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Chair: Mr. John Aldag



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• (0845)

[*English*]

The Chair (Mr. John Aldag (Cloverdale—Langley City, Lib.)): Good morning, everyone. I call this meeting to order.

Welcome to meeting number 66 of the House of Commons Standing Committee on Natural Resources.

Pursuant to Standing Order 108(2), the committee is meeting on the Canadian pulp and paper industry.

Today's meeting is taking place in a hybrid format. All of the members are online. You know the drill, so I'm not going to go into the details.

Welcome to our guests who are here in person today. We have for witnesses representatives from Industry Canada. They are Mark Schaan, senior assistant deputy minister, strategy and innovation policy sector, and DeNeige Dojack, director, investment review division. From Natural Resources, we have Greg Smith, director, economic analysis division, Canadian forest service. From Public Safety Canada, we have Richard Bilodeau, director general.

Two of the departments have five-minute opening statements. I use a handy card system. I'll give you the yellow card, which means 30 seconds are left, and the red card means wrap it up, but don't stop mid-sentence. Then we'll get into our rounds of questions, which starts off with six minutes for each and then shorter ones after that.

Let's go to our Industry Canada representatives first, and get right into it today.

You'll have five minutes on the clock.

Mr. Mark Schaan (Senior Assistant Deputy Minister, Strategy and Innovation Policy Sector, Department of Industry): Thank you, Mr. Chair.

Mr. Chair and members of the committee, good afternoon. My name is Mark Schaan, and I have recently been named the deputy director of investments, where I'm responsible for assisting the director of investments and advising the Minister of Innovation, Science and Industry on reviews conducted under the Investment Canada Act, or the ICA.

I'm accompanied by DeNeige Dojack, director of operations of the investment review division, or IRD. Among other things, the IRD is responsible for administering the ICA on behalf of the Government of Canada.

Thank you for the invitation to participate in the committee's study of the Canadian pulp and paper industry.

[*Translation*]

I understand not everyone is familiar with how the ICA works. So let me provide a general overview.

Foreign investment plays an important part in the Canadian economy, bringing new capital, technology and practices that can increase the productivity and competitiveness of Canadian firms. The ICA provides for the review of significant acquisitions of control of Canadian businesses by non-Canadians for their overall net economic benefit to Canada. The ICA also provides for the review of all foreign investments on national security grounds.

[*English*]

Under the ICA, a non-Canadian seeking to directly acquire control of a Canadian business valued at or above the relevant net benefit threshold must submit an application for review. The minister carefully considers each transaction subject to net benefit review on its own merit and approves foreign investments only if they are likely to be of net benefit to Canada according to the factors set out in the ICA.

It is worth noting that as a result of Canada's international commitments, indirect acquisitions by World Trade Organization investors, that is to say, where the Canadian business is acquired as the result of an acquisition of a corporation incorporated outside of Canada, are not reviewable under the net benefit provisions of the ICA.

The ICA also provides for a review of investments that may be injurious to Canada's national security. All foreign investments are subject to the national security review process set out in the ICA, regardless of value. The national security provisions set out a multi-step process that involves numerous departments and agencies that have responsibility for protecting Canada's national security.

Through this process, the government is able to consider all the relevant facts and make a determination of whether an investment would be injurious to national security. Rest assured, the government does not put Canada's national security at risk for the sake of foreign investment. It should be noted here that the ICA is just one tool among many to ensure the protection of Canada's national security, including sector-specific tools.

National security reviews under the ICA are multistep processes, with strict deadlines and different legal thresholds for action at each step. From day one, national security experts, principally the Department of Public Safety and Canada's security and intelligence agencies, are fully engaged. To ensure that all security dimensions are considered, it also involves departments and agencies with specific expertise in the sector or industry in question, such as Natural Resources Canada. If the transaction does not meet the legal threshold to extend the review, meaning that the minister finds it not to be injurious to Canada's national security, then the national security review process ends.

• (0850)

[*Translation*]

As with all foreign investments, there was a thorough review of each of Paper Excellence's investments involving the responsible government departments and their subject matter experts, and Canada's security and intelligence community. In light of the information obtained with respect to each investment by Paper Excellence, no action was taken under the national security provisions of the act.

I am aware of media reports on Paper Excellence and its recent investments in Canada. While the ICA restricts our ability to provide details about the review, we can note that each investment is reviewed on its own merits and that this information has been taken into account as part of this process.

[*English*]

Canadians should know that our government is proactive in protecting their national security interests. The government does not hesitate to take decisive action, and our assessment of risk keeps pace with evolving economic and geopolitical circumstances.

Thank you, Mr. Chair. I'm happy to answer questions members may have.

The Chair: Thank you.

We will now move to Natural Resources with Mr. Smith. You will have five minutes for your opening statement.

Mr. Gregory Smith (Director, Economic Analysis Division, Canadian Forest Service, Department of Natural Resources): Wonderful. Thank you very much, Mr. Chair.

Good morning, committee members. I would like to begin by recognizing that we are on the ancestral land of the Algonquin Anishinabe people.

I'm Greg Smith. I'm the director of the economic analysis division of Natural Resources Canada's Canadian Forest Service. I'm here representing the trade, economics and industry branch in the Canadian Forest Service. Thank you for inviting me.

Canada is a steward of a vast forest resource. Our 367 million hectares represent 9% of the world's forests.

From harvesting trees to producing everyday essential goods, the forestry sector is a key pillar of the Canadian economy. Contributing approximately \$33 billion to GDP, it directly employs over 200,000 people, including 11,000 indigenous people.

The forestry sector is particularly important in many rural, remote, and indigenous communities, where it is often a primary source of jobs and income. Forests also sustain over 1,400 indigenous businesses and joint ventures across the country.

Nearly 90% of Canada's forests are owned by provincial and territorial governments that have jurisdiction over the management of these forests.

Canada's forest laws are among the strictest in the world. The provinces and territories develop and enforce laws and policies that protect our forests, and ensure that sustainable forest management practices are followed across the country. They manage forests for multiple public policy objectives, including conservation, water, soil quality, biodiversity, socio-economic benefits and climate resilience. In fact, nearly 160 million hectares, or about 70% of our managed forests, are third party certified.

These certifications complement Canada's comprehensive and rigorous forest management laws and regulations and provide assurance that a forest company is operating legally, sustainably and in compliance with world-recognized standards. A certification is issued only after a thorough review by a third party auditor determines that, among other things, the long-term harvests are sustainable and there is no unauthorized or illegal logging, wildlife habitat is preserved, and soil quality is maintained.

Canada harvests over 700,000 hectares of forest area each year, about 0.2% of our total forest area. In comparison—and we worked on this comparison for a while—that's roughly the size of a smart-phone on a ping-pong table.

The pulp and paper industry is a key segment in Canada's forestry sector supply chain, consuming residual material from sawmills to create pulp and paper products. Across Canada, there are over 80 operating pulp and paper mills and facilities. Quebec houses the lion's share of these facilities, with about 43%. Quebec has also been a leader in developing its bioeconomy by exploring innovative uses of forest biomass and supporting the development of higher value-added products from harvested wood.

Part of managing a forest sustainably means adjusting annual harvest levels over time to account for changes in the forest, such as disturbances from forest pests and wildland fire. Over the last decade, these natural disturbances have had a significant impact on sustainable harvest levels and, consequently, on the wood fibre available to make forest products. This challenge has urged Canada's forestry industry to increase the value it receives from what is harvested. Obtaining more value for every cubic metre harvested allows Canada to position itself as a leader in a growing global bioeconomy and enhance its economic resilience in the forestry sector.

At Natural Resources Canada, we work with provinces, territories and industry stakeholders to ensure that Canada's forestry sector has the support it needs to take advantage of the opportunities presented by the growing bioeconomy, and to continue to support workers and communities across the country.

One of our objectives is to develop strategies to help strengthen competitiveness and the overall health of Canada's forest sector, and to support the future livelihoods of workers in their communities in a transition to a low-carbon global economy.

Budget 2023 proposes to provide \$368 million over three years, starting in 2023-24, to renew and update forestry sector support, including for research and development, indigenous and international leadership, and data.

Thank you for inviting me. I would be happy to answer any questions about the forestry sector and its management in Canada.

• (0855)

The Chair: Everybody is tight with their opening comments this morning. That's appreciated.

I would like to welcome Mr. Michael Kram and Mr. Dan Albas to our committee this morning, along with all of the regular members.

We're going to get right into our first round of questions, which is six minutes each.

Mr. Ted Falk is joining us online. It's over to you for your six-minute opening round.

Mr. Ted Falk (Provencher, CPC): Thank you, Mr. Chair, and thank you to our witnesses for attending the committee this morning. I appreciate that very much. I'm sorry I'm not there in person.

I'd like to start off by asking if they could briefly identify for the record what the process is for a foreign entity to buy a natural resource company in Canada.

Mr. Mark Schaan: I'm happy to start.

It would depend a little on the nature of the transaction. If the transaction met the threshold for a notifiable investment into Canada from a foreign buyer, that would require a notification to the investment review division. Then it would depend a little on the nature of the investment.

As I noted, indirect investments via the acquisition of a company that has Canadian assets but is not domiciled in Canada are considered indirect transactions. Under our trade agreements under the WTO, those are not reviewable on a net benefit basis. They are, however, reviewable on a national security basis.

If the transaction of a natural resource asset was made by a foreign buyer, was notifiable and was a direct transaction, that would proceed to both a net benefit review and then also a national security review. In the case where it was not a direct transaction, it would proceed only to a national security review process.

All foreign investments that are made into Canada are subject to the national security review process. The processes are undertaken in consultation with the Minister of Public Safety and Canada's national security and intelligence agencies. Each stage of the process-

ing is engaged. A national security review can last 200 days or longer, with the consent of the minister and the investor. Just by way of example, in 2021-22 there were 1,255 investment filings, as well as additional investments not subject to filing requirement that were reviewed under that process.

I'm happy to get into more detail if the member is interested. Broadly speaking, that is the nature of how a transaction would be assessed.

Mr. Ted Falk: Okay. Thank you.

In particular, with Paper Excellence, which is what we're studying here this morning, did you do a review on some of their purchases?

Mr. Mark Schaan: There have been a number of investments by Paper Excellence in Canada over the past few years. These include the acquisition of Catalyst in 2019, of Domtar in 2021, and then of Resolute in 2023. While none of the Paper Excellence investments have qualified for a net benefit review, all of its investments in Canada were reviewed under the national security provisions of the ICA.

Mr. Ted Falk: Okay.

The reason you say they didn't qualify for the net benefit is that they were purchased by a Canadian entity in the sense that it was a registered Canadian corporation.

• (0900)

Mr. Mark Schaan: No. They're an indirect transaction. Maybe, just for ease, essentially when a Canadian asset is first acquired.... Let's imagine we have a Canadian company that has Canadian assets. The first time a foreign transaction occurs, that is subject to a net benefit review. That company and that transaction proceed, and then there's a subsequent acquisition down the road, where Canadian company A, with Canadian forest pulp and paper assets, gets bought by American company B. If a third transaction happens with an American company that buys American company B, that's not subject to net benefit because essentially the Canadian transaction has already been reviewed under the net benefit, which was the very first transaction for the Canadian assets in question.

In this particular case, Paper Excellence, it was an indirect transaction. Paper Excellence bought Resolute, and Resolute had already bought the Canadian assets, which was a transaction that had previously been considered.

Mr. Ted Falk: Okay.

When you've looked at the ownership structure of Paper Excellence, have you been able to determine the beneficial owners?

Mr. Mark Schaan: A mandatory field under the mandatory filings when they submit for an investment review is to provide us with the ultimate controller or “controller in fact” for the asset. It is required under our processes that we understand the beneficial owner of the firm.

Mr. Ted Falk: Okay, so the answer to that would be, in the case of Paper Excellence, that you've been able to determine who the beneficial owner would be.

Mr. Mark Schaan: That's correct.

Mr. Ted Falk: Who would that be?

Mr. Mark Schaan: The natural person? DeNeige, do you want to weigh in?

Mrs. DeNeige Dojack (Director, Investment Review Division, Department of Industry): Yes. In this instance, the beneficial owner is Mr. Jackson Wijaya Limantara.

Mr. Ted Falk: Okay. Would he own 100%, or does he have shareholders?

Mrs. DeNeige Dojack: Unfortunately, the details of the ownership structure are subject to the confidentiality provisions of the Investment Canada Act. While we are provided with detailed information about the ownership structure all the way through the various holding companies and the relative equity shares, in order for the government to be able to continue to get this information from investors, we promise investors that we will not disclose this information without their consent. Therefore, the details of that ownership structure are subject to the confidentiality provisions under the Investment Canada Act.

The Chair: We're out of time on those first questions.

We're going to go next to Mr. Blois, who will have six minutes on his clock.

The floor is yours, Mr. Blois.

Mr. Kody Blois (Kings—Hants, Lib.): Thank you very much, Mr. Chair.

I'll start my questions with Mr. Schaan.

Mr. Schaan, it was a good exercise for me to go and actually look through the ICA in detail to see the different thresholds. Can you help describe to me what a WTO investment is? Of course, there's delineation under the act about what a WTO investment is versus what it isn't. Just quickly, for the benefit of this committee, what is a WTO investment versus what it is not?

Mr. Mark Schaan: I'll turn to my colleague for that.

Mrs. DeNeige Dojack: A WTO investment is an investment where the ultimate controller is based out of a country that is a WTO member.

Mr. Kody Blois: How many WTO members are there around the world? Most of the world would be covered by that provision, would it not?

Mrs. DeNeige Dojack: Yes, most of the world is covered by that provision.

Mr. Kody Blois: Okay.

Obviously there are different thresholds in terms of the actual monetary amount at which something is triggered. Mr. Schaan explained that there's an economic benefits analysis, and then there's also a national security analysis. My two questions are on the economic benefit analysis.

If there is a series of transactions that falls under the threshold but is correlated together, is there any recourse for the regulating agency in a case in which.... Let's say there's a \$1.3-billion threshold in one case, but what if there was a series of investments by a series of companies that was related but was under that? Is there any recourse for regulators in those senses?

Mr. Mark Schaan: I'm happy to start, and then I'll turn to my colleague.

It's worth understanding the nature of the transaction. For private sector WTO investors, as you noted, it's \$1.14 billion in enterprise value that is the determinant threshold; for state-owned WTO investors, it's \$454 million; and then for private sector trade agreement investors outside of that, it's \$1.71 billion in enterprise value. I think in many of these cases, if it was a series of related transactions, it ultimately would be determinant on us and on the investor to understand what the actual nature of the investment is.

It's worth noting that all of those are reviewable under the national security provisions, and insofar as potentially there's a cumulative series of near-term transactions, we would need to be able to assess and to understand the degree to which those related transactions were singular, potentially, in nature.

● (0905)

Mr. Kody Blois: That's understood.

Is there a threshold, Mr. Schaan, for national security in the sense that.... You mentioned of course that all of these types of investments can be reviewed under the national security lens, but is there a threshold economically in terms of enterprise value, similar to the economic analysis that's in place?

Mr. Mark Schaan: In fact, no, and that's on purpose. The intention is to allow the ICA to be able to contemplate the national security considerations of all transactions, regardless of value, because some of those transactions, while potentially not necessarily high in value, may actually have very significant national security considerations. There were 1,255 such reviews in our 2021-22 year, because there are a number of transactions that are worthy of our consideration.

Mr. Kody Blois: My question is around, of course, the fact that we have a number of economic and trade agreements.

Mr. Schaan, what you're saying to this committee is that there's always a lens on national security, notwithstanding the fact that there might not be an economic benefit, because we're trying to drive trade relationships to not slow down economic considerations between countries that the Government of Canada has deemed important trade partners. Notwithstanding that, there's always a delineation of where those companies and those relations can tie back to our national security.

Mr. Mark Schaan: That's correct.

It's worth noting that all of those investment transactions are subject to national security, recognizing that there's a multi-stage process that can play out that could last as long as 200 days. It's often thought that there has either been or not been a national security review when, in fact, there has always been a national security review. It's just that some national security reviews are slightly longer in nature.

Mr. Kody Blois: Mr. Schaan, you mentioned economic factors. In as short a time as you can, can you mention what those factors are, from an economic standpoint but also more in terms of national security?

One of the concerns being raised is, of course, that geopolitics has changed a lot in the last year and a half around national security, with the war in Ukraine and different actors. Can you speak to what factors might be at play in a national security context review? Obviously that happens on every single investment. Are those factors listed, and how do we go about making that assessment?

Mr. Mark Schaan: I'll turn to my colleague for that.

Mrs. DeNeige Dojack: You've asked two questions, one about the factors regarding net benefit review and one about the factors regarding national security. I'm going to focus on those separately.

Mr. Kody Blois: I'm more interested in national security.

Mrs. DeNeige Dojack: You'd rather I focus on national security. All right.

We have the national security guidelines. These were updated in 2021 to set out a series of factors that we would consider. They're quite long, so I'm going to provide some examples of factors that we would consider in a national security review. They include impact on Canada's military supply chains, potential for espionage, impact on critical minerals, potential investments in sensitive technology sectors, and physical location of an asset, in terms of whether an asset is located immediately adjacent to a Canadian military base or other sensitive site.

I could go into more detail, depending on your interest, but they are set out in the national security guidelines, which were updated in 2021.

Mr. Kody Blois: I would love to, but I'm out of time.

Thank you, Mr. Chair, and thank you to the witnesses.

The Chair: That's perfect timing.

We're now going to Monsieur Simard, who will have six minutes.

[*Translation*]

Mr. Mario Simard (Jonquière, BQ): Thank you very much, Mr. Chair.

Mr. Schaan, I want to focus on the ownership structure of Paper Excellence. Earlier, you provided explanations on an indirect transaction and on what can constitute a national security analysis. If I followed your answer correctly, a national security analysis was done for the transaction between Paper Excellence and Resolute.

[*English*]

Mr. Mark Schaan: That's correct.

[*Translation*]

Mr. Mario Simard: Can you table with the committee the results of that analysis?

Mr. Mark Schaan: The advice of the Minister of Public Safety on the Investment Canada Act is subject to confidentiality provisions.

• (0910)

Mr. Mario Simard: I understand. You said that earlier. I would like to point out that the members of the Standing Committee on Public Accounts were able to obtain contracts related to trade agreements between the government, Moderna and Pfizer. For an elected official, it is essential to have information.

If I remember correctly, Ms. Dojack said, in response to a question from one of my colleagues, that Mr. Wijaya was the owner and that another analysis was carried out to determine the more detailed ownership structure. We are trying to make the connection between Mr. Wijaya and Asia Pulp & Paper.

So you have done that analysis, but you cannot provide us with the documents. Is that correct?

Mr. Mark Schaan: As my colleague said, the information about the ownership structure of that company is subject to the confidentiality provisions of the act.

Mr. Mario Simard: I understand that. I am simply asking you if you have in front of you the result of an analysis that shows whether or not there is a link between Mr. Wijaya and Asia Pulp & Paper. You can answer yes or no, I don't need the details. It's confidential.

What I understood from Ms. Dojack's answer earlier was that this analysis had been done, but that it could not be made public. So that means that the minister—

Mr. Mark Schaan: Yes, Jackson Wijaya is the owner of Paper Excellence.

Mr. Mario Simard: There we go. That means that the minister has in his hands a document that tells him whether or not Mr. Wijaya is directly or indirectly linked to Asia Pulp & Paper and whether, in the ownership structure, Mr. Wijaya is funded by Asia Pulp & Paper.

The minister has that in his hands. He must know it.

Mr. Mark Schaan: As I said, the application form under the Investment Canada Act is complex. The owner must indicate the beneficial owner, and the organization has confirmed that the beneficial owner of Paper Excellence is Jackson Wijaya.

Mr. Mario Simard: Okay. I don't want to go around in circles, but I want to go back to Ms. Dojack's answer to my colleague. She told him that a more in-depth analysis of the ownership structure was done, and that you knew whether Mr. Wijaya was connected. That is probably the case, if we look at it more closely. It's all over the media. We know that. There is probably a connection between Mr. Wijaya and Asia Pulp & Paper.

You have done that analysis, but you cannot provide the results to the committee. That's what I understood from your answer earlier.

[English]

Mrs. DeNeige Dojack: I said, as part of an application, that we receive information on an ownership structure pro forma for all investments. We're given information on the ultimate controller. Then it is very common that investments are held through a series of holding companies, subsidiaries, and so we get that information. Similarly, when we get information on the ultimate controller, if there are reasons to believe there would be influence, we clarify other places. For example, we consider something to be, generally speaking, controlled by somebody if they have a third of the equity in the company.

[Translation]

Mr. Mario Simard: My question will be simpler than that.

I want to know one thing. If you did a security analysis, I guess somebody wondered if there was a connection between Jackson Wijaya and Asia Pulp & Paper. That was the first thought we had at the committee. I understand that you are not allowed to disclose this, but I assume that, in the department, someone decided to check whether there was a link between Jackson Wijaya and Asia Pulp & Paper. I assume you did that in the security analysis.

You say that the department cannot disclose that information, but I assume that the minister has it in his hands and that he does not make decisions blindly. That's what I want to know.

Do you have in your possession a document that refutes or affirms the existence of a link between Jackson Wijaya and Asia Pulp & Paper? That's the only thing I want to know.

[English]

Mr. Mark Schaan: I cannot confirm or deny the existence of a particular document. I can say that in every transaction we understand the ownership structure as well as the relative financial positions of the companies that are making investments through the Investment Canada Act.

I think it would be speculation for us to comment on whether or not a particular affirmation document exists in this case. I think it's important to note that—

[Translation]

Mr. Mario Simard: I understand—

[English]

Mr. Mark Schaan: —all of that is subject to the—

• (0915)

[Translation]

Mr. Mario Simard: I understand that it is difficult for you to give a clear answer to that question.

Last November, the Minister of Innovation, Science and Industry, Mr. Champagne, announced that he had conducted an analysis of certain firms involved in critical minerals. If I'm not mistaken, it was a matter of indirect transactions. He asked Sinomine Rare Metals Resources Co., Chengze Lithium International Limited and Zangge Mining Investment Co. Ltd. to divest themselves of their involvement in critical minerals.

[English]

The Chair: Your time has finished. We'll have to leave that one—we're half a minute over. Mr. Simard will have another round that he can come back to.

We're going now to Mr. Angus.

The floor is yours for six minutes.

Mr. Charlie Angus (Timmins—James Bay, NDP): Thank you very much, Chair.

I have only six minutes, and I certainly don't want to be rude. I'm not really interested in theoreticals; I'm interested only in direct answers on what we're looking at.

When I look at the Investment Canada webpage, I see that it's wonderful. It reassures Canadians that you guys are there to review significant investments in Canada by non-Canadians. When we're looking at the control of 22 million hectares of Canadian forest, apparently by an individual, Jackson Wijaya, I'm to understand, from what you're saying, that you did not do that review, because of the WTO. Is that correct?

Mr. Mark Schaan: A net benefit review on this transaction was not conducted.

Mr. Charlie Angus: Yes, a net benefit review.... Would you at least tell us if the WTO member you're protecting is based in China?

Mr. Mark Schaan: The WTO relates to the nature of the firm—

Mr. Charlie Angus: Is the firm based in China?

Mr. Mark Schaan: Paper Excellence Group, which is the holding company, is a Dutch firm. It's a Dutch holding company.

Mr. Charlie Angus: You have the documents on who the ultimate controller is, so did you not check? Do you know who the ultimate controller is?

Mr. Mark Schaan: Yes.

Mr. Charlie Angus: Is it in China?

Mr. Mark Schaan: The ultimate controller is Mr. Jackson Wijaya.

Mr. Charlie Angus: Oh, I see. Okay.

Well, it's interesting, because when Premier McNeil of Nova Scotia went to deal about Northern Pulp, he flew to the Sinar Mas offices in Shanghai, because that's where the premier needed to meet to find out about Paper Excellence. They worked for Sinar Mas. Did you confirm that Sinar Mas in the Shanghai office is the ultimate controller of Paper Excellence? Did you do that review?

Mr. Mark Schaan: I can confirm that investments under the Investment Canada Act require us to understand the beneficial owner and the ultimate controller of the firm.

Mr. Charlie Angus: Okay. Will you tell us, is the ultimate controller Sinar Mas?

Mr. Mark Schaan: The ultimate controller is Mr. Jackson Wijaya Limantara.

Mr. Charlie Angus: I see. Okay.

I have a briefing note here from the Nova Scotia government that tells me that what you're telling me is not true. The Nova Scotia government internal document says that Paper Excellence is ultimately controlled by Asia Pulp & Paper, an integrated pulp and paper company division of Sinar Mas.

Are you saying that Asia Pulp & Paper is not in control of Paper Excellence and then up through that to Sinar Mas? Will you turn over the filings they do, their mandatory regulatory filings, so that we know what you know?

Mr. Mark Schaan: I'm not in a position to disclose that information. That is subject to the confidentiality provisions of the Investment Canada Act.

Mr. Charlie Angus: Okay. If our committee requested it firmly, I think this would be in the Canadian interest, but I'll continue.

I have an email addressed to Jackson.Wijaya@asiapulpandpaper regarding theft of Canadian intellectual property. Did you do any investigation into whether Asia Pulp & Paper is involved with Jackson Wijaya and allegations of theft of Canadian IP?

Mr. Mark Schaan: I can simply confirm that a national security review of this transaction was conducted—

Mr. Charlie Angus: —and you gave him a thumbs-up.

I guess I'm having a hard time believing you, because we have evidence, including the emails, that Jackson Wijaya worked for Asia Pulp & Paper. We have the premier of Nova Scotia, who flew to Sinar Mas, and yet you come here and tell me, no, it's run out of the Netherlands by an individual.

I'm going to ask more about Asia Pulp & Paper and whether you did your job, because it is about the interest of the Canadian people. If Jackson Wijaya works for Asia Pulp & Paper, we're dealing with a company that has serious international allegations of environmental devastation. They lost their FSC certification. There have been international environmental campaigns against Sinar Mas; there have been defaults on loans, and now we have allegations of the theft of Canadian IP that was bootlegged for Chinese competitors.

Did you guys look at any of this in your security review? Will you confirm, yes or no?

• (0920)

Mr. Mark Schaan: I can simply confirm that a national security review of this transaction was conducted under the factors that are considered in our national security guidelines.

Mr. Charlie Angus: Okay, so you gave a thumbs-up. Did you look into Asia Pulp & Paper, or did you look into this guy, Jackson Wijaya?

Mr. Mark Schaan: I can simply confirm that a national security review of this transaction was conducted under the act.

Mr. Charlie Angus: That's it. Okay.

We've been told by whistle-blowers out of Shanghai that assuming control of 22 million hectares of Canadian forest is a fibre grab for Sinar Mas-Asia Pulp & Paper.

Can you explain how our turning that over to a series of shell companies that may be Asia Pulp & Paper, where Mr. Jackson Wijaya may work and that may be Sinar Mas, and that the premier of

Nova Scotia had to fly to meet, is a net benefit to Canadians, and how Canadian security economically, regionally and down to the community level is not being impacted?

Did you look into whether this is a fibre grab by China to take control of Canadian forests?

Mr. Mark Schaan: I would confirm that a review was conducted on this transaction, which involved the responsible government departments and agencies, including Canada's security and intelligence community, led by Public Safety Canada, the Department of Innovation, Science and Economic Development and the Department of Natural Resources, as part of the review process.

Mr. Charlie Angus: You guys all—

Mr. Mark Schaan: Paper Excellence provided representations to Canada, including meaningful commitments to maintain Canadian representation on Resolute's board of directors and senior management team.

Mr. Charlie Angus: Yeah, yeah, yeah, but you will not tell us whether or not Jackson Wijaya...whether you even bothered to look into whether Jackson Wijaya works for Asia Pulp & Paper and has an office at Sinar Mas in Shanghai.

Will you say whether or not you actually looked into that? If you didn't, that's serious negligence and it's putting Canadian jobs and communities and our environment at risk. If you didn't do that, what do we tell Canadian people that they should trust?

The Chair: I'd say we're out of time, but I'll give you the opportunity for a brief response, and then we're going to move into our next round.

Mr. Mark Schaan: Mr. Chair, I would just note that obviously national security reviews are extraordinarily important and we take them very seriously. Obviously national security considerations are extraordinarily sensitive, which is why I'm not in a position to be able to reveal the specific details of the national security considerations in this transaction.

The Chair: We're now going to go to our second round. This round starts with five minutes.

Mr. Albas, you have the floor first.

Mr. Dan Albas (Central Okanagan—Similkameen—Nicola, CPC): Thank you, Mr. Chair. It's great to see a British Columbian in charge here.

Thank you to the witnesses for what you do for Canadians. I'd like to follow up on MP Angus's request. Is there a way you can bring forward any kinds of documents that would refute the documents that show that Nova Scotia believes there's a different ultimate controller of these companies?

Mr. Mark Schaan: I'm not in a position to provide documentation related to the ownership structure of the company, because it's subject to the confidentiality provisions of the act.

Mr. Dan Albas: I'm not ultimately a member of this committee, so I'll let the regular members decide what to do in the face of that answer.

You used the term “meaningful commitments”. My only very bad experience with the ICA is with Anbang, the purchase of Retirement Concepts in British Columbia, which ultimately saw the purchase of that company. A number of provisions were promised by the government in the House of Commons, saying that Anbang would be held to high standards. Ultimately it was left to the Minister of Health in British Columbia to basically push that company to make sure seniors were getting basic services that were necessary under the law.

When you say “meaningful commitments”, can you tell me if those are actual, locked-in-stone commitments, or are they just commitments they've made to the government, and now the government is using that as a fig leaf? Maybe you could go into it a little so we know exactly what kinds of commitments have been made in order to have the ICA approve this deal.

Mr. Mark Schaan: The commitments made by the investor are part of their commitment in allowing the government to proceed with the investment.

It includes ensuring that no fewer than two-thirds of the members of Resolute Canada's board of directors are Canadian. It includes ensuring that no fewer than three-quarters of Resolute Canada's senior managers are Canadian. It includes continuing to produce craft pulp at Resolute Canada's facility in St. Félicien in Quebec and making annual maintenance expenditures at a level consistent with Resolute Canada's past practice. It includes giving full and due consideration to investing in the conversion of Resolute Canada's facility in Gatineau, subject to market conditions and the availability of skilled labour, fibre commitments and Quebec government support. It includes maintaining existing Canadian patents and patent applications owned by Resolute Canada. It includes adhering to Canadian employment and environmental laws, consistent with Resolute Canada's past practice. It includes learning from Resolute Canada's environmental values, including responsible environmental stewardship, sustainable forest management and implementing environmental management systems across Resolute Canada's facilities. Finally, it includes implementing leadership and human resource practices to create an inclusive workplace at Resolute Canada.

• (0925)

Mr. Dan Albas: My question, then, is this. Are those meaningful commitments from the company to the government, or are they meaningful commitments for the government to ensure that the company follows through on?

Mr. Mark Schaan: I'm not sure I understand the distinction.

Mr. Dan Albas: The distinction is that I can make a commitment to you to be here on time for work tomorrow, but if you're not here to pay attention to that and I don't show up.... That's the difference.

Mr. Mark Schaan: I think we've negotiated commitments from the investor that we believe ensure the continued role of the firm in Canada and its continued meaningful participation in the industry.

Mr. Dan Albas: Whose job is it in your department to follow up to make sure these commitments are being done?

Mr. Mark Schaan: DeNeige, do you want to speak to that?

Mrs. DeNeige Dojack: As part of my team we have a compliance and monitoring function, which includes receiving annual re-

ports—depending on the nature of the commitments—to ensure that companies are compliant.

When we review annual reports, we make sure they're compliant, but we also consider alternative factors. For example, as a result of COVID-19, there were a number of facilities that had commitments around expanding facilities—HR commitments, personnel commitments—and they were not able to make them, so we allowed exemptions for that.

Mr. Dan Albas: My time is short.

How many full-time equivalents are dedicated towards reviewing and ensuring compliance with these meaningful commitments?

Mr. Mark Schaan: We can come back to you on the number of full-time equivalents within the investment review division.

Mr. Dan Albas: Mr. Chair, could the committee ask for that information to be in?

As a concerned British Columbian, I would just like to make the comment that Domtar effectively, in my opinion—people can question whether it's an informed one; I'll leave it to them—has monopoly power and can set the price for things like hog fuel, which is a critically important area and can change the course of an industry, especially the smaller ones.

I just want to say, Mr. Chair, that this is important. It's not just the national security; it's also the competitive aspects of our marketplaces.

The Chair: Thank you, Mr. Albas.

We're going to go online next, to Mr. Sorbara.

The floor is all yours for five minutes.

Mr. Francesco Sorbara (Vaughan—Woodbridge, Lib.): Good morning, Chair.

Good morning, everyone. Happy Friday to you.

This has been a very important conversation, a very insightful one.

I want to ask Ms. Dojack this first.

You used the word “factors” when you talked about looking at a mini transaction and acquisition and determining that the purchaser is attached to a non-market entity, a sovereign wealth fund or a government-backed organization. How much weight do you put in that factor in terms of doing the analysis? I think today, when you look around the world, whether the transaction is \$30 million or whether it's \$3 billion, the IP attached to the transaction, the state actor who is the acquirer.... That, to me, raises a lot of questions, particularly where we are in the world.

Can you talk about that for a second, please?

Mrs. DeNeige Dojack: Yes, ownership and whether or not something is a state actor or is potentially influenced by a state actor is a factor that is considered in a national security review.

Reviews are holistic, so there's no definitive waiting. It depends on the nature of the transaction and the amount of equity that the particular investor has, as well as their overall influence on the company—whether they have board seats and things like that.

It would be difficult for me to say. There's a percentage weighting that a particular factor is given. It is a holistic review that is conducted in conjunction with Canada's security and intelligence partners as well as relevant departments and agencies. In the case of a natural resource transaction, that would be Natural Resources Canada. Together, as a community, we assess the transaction and all the relevant factors, including whether or not an entity would be state owned or state influenced.

• (0930)

Mr. Francesco Sorbara: There is this term that's used, “the golden share”. An entity, a government, may own 5% of a company, effectively blocking the company from being taken over, and it's used quite effectively around the world.

In this case, say company A based in China could have a 5%, a 10% or a 3% equity stake in company B based in another country, and that company can then purchase assets abroad, but de facto, even though company A only owns a small percentage, it has much influence on company B. I think about that. To me, that scenario is there.

I want to ask a second follow-up question.

The Investment Canada Act... There is a bill going through Parliament. How different would the analysis be today or *ex ante*? How different would the analysis be going forward from what is done under the existing or the old Investment Canada Act in this type of transaction?

Mr. Mark Schaan: I'll address two aspects of your question.

First, just to touch on your previous question, it is worth noting that influence, ultimate control, control in fact and meaningful control are all factors that are extraordinarily important to the understanding of a given investment. They are obviously factors that are considered within the national security provisions of the act.

With respect to Bill C-34, which continues to work through the parliamentary process in terms of modernizing and updating the Investment Canada Act, it does make fundamental improvements to the overall functioning of the act. That said, many of the core aspects, notably the continued usage of a national security review for all investments and a net benefit review of those that meet the threshold are an important part.

Some of the improvements, though, for instance, are things like the capacity for us to have binding undertakings under the national security provisions of the act. Right now, for something that we put in through the order-making process and other aspects, it will allow for those in a more direct way. It will also allow us to be able to maintain things like an ongoing set of sensitive technologies in sensitive industries, which will allow us to ensure that we've been very clear about the types of investments that will need preclearance as a function of the act.

The Chair: We're out of time. It goes fast.

It will go even faster now, because we're going to Mr. Simard, who has two and a half minutes.

[*Translation*]

Mr. Mario Simard: Thank you, Mr. Chair.

Earlier, you answered one of my colleagues by explaining the commitments you had negotiated. You talked about the Saint-Félicien kraft pulp mill, the investments in Gatineau and patent maintenance.

How is it that you can tell us that? Isn't that confidential?

Mr. Mark Schaan: As my colleague said, the companies' commitments under the Investment Canada Act are part of their annual report. This will ensure that the company will continue to comply with them.

Mr. Mario Simard: So you could table documents related to that with the committee.

The reason you can tell us about it is because the information is public. So you could table with the committee the documents relating to the company's commitments to the government.

[*English*]

Mr. Mark Schaan: As I noted earlier, much of this is subject to the confidentiality provisions of the act. However, the company has agreed to publicly—

[*Translation*]

Mr. Mario Simard: I apologize for interrupting you, Mr. Schaan, but if this information were confidential, you would not tell us that the company committed to maintaining the kraft pulp mill and making investments in Gatineau. If that information were confidential, you would not be telling us that this morning. Now that you've told us about it, it's no longer confidential.

[*English*]

Mr. Mark Schaan: If I could finish, Mr. Chair, I would note that, while much of this is subject to the confidentiality provisions of the act, we have the permission of the firm to reveal the commitments in this particular instance. They are as I have documented. I'm happy to ensure the committee has those.

• (0935)

[*Translation*]

Mr. Mario Simard: Did you get permission from the company to disclose the ownership structure?

[*English*]

Mr. Mark Schaan: I'm not in a position to outline any further information related to the ownership structure of the firm.

[*Translation*]

Mr. Mario Simard: You could answer my question with a yes or no. Did the company allow you to define its ownership structure, yes or no?

[English]

Mr. Mark Schaan: I'm not in a position to reveal any further information related to the ownership structure of the firm.

[Translation]

Mr. Mario Simard: At the very least, you could answer my next question.

We're trying to find out if there's a connection between Mr. Wijaya and Sinar Mas.

Does the minister have that information?

[English]

Mr. Mark Schaan: As I noted as part of my previous responses, Mr. Chair, ownership structure is one of the fundamental fields required under the Investment Canada Act. That was provided as part of this overall application.

The Chair: Thank you.

We're out of time on that one.

We'll now go to Mr. Angus for his two and a half minutes.

Mr. Charlie Angus: Thank you so much.

One reason this issue has become such a concern is that we've had whistle-blowers from Asia Pulp & Paper in Shanghai, saying this expansion in Canada is a "fibre grab".

In fact, one official said, "It's a fibre grab. They want to keep the perception that Paper Excellence is an asset of Canada for Canada and by Canada, but in reality, it's a feeder for the Chinese machine."

I ask that because, in the Resolute review, Paper Excellence was obliged to divest itself of the Thunder Bay mill operation, but the forestry rights were retained by Resolute, which is retained by Paper Excellence and, possibly, Asia Pulp & Paper.

You can't run a mill without trees, so why would you let those trees be handed over to Asia Pulp & Paper through Paper Excellence?

Mr. Mark Schaan: I believe the member is referring to two different aspects of the review of transactions related to this industry. The first is specific to the national security review, and the other is the review of the Competition Bureau with respect to transactions and whether this creates a significant lessening of competition.

Mr. Charlie Angus: Okay. I asked the question because I spoke with a forester from Thunder Bay who said that allowing Paper Excellence and Resolute to control that forestry licence without having to maintain the jobs at the mill is a great game of trickery.

You said the company allowed you to give some explanations of what it's up to. Would you ask the company whether it would explain to us what it is going to do with that damned wood fibre? Is that going to China? Why is it not going to a mill in Thunder Bay, where we have hundreds of workers who are dependent on those forests? Why would the Canadian government allow Paper Excellence to walk away with those forestry rights? How do I explain that to workers? How do I explain to communities that you guys are doing your job?

Mr. Mark Schaan: As I noted, Mr. Chair, this transaction was subject to the Investment Canada Act for the purposes of the national security review. It was not subject to a benefit assessment, as a function of the fact that it was an indirect acquisition. From a national security review perspective, this transaction was deemed to be able to proceed following the meaningful commitments made by the firm.

Mr. Charlie Angus: It was a fibre grab, then. Did you not have a problem with that?

Mr. Mark Schaan: Mr. Chair, I'm not in a position to respond to that question.

The Chair: Thank you. We're out of time.

We have two five-minute rounds left in this hour. We'll go first to Mr. Dreeshen online, and then Mr. Blois will finish us off.

For the witnesses, that's what you can expect for the remainder of this morning.

Mr. Dreeshen, over to you for your five minutes, please.

Mr. Earl Dreeshen (Red Deer—Mountain View, CPC): Thank you very much, Mr. Chair.

I'd like to talk some more with the witness from Natural Resources on some of the discussion points he mentioned.

Mr. Smith, you said that Canada has 9% of the world's forests. You mentioned in your testimony a discussion about climate resilience and third party certification. Could you expand on what that is all about?

I'll ask some questions about these processes, and how companies are involved with forests as far as leases are concerned.

Mr. Gregory Smith: As I noted, Canada has the largest area of forests in the world where practices are third party independently certified. They may be certified by one or more third party standards, including the Canadian Standards Association, the Sustainable Forestry Initiative and the Forest Stewardship Council.

Approximately 158 million hectares—as I mentioned, about 70%—of Canada's managed Crown forest are certified under one of these certifications. What these certifications do is they provide added assurance that a forest company is operating legally and is compliant with internationally accepted standards for sustainable forest management. All companies operating in Canada must comply with the laws and regulations with respect to the forest sector writ large. This supports Canada's reputation, of course, of being a reliable source of legally and sustainably produced forests.

● (0940)

Mr. Earl Dreeshen: Thank you.

You mentioned that the provinces manage forestry lands. Can you explain the role NRCan plays in the management of land leases and, more specifically, the pulp and paper industry?

Mr. Gregory Smith: Yes, absolutely.

The provinces, as you mentioned, hold jurisdiction over the forests. They're the ones that regulate the harvesting and determine which standards are set. They delegate responsibility to private forest companies through licensing and timber supply agreements. These are typically known as tenure agreements. These arrangements grant a licence to harvest. They contribute both to Crown revenues for provinces and to the federal government via corporate income. These companies assume and define responsibilities for their management.

There are a variety of different ways provinces go about determining who gets tenure in these instances. For the sake of time, I won't go into all of them. Each province has its own approach on how to do that.

Your second question was, how does Natural Resources Canada work with the provinces on this? It's through a variety of means.

One, we have a well-established research network that works to research sustainability issues. We work closely with the provinces and territories to ensure that information is shared on best practices, how to update regulations, and the management of Crown timber. We also deliver a number of programs that support transformation in the sector. There's a recent budget, and I could speak more at length on that, as I mentioned, but I will not, for the sake of time.

Mr. Earl Dreeshen: That's fine. Thank you very much.

According to Paper Excellence's page on sustainability, the company maintains a chain of custody certification. That includes the Forest Stewardship Council certification. That was discussed earlier.

What are the benefits of this FSC certification? What impact does it have on Canada's pulp and paper industry? What is its reputation in our sustainability?

Mr. Gregory Smith: There are a number of questions there.

As you rightly noted, the FSC certification, in our understanding, is from the Resolute transaction that 100% of the lands held by Paper Excellence would be third party certified. It's likely noted on the website, as you mentioned. The benefits of this are many.

However, it does indicate, internationally, that these companies are operating in a sustainable way and held to a high standard. They are being third party audited by the certification bodies to ensure they are doing so. This gives the buyers and customers of these companies confidence that they are buying sustainably harvested wood and paper products from sustainably managed forests.

Mr. Earl Dreeshen: Thank you.

How does the FSC certification compare to other sustainability certifications that are global? You must be able to compare what we do to what is happening in the rest of the world.

Mr. Gregory Smith: I don't think I'd be able to provide a reliable comparison between different certifications across the world, aside from noting that Canada, as I mentioned, is a world leader in the amount of third party-certified forest we have.

Mr. Earl Dreeshen: Okay. Thank you.

The Chair: Thank you.

For the last five minutes, we're going back to Mr. Blois online.

Kody, it's over to you.

Mr. Kody Blois: Thank you, Mr. Chair. My questions are for Mr. Schaan.

In June 2022, there were changes in the order in council for the national security review provisions under the ICA. Can you quickly describe the essence of those changes and what they amounted to?

Mr. Mark Schaan: Yes. I'll start, and then I'll turn to my colleague.

One of the outcomes we are seeking, obviously, is to ensure that we're remaining relevant to the current circumstances, so from time to time the minister provides increased clarity on what exactly we are aiming to achieve through the national security guidelines. In that respect, in 2022, as you note, we updated those to ensure that very particular sensitive areas and sectors that were likely to engender national security considerations were identified and provided.

Mr. Kody Blois: Thank you.

On the guidelines specifically, are they in the order in council...? Are they regulations, or are they a departmental policy?

● (0945)

Mr. Mark Schaan: Right now, those are a function of the minister's guidance that he provides to potential investors under his powers under the act.

Mr. Kody Blois: As I listened to Mr. Angus, he was asking really important questions that were very critical of your work, but what I'm trying to figure out as a parliamentarian is whether or not we have to do more to actually provide the guidance.

Mr. Angus was talking, of course, about some of the economic concerns and about where the pulp might be going, but if that's not actually a mandate under your direction and part of what you're being directed to study, I think it's our job as parliamentarians to understand that.

On the guidelines, it doesn't seem as though there's a whole lot about.... There's a lot around supply chains in Canada in a critical minerals sense. There's a lot on national security in terms of assets. There's not a whole lot on broader economic interests, with Russia being the one example where that might have changed.

Is it a fair comment that there's not a whole lot in the security review provision that relates to external exports of Canadian materials elsewhere?

Mr. Mark Schaan: I would parse that question slightly, Mr. Chair.

I would suggest that there are a number of important factors that relate to the economic makeup of the sector as we think about the net benefit reviews that are conducted under the act.

With respect to the national security provisions of the act, obviously a core consideration is whether or not something is injurious to the national security of Canadians, which requires a significant analysis of the sector but is less specific to the potential benefits to Canadians, which would come under the net benefit review.

Mr. Kody Blois: There's obviously a cultural threshold as part of this policy, whereas the investment or purchasing of cultural assets.... There's a much lower threshold in the economic analysis versus other elements.

Ultimately, I guess that's up to the government, but is it fair to say that that is about trying to protect Canadian cultural businesses? The lower threshold, of course, dictates that there has to be an economic analysis above and beyond the national security element that you've indicated happens in all circumstances.

Mr. Mark Schaan: As I noted, the threshold for the net benefit is a function of our World Trade Organization commitments and our international trade commitments, which is standard across all of our trading partners. As you noted, the acquisition of cultural assets is subject to a different threshold, which has been negotiated under our trade agreements as a function of the fact that the majority of those enterprises are usually of lower value but are understood to be important from the consideration of net benefit to Canadians.

Mr. Kody Blois: What I'm hearing, then, Mr. Schaan, is that if the Government of Canada or Parliament was seeking to try to create a lower threshold in terms of the actual assets of industries—let's say natural resources or otherwise—that's actually a function of the trade agreements that we currently have. There would have to be amended negotiations of our existing trade obligations to get a lower threshold, making sure that analysis happens for businesses, natural resources or otherwise.

Mr. Mark Schaan: The net benefit threshold is a function of our World Trade Organization commitments, and it is consistent across our trading partners. Yes, any shift to the net benefit threshold would need to be contemplated in the context of our commitments.

Mr. Kody Blois: Mr. Chair, I have about 45 seconds, so just quickly, Mr. Schaan, are there any exemptions? I looked at the exemptions, and there is a provision around foreign bank acquisition or associated elements.

I'm curious. In whatever time I have left, can you speak to any exemptions that exist under the ICA for filing, and specifically address the foreign bank piece?

Mr. Mark Schaan: The foreign bank piece—and I'll turn to my colleagues, if they'd like to supplement—is a function of the fact

that those are contemplated by our colleagues within the financial sector, who obviously have a different test for prudential and other risk perspectives. They consider those contemplations, which is why they're exempt from this particular filing but are obviously reviewed within the context of our financial institutional constructs.

The Chair: That takes us to the end of our time. I'd like to thank our witnesses for joining us this morning. It's a very important conversation, and I appreciate, within the constraints that you operate under, what you were able to share with us today.

Mr. Angus, do you have a point of order? I just want to mention to members that we're going in camera next, so all of the members online will have to log out. There's a second link that you need to go to in order to come back in camera.

Before we suspend, if it's a point of order, Mr. Angus, I'll go to you.

Mr. Charlie Angus: Thank you, Chair.

Yes, so that our committee can do due diligence in reporting to Parliament, I'm going to request from the Department of Public Safety any national security review that was conducted by that department for both the Domtar and Resolute acquisitions by Paper Excellence, and to provide the copy to our committee; any mandatory filings under the Canada Investment Act regarding Paper Excellence's acquisition of Domtar and Resolute, and that they be supplied to the committee; for any briefing notes to the department or the Minister of Public Safety related to Domtar and Resolute's acquisitions by Paper Excellence; from the Department of Natural Resources any copy of briefing notes prepared for the minister related to the Domtar and/or Resolute acquisitions by Paper Excellence; and from the Department of Industry any briefing notes prepared for the minister related to the Domtar and/or Resolute acquisitions by Paper Excellence.

• (0950)

The Chair: Thank you. We'll consider that as being put on notice, and we'll dispense with it within the allotted time period.

Thanks to our witnesses. You're now excused for the day. Thanks so much for joining us.

For our members, we'll adjourn. As I said, for those online, please log out and come back in on the second link for the closed session.

[Proceedings continue in camera]

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