it foresees an electronic label environment in the future, but we think it may be unnecessarily broad. Any language that can help focus that a little bit, we would be supportive of.

• (1120)

Ms. Karen Ludwig: Thank you.

According to WTO estimates, full implementation of the TFA by WTO members will boost global merchandise exports by up to \$1 trillion, including up to \$730 billion of export opportunities accrued in developing countries. Ms. Coombs, your association represents, I think you said, \$20 billion in industry directly employing over 12,000 people and with annual exports. How will the WTO's TFA labelling practices affect all of your 35 member companies who have a number of facilities across Canada?

Ms. Shannon Coombs: Since it's for in-transit purposes, you would be bringing something in and it would be for another final destination, so it wouldn't be manufactured here, per se. A lot of our member companies manufacture on a North American basis, and for the domestic market we're quite a mix of different products. I'm not sure Canada has quantified what the direct results would be for our industries or for others, but I think it's a laudable goal to have those kinds of numbers in front of us and be able to see if we can meet them.

Ms. Karen Ludwig: Thank you.

Out of your 35 member companies, do you perceive certain member companies benefiting more than others from the labelling practices?

Ms. Shannon Coombs: That's an interesting question. I don't know. I'd have to get back to you on that.

Ms. Karen Ludwig: Okay.

The term “trade facilitation” has been used in the context of a wide range of technical barriers to trade. During your technical briefings on the WTO TFA act, it was reported that the vast majority of interactions between stakeholders and representatives consisted of technical questions and clarifications. Did the majority of the concerns revolve around how the WTO TFA act would affect labelling practices in Canada?

Mr. Pierre Petelle: From our perspective, when we're talking about trade in the broader context, it's agricultural trade. It's issues like maximum residue limits that are different. Farmers can't export their crops to certain countries because of different residue definitions or different residue levels. Those are direct and impactful barriers to trade that we're hoping to continue to work with the government on resolving.

This is a very specific labelling provision. We're just wanting to make sure that we're getting the definition right. As I said, we want to make sure that it enables the new era of electronic labels but that it doesn't unnecessarily capture things like a website that talks about a

whole range of different things. We don't want that to fall under necessarily the definition of a label.

When we talk about technical trade barriers, it's really around the ability to export and the different regulatory environments around the world. This is quite a focused element for us.

Ms. Shannon Coombs: The importance for our members is that if you sell in North America, you still have a Canadian label for pesticides and you'll have a U.S. label. They're very different. The use patterns are often different. The directions to consumers would be different.

For us, in terms of the comments around the webinar, it was making sure that the definition we currently have is good for us domestically at home, as well as for meeting our trade obligations.

Ms. Karen Ludwig: Thank you.

The Chair: Your time is up.

We'll move over to the NDP now.

Ms. Ramsey, you have the floor.

Ms. Tracey Ramsey (Essex, NDP): Thank you.

Thank you for your presentations on a very difficult, specific topic. I have a couple of questions.

Mr. Petelle, you mentioned that the implications could be broad around the labelling. You even mentioned the websites. I think Ms. Coombs mentioned QR codes. I wonder if you can break it down a little more specifically to us on what your fears are in this label definition. What could the scope mean to your industry? What are your concerns, more specifically, around how it could impact you?

Mr. Pierre Petelle: When we look at pesticide labels versus many other regulated commodities, and I don't pretend to know all those other regulated commodities as well as I know pesticides, certainly the pesticide label is a legal document that really spells out the approved use pattern of that product. We know that if products are used inappropriately there can be risks associated with pesticide use. That's a given. The final use directions that end up on that label and the precautionary statements are all a result of the data that have been analyzed and the risk assessments that have been conducted by Health Canada. It's very important that those labels be followed.

When we talk about the pesticide label—this has been well enshrined with growers and other users—that label is the law. The information that conveys both how to use the product and the safety information is the law, and it's important that they follow it. We just don't want it to be diluted with other things that might fall under the scope of a label, such as a website, i.e., one of our member's websites that, yes, talks about that product, so therefore belongs to that product, but then also goes on and talks about lots of other things, such as resistance management practices and other nice-to-do things that aren't necessarily legal requirements.

That's our concern around the scope creep. Hopefully I've articulated it.

• (1125)

Ms. Tracey Ramsey: On your proposal to delete the clause related to CEPA, can you tell us what the department responded to you? What was their response around your concerns?

Ms. Shannon Coombs: It was that we needed just a general exemption, but it didn't relate back to what we consider....

In the regulations there is already a provision in place, under section 117, that allows the creation of regulations for import purposes. We thought that because they have to amend the regulations anyway—they said that would for sure have to happen—we would just go ahead and amend those regulations and not have to create an exemption.

Right now it's worded like this:

The Governor in Council may, on the recommendation of the Minister, make regulations exempting a cleaning product or water conditioner from the application of section 117.

We think that's too broad. A provision already exists in section 117 to create a regulation.

Ms. Tracey Ramsey: How have they responded to your concerns about the ambiguity of the labelling?

Ms. Shannon Coombs: I think as Pierre pointed out, they were trying to make everyone happy with the definition. The current definition has that piece about “required by the act or the regulation” so it's very specific. It goes back to the regulations we have for a label. It is a legal entity. It's important that the label is clear and concise and that it is approved by Health Canada as part of the regulations and act. When we were adding the word “prescribed” because “required by the act or regulations” had been removed, the lawyers had thought that “prescribed” would provide us the same level of certainty because it relates directly back to those regulations. But the words around “belongs to” or “is to belong to” doesn't convey exactly what that means. We don't know what it's physically attached to, is it a QR code, is it a website? There's nothing to suggest it is and nothing to suggest it's not.

Ms. Tracey Ramsey: How would this play out for the consumer, for the average Canadian who purchases your products and uses them? Do you think this change that's being proposed would impact them in their everyday use of your products?

Ms. Shannon Coombs: I think we're trying to tidy the regulation legislation from a domestic point of view. We're not trying to interfere with any of the trade aspects of this. We're fully supportive of having that in-transit provision put into WTO. We want to make sure that the regulations are adhered to with respect to cleaning products only having 0.5% of phosphorus in them. We don't want any exemption provision made except for an in-transit provision and it's specifically written into the regulations as they currently stand. We don't want them to be misinterpreted by people.

Mr. Pierre Petelle: From our perspective it goes back to that label and the clear understanding from the end user that when we talk about that label what we're talking about is instructional directions and not marketing information. That's where we see the link with the end user—making sure that what we're all talking about is clear when we talk about a label, whether it be electronic or paper.

The Chair: Thank you.

We'll have the last questions from Madame Lapointe. Go ahead.

[Translation]

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

Welcome to the witnesses joining us today.

What you've been talking about is very specific. You talked about labelling and phosphates. We discussed the labelling issue. You also said that it would help you to have QR codes on products. Did I understand that correctly?

[English]

Mr. Pierre Petelle: Often the labels can be 60 pages long—

[Translation]

Ms. Linda Lapointe: Very well.

[English]

Mr. Pierre Petelle: —with all the uses. What we're seeing our industry moving toward, what we'd like to move toward, is enabling that user to be able to scan that bar code or QR code. Then if he's applying his product to corn and he doesn't need to read the six pages about soybeans, he just goes right to corn and he gets to that exact specific part of the label. That can all be done electronically now very easily. That's where we see the industry moving.

• (1130)

[Translation]

Ms. Linda Lapointe: You asked that it be changed, but your request wasn't granted.

Mr. Pierre Petelle: We've begun informal discussions with the department, and I think they're open to finding a way to limit what we call the “belongs to” wording, the language we find problematic.

[English]

That's why at the beginning I said if it's not this specific amendment, if it's something else that comes back from the department, we would be open to a discussion because there are more ways to get to what we need. Whatever language gets us to that point we're fine with that.

[Translation]

Ms. Linda Lapointe: Thank you. That's still quite specific.

I gathered that the both of you supported Bill C-13. Do you expect that it will increase your exports from Canada?

[English]

Mr. Pierre Petelle: It should help facilitate products that are coming through. We don't want Canada to be seen as a barrier to.... For example, if a company wants to use the Port of Vancouver—and the benefits that come from that to Canada—and then ship their products to a U.S. destination, we wouldn't want Canada to miss out on that opportunity and have that shipment diverted to a southern port. It's not necessarily going to increase our trade and our bottom line here in Canada, but I think a lot of other businesses would benefit from this type of ability to move products across the country, whether it's rail or shipping.

[Translation]

Ms. Linda Lapointe: At the very least, more merchandise would transit between ports or be shipped by rail to its destination. That's your view.

Mr. Pierre Petelle: Yes, that's a possibility.

Ms. Linda Lapointe: Have you quantified the impact on sales? Would you say that Bill C-13 will benefit you or that it absolutely needs amending?

[English]

Mr. Pierre Petelle: I think the provisions to enable the trade and the changing of the definition of “package” is a good thing. We can't quantify—and haven't—what that could mean to our members. Each of the companies operates a little differently, so we haven't quantified what it could mean.

The narrowing of scope of the label definition would keep it, as Shannon said, a little tidier. We want that ability to move into that new era of electronic labels, but we also want to make sure the scope is within what we're talking about, and that the label is really the information, the use directions, and the safety information, not other website-based stuff.

[Translation]

Ms. Linda Lapointe: We've been focusing on the United States and Canada, but I don't think there's consistency at the international level, mainly in terms of facilitating exports to Africa. Is that correct?

[English]

Mr. Pierre Petelle: This provision, as far as we know, from what we've been paying attention to on this one, is to allow in-transit.... If you want to move an ingredient for a pesticide within Canada, currently the definition would require that it fall under the labelling provisions of the Pest Control Products Act as if it were going to be used in Canada. This new language would help make sure that can happen without the full labelling provisions that are required for a product.

Again, we don't know and we can't quantify what that could mean in terms of increased trade through Canada, but for some countries it's probably much more significant, such as landlocked countries, etc. We don't know what the impacts would be in other areas.

The Chair: Thank you, Madame Lapointe.

That wraps up this round of the questioning. I thank the witnesses for giving us their perspectives on the bill.

We're going to suspend for five to 10 minutes. We have a lot of officials here who can help us if we need them for any questions. They will come to the table.

• (1130) _____ (Pause) _____

• (1145)

The Chair: We're going to resume our meeting. As the committee members can see, we have members of some departments here. We have Environment, Foreign Affairs, and Health here for backup if we need them for clarification, or for any implications you have.

I've attended many meetings over the last 15 years as a member, but not as a chair. I know there are new members here this year, so I'll say a couple of things about so-called clause-by-clause. Some committees operate a little differently, but there are a couple of things.

You'll see all of the clauses in front of you. Sometimes we may group clauses together, if everybody agrees. I could group 10 together, so I could say, “Is everybody agreed from 1 to 10? Carried.” That's pretty simple.

What I'd like to see is that, if there's an amendment or discussion on a clause—and we'll see this when we do our own study on TPP—whichever member wants to make the change would speak on what they see needs to be changed. Then, of course, other members can chime in when they want, if they want to also talk on it. I would like whoever wants to talk on it to just say their piece, and then usually what I see at committees is that the member who wants the change will have the final say and we bring it to a vote. It doesn't happen too often, but it does happen.

Sometimes during the process, the committee will decide not to vote on a clause. Oftentimes you want to get things rolling and if there is a certain clause that we can't seem to agree on, or we need translation, sometimes we can park it and come back to it. That's another thing we can do.

Once every clause has been voted on, the committee will vote on the title and on the bill itself, and an order for a reprint of the bill may be required if amendments are adopted so that the House has a proper copy for use at report stage. Finally, the committee will have to order the chair to report the bill to the House. That report will contain only the text of any adopted amendments as well as an indication of any deleted clauses.

Does anybody have any questions on procedure before I get going here? Of course, everybody read this last night.

By the way, it's good to see you here, Mr. Allison, joining our committee. It's a fun committee. Too bad you couldn't come with us to Atlantic Canada last week.

The bill's in front of you. We have one amendment coming up here, and it deals with clause 31. Does everybody agree that we can pass clauses 1 to 30?

(Clauses 1 to 30 inclusive agreed to)

(On clause 31)

The Chair: Now we're going right to clause 31. We have an amendment presented by Mr. Ritz.

Mr. Ritz, do you want to comment on it?

Hon. Gerry Ritz: I would just let what the witnesses talked about stand as the rationale for doing this. I think they explained it quite well.

The Chair: Are there any more comments on the amendment?

Mr. Sukh Dhaliwal (Surrey—Newton, Lib.): Mr. Chair—

The Chair: Sorry, I think I saw Ms. Ramsey's hand, out of the corner of my eye, first.

Go ahead.

Ms. Tracey Ramsey: I have a question for the department officials who are here. Can I just direct it to them?

The Chair: Yes.

Ms. Tracey Ramsey: Okay. If we implement this change, will it in any way affect our eligibility to be a part of this as a whole? Essentially, we're signing onto something that a number of other countries have also signed onto. Will this change impact our compatibility with the necessary legislation?

The Chair: Whoever wants to answer, go ahead.

Mr. David Usher (Director General, Trade Negotiations, Department of Foreign Affairs, Trade and Development): Thank you, Chair.

It's nice to be here again. I'm David Usher from Global Affairs Canada.

The implications of this deletion—effectively it's deleting clause 31 from Bill C-13—would be to deny Environment and Climate Change Canada the statutory authority necessary to make regulations required to exempt cleaning products or water conditioners in transit through Canada from the application of technical regulations under the Canadian Environmental Protection Act. As a result, to answer your question, if clause 31 were deleted, Canada would not have the

• (1150)

Hon. Gerry Ritz: It's not clause 31. It's lines within clause 31.

Mr. David Usher: That's right. It's proposed new subsection 118 (1.1).

We would not have the ability to comply with our article 11.8 of the trade facilitation agreement.

Ms. Tracey Ramsey: What would that then mean? That would mean we wouldn't be able to comply with any of this piece? Bill C-13 is bundled together with the changes. As a whole then, if we removed this one piece, are we unable to be in compliance? Will it void our compliance with the entire package?

Mr. David Usher: Not with the entire package, with one specific sub-element of the trade facilitation agreement. The trade facilitation agreement requires that technical regulations should not be applied to goods in transit, and this is giving the authority to Environment Canada to exempt those products from that application.

The Chair: Okay?

Ms. Tracey Ramsey: I'm still not clear. I'm sorry, but I have to understand. If this is removed, are we able then to pass Bill C-13 or not? Are we able to make amendments to this language as presented?

Mr. David Usher: Going back to my earlier comment, Chair, if this clause is deleted, we would not be able to comply with article 11.8 of the trade facilitation agreement that deals with how we treat goods that are in transit in Canada.

The Chair: Okay.

Ms. Tracey Ramsey: Then we would not be in compliance with the other countries in the WTO trade facilitation being proposed?

The Chair: Go ahead.

Mr. David Usher: We would not be in compliance with that specific element of the trade facilitation agreement, and obviously we would like to be compliant with the WTO obligations.

Ms. Tracey Ramsey: It would prevent us from being one of the signatory countries to these changes.

Mr. David Usher: I cannot make a decision as to whether Canada ratifies the agreement or not. I'm just giving you the views on the implication of deleting that element of Bill C-13.

The Chair: Okay.

Mr. Dhaliwal, do you have questions?

Mr. Sukh Dhaliwal: I'll carry on with what Ms. Ramsey was mentioning to you, Mr. Usher. The way I see it is that in 2013 the adoption of the TFA was delayed just by one country. I think it was India because they didn't want to agree until the issues were resolved.

If we change this clause, or delete this proposed subsection out of this, do you think there is any country that will not be happy with what we have, and will delay facilitation further?

Mr. David Usher: Thank you for that question.

I can't speculate on the views of other countries, but in terms of the WTO obligations that Canada enters into, we should endeavour to be compliant with the obligations. The modification proposed in Bill C-13 allows us to be compliant with this WTO agreement that all members have negotiated and agreed to.

Mr. Sukh Dhaliwal: Basically are you telling us that if we modify that clause or that proposed subsection, we will not be in compliance, and then the intent of the bill is not there?

Mr. David Usher: I will read you the specific element of the trade facilitation agreement in a minute, but article 11.8 of the agreement is dealing with how governments deal with goods in transit, where goods in transit are exempt from technical regulations while they are in transit, so we don't impede, as the previous witnesses said, goods in transit, let's say, through Canada to the Port of Vancouver for export to a third market.

If we are not giving Environment and Climate Change Canada the necessary authorities to take that step, then we will have issues with our compliance with article 11.8 of the agreement.

• (1155)

Mr. Sukh Dhaliwal: Thank you. That answers my question.

The Chair: We'll have Mr. Peterson, then Ms. Ramsey, and then I'm going to have final words from Mr. Ritz. Then we're going to vote on the amendment.

Go ahead, Mr. Peterson.

Mr. Kyle Peterson (Newmarket—Aurora, Lib.): Thank you, Mr. Chair.

Thank you, officials, for being here today.

I'm going to take it from the other angle, I think. What was the rationale and what was the purpose of including these lines from clause 31 in Bill C-13?

Mr. David Usher: I think for this response, I'll turn to my colleague from Environment and Climate Change Canada.

Ms. Mary Ellen Perkin (Manager, Consumer and Cleaning Products, Department of the Environment): Yes, good morning.

As noted earlier, we do have existing regulations on phosphorous that have been made under section 117 of the act, and that requires a prohibition of the amount of phosphorous in certain products coming into Canada.

Section 118 provides us with the authorities necessary to make those regulations. There is no existing authority for exempting any products from the regulation as it stands. We do not have the statutory authority to be able to exempt the products in transit through Canada, given the current structure of the act.

Mr. Kyle Peterson: I will follow up on that, if I may.

There's no regulation that could be added or amended that would achieve this purpose. Is that what you're saying?

Ms. Mary Ellen Perkin: The authority does not exist right now.

Our intention is to take the existing regulations, if this authority is granted to us, and add the exemption for goods in transit into the existing regulations.

Mr. Kyle Peterson: Presumably there would be regulations that flow from that, if necessary.

Ms. Mary Ellen Perkin: The amendment would be in the current regulations, if we're given the statutory authority to make those changes.

Mr. Kyle Peterson: There's going to have to be corresponding regulation changes.

Ms. Mary Ellen Perkin: Yes.

Mr. Kyle Peterson: Thank you.

The Chair: Mr. Ritz, your final comments on this.

Hon. Gerry Ritz: For clarification on WTO guidelines and so on, they're usually broad strokes. Each country has its own sovereignty to apply, within those broad strokes, the general direction from the WTO. We would not give up our sovereignty in order to make little finite changes within the Canadian substructure of that.

Environment and Climate Change Canada is talking about regulations. This would give you the authority to do that. We already have that authority within our own sovereignty. You could do it without being directed by a WTO agreement, could you not?

Mr. David Usher: I have undertaken to read the specific element of article 11.8 of the TFA, and maybe I could begin to answer your questions and my colleague from Environment would add.

In terms of the trade facilitation agreement, article 11.8 says as follows: "Members shall not apply technical regulations and conformity assessment procedures within the meaning of the Agreement on Technical Barriers to Trade"—which is another WTO agreement—"to goods in transit."

The key element of this clause is to give Environment and Climate Change Canada the statutory authority to do so, or to not apply the technical standards and regulations to goods in transit.

I'll let you just supplement that.

Ms. Mary Ellen Perkin: To clarify, currently the act doesn't provide us the authority under section 118 to exempt these products.

Hon. Gerry Ritz: It's a Canadian act. It could be changed within Canada. That's all I'm saying.

Ms. Mary Ellen Perkin: Sorry, I would have to come back and consult on that.

Hon. Gerry Ritz: Okay, fine. That's good.

The Chair: Mr. Peterson, you can have a quick comment.

Mr. Kyle Peterson: I understand the authority that you're trying to vest in this, but I'm wondering if there is a way to do it more narrowly and whether this authority here isn't too broad for the purposes of it. For instance, a cleaning product sounds pretty broad to me. There are different characteristics of cleaning products.

Is there a way to qualify that and narrow the scope of this statutory authority?

Mr. David Usher: Again, I'll turn to my colleague from Environment.

Ms. Mary Ellen Perkin: This authority was proposed as a broad regulation-making authority, in keeping with the design of CEPA. There are many different ways to exempt within the act. CEPA generally functions as an enabling statute and provides us with the tools to effectively address environmental risks. This was done in a broad fashion to give us that flexibility while accomplishing this goal.

The Chair: I'm going to bring it to a question.

(Amendment negated on division [See *Minutes of Proceedings*])

The Chair: Now we go to the original clause, clause 31.

(Clause 31 agreed to on division)

The Chair: Shall clause 32 carry?

(Clause 32 agreed to)

(On clause 33)

The Chair: I think what I'm going to start doing is asking whether anybody has anything against the clause. If I don't hear anything, I'll just move on. How's that?

That brings us to clause 33. We have another amendment.

I think the amendment is from the Conservatives. Do you have any comments on it?

• (1200)

Hon. Gerry Ritz: Yes.

The witnesses before this presented their case, and I think they made a good case on redefining labelling and moving into the electronic side of it and so on, so I fully support the amendment.

The Chair: Are there any other comments on this?

(Amendment negated [See *Minutes of Proceedings*])

The Chair: Now we have another amendment also dealing with clause 33. I think it also comes from the Conservatives.

Are there any comments from the Conservatives on this amendment?

Hon. Gerry Ritz: No.

The Chair: Go ahead, Ms. Ramsey.

Ms. Tracey Ramsey: I'd like to ask the department officials their thoughts on including the word "prescribed". I wonder if they can comment on their thoughts around the changes that are being proposed in this amendment, and if it would impact the bill in any way?

Mr. David Usher: Chair, if I may, I'll turn to my colleague from Health Canada, Mr. Flint, to respond to that.

Mr. Jason Flint (Director General, Policy, Communications and Regulatory Affairs, Department of Health): Thank you.

The inclusion of the word "prescribed" would limit the authorities we would have around labelling to those elements that are in the regulations, so we would be limited more than we are currently. Currently, there is authority under section 8 of the act for the minister to place conditions, which then go onto the label. If it were just "prescribed by regulation", you would be limiting the ministerial authority to do that, which allows for product-specific conditions to be placed on a product label.

The Chair: Are there any questions or concerns?

Ms. Tracey Ramsey: We heard clearly from the stakeholders that this is something they're looking to see changed, and we heard their arguments for it. I'm wondering if you had consultation with the stakeholders that we heard from today and if you reviewed their concerns in the implication of this clause.

Mr. Jason Flint: Since the bill was introduced, we have had a number of conversations with stakeholders about this, about their concerns. Part of it is trying to reconcile the fact that, yes, the definition of "label" may be larger than it was before but the elements are coming out of "package". If you look at the explanatory notes, for example, in the bill for this particular piece, they talk about the definition of a "package" and currently, at the end of the definition, it says, "including the label and anything else that accompanies the product and conveys information about it". It's a very broad definition. Those are the informational requirements of "package". That's been removed in the new proposed definition of "package" to facilitate the goods in transit.

They have tried to capture that element under the new definition of "label", which we tried to make consistent with other pieces of Health Canada legislation, such as the Safe Food for Canadians Act, the Food and Drugs Act, and the Hazardous Products Act. We try to take elements of that and harmonize more broadly with those pieces of legislation to give a definition that would capture all the informational requirements under the definition of "label".

Ms. Tracey Ramsey: The other question I have is around the inclusion of digital information. This is the way of the world. We're certainly going to a more digital format. We heard clearly that it's often an issue to put that information on a label because it's so extensive, so they're using QR codes and links to websites and different things. I think the inclusion of that here makes sense on the surface, since we would be looking forward to where we're going in terms of labelling around these products.

I'm wondering if you can speak to the second part of the amendment that includes that, and what your thoughts are on including language such as this, which takes into account digital forms.

●(1205)

Mr. Jason Flint: I'll just get the right wording.

In the definition that was proposed, the words "belongs to" were included. The other words in the language refer to labels that would accompany or be in physical proximity to the product. Adding the words "belongs to" gave us the flexibility to regulate an electronic label, because it doesn't necessarily have to be with the product. That's where we got that language from.

The wording in the definition here allows for some digital material to be transmitted.

Ms. Tracey Ramsey: In terms of "that belongs to"...?

Mr. Jason Flint: In the definition that was provided in the bill, the words "belongs to" were placed there to facilitate that electronic label. It's wording that is used in the Food and Drugs Act, for example, in their definition of "label", and by including that wording in the definition, it allowed for electronic labels to be permitted.

Ms. Tracey Ramsey: I see other definitions included here. Was there thought to giving the definition of that term, so that it would be clearly stated within this bill that it would include electronic and digital information?

Mr. Jason Flint: In the definition in the act...?

Ms. Tracey Ramsey: There are a lot of definitions that are included in subclause 33(1), but it doesn't speak specifically about anything in digital form.

Mr. Jason Flint: No. In the act we looked at "belongs to" as being sufficient to give us the authority to do that. We would then go into the regulations, for example. We have other label definitions that could be included there. The specifics around an electronic label could be included in the regulations, rather than in the act itself.

Ms. Tracey Ramsey: Would you be open to this language being part of this? Would it change the intent? If it's presumed that it's included in that definition anyway, then at least the second portion of this proposed amendment would be in line with your thinking on what it represents.

Mr. Jason Flint: We would have to go back and review that second portion, consistent with the rest of the definition that was proposed.

Ms. Tracey Ramsey: Thank you.

The Chair: Thank you.

Mr. Ritz has some final comments.

Hon. Gerry Ritz: On the last amendment, or maybe it was the second-last amendment, the argument was that we couldn't do that because it had to be at 100% to have adherence. Yet, now you seem to be arguing that "prescribed" is too broad and ministerial authority has to be maintained so that they can change definitions by regulation. Your argument that we couldn't do the one amendment seems to be at cross purposes with the argument on this amendment. I'm a little bit lost.

Mr. Jason Flint: “Prescribed” is in this definition as well. The same conditions would apply. By only using the term “prescribed” to limit the definition, then it would not include, for example, the conditions that would be applied on a label by the minister under section 8 of the act. Both definitions have that same concern associated with them. Then, because there's no reference to “belongs to”, but you've included some wording on digital, we could go back and look at the digital and see if there were specific references that could be incorporated into a definition, but it's not....

Hon. Gerry Ritz: Okay. Could this clause be held aside while they go back and check those definitions?

The Chair: We don't have much time left. Can we talk about it today?

Hon. Gerry Ritz: You said that was one of the options when you outlined how we could handle clause-by-clause consideration.

The Chair: Can the officials come back with something in the next few minutes?

Let's continue on.

Mr. David Usher: Chair, I doubt that we'll be able to come back in the next few minutes on this. We know how complex this is. Obviously, we cannot at this stage provide recommendations on the proposed amendments. We'll have to take them back and consult with our respective experts. We will undertake to do so if that's your direction—

Hon. Gerry Ritz: It's across departments as well, which makes it more difficult.

Mr. David Usher: We're in your hands.

Mr. Sukh Dhaliwal: Since the department needs some time, if we pass it as it is, without amending it, is there a way we can come back to it, or not?

•(1210)

The Chair: My suggestion would be that we park it due to terminology and that we come back Thursday morning, but it's up to the will of the committee. You can come back Thursday morning and just deal with that one clause, and we'll deal with the rest of the clauses now.

For that one clause, the department will come back and then we'll decide if we're going to pass this. I'd like to get this into the House this week.

Mr. Sukh Dhaliwal: My question is to the department. By Thursday morning, will they have enough time to respond or will they need more than that?

The Chair: They kind of nodded to me, so I think they're good to go.

Okay?

Mr. Sukh Dhaliwal: I think Thursday morning is fine.

The Chair: I have unanimous consent to stand clause 33, correct? We'll deal with 33 only.

(Clause 33 allowed to stand)

The Chair: Okay. That being said, let's move on to the rest.

I see that there are no amendments, so I'm assuming that there are no problems with clauses 34 to 73?

Go ahead, Mr. Usher.

Mr. David Usher: Thanks, Chair.

Just for clarity, we have two amendments related to the last section we discussed. Which one should we be looking at?

The Chair: It's the second one. The first one was defeated. It is just the second one.

Mr. David Usher: Thank you.

The Chair: I don't hear any objections to passing clauses 34 to 73, so they will carry.

(Clauses 34 to 73 inclusive agreed to)

The Chair: We can't move further than that because we have to come back.

I think right now there's not much sense in having any more discussion on this.

I don't know if we need all the government officials here for that. All we need are the one or two who pertain to that amendment. I don't want to take up the taxpayers' money and your time, but come in and give us your take on it and we'll deal with that clause right away. Then we'll be able to get this into the House this week.

Thank you very much.

The meeting is adjourned.

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