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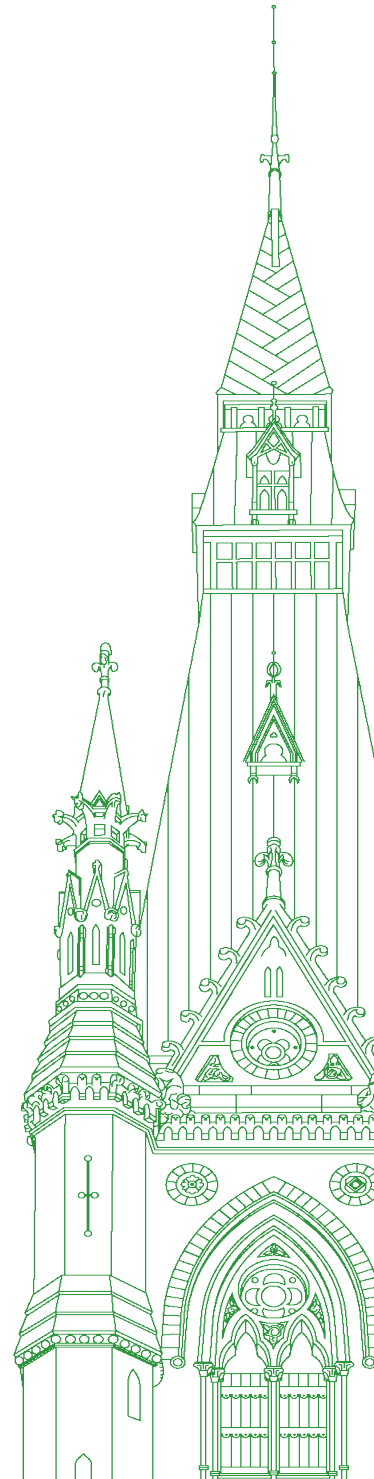
Standing Committee on International Trade

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Chair: Judy A. Sgro



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• (1100)

[English]

The Vice-Chair (Adam Chambers (Simcoe North, CPC)): I call this meeting to order.

This is meeting number 44 of the Standing Committee on International Trade.

Pursuant to Standing Order 108(2) and the motion adopted by committee on Tuesday, June 9, the committee is commencing its study on enforcing Canada's import ban on goods using forced labour.

We appreciate our witnesses making themselves available on short notice, and thank you to the parliamentary secretary for helping arrange this meeting on short notice.

We have with us today, from the Canada Border Services Agency, Mr. Hamilton and Ms. Toxopeus. From the Department of Foreign Affairs, Trade and Development, we have Ms. Wilshaw, Mr. Brookfield and Ms. McDonald.

Thank you very much for attending.

I understand that there will be one opening statement from Ms. Wilshaw. You'll have five minutes.

For the committee's reference, I have 12 motions on notice, so I've secured additional resources, but we'll see if we can get out of here quickly.

Thank you very much.

Ms. Wilshaw, you have the floor.

Sara Wilshaw (Senior Assistant Deputy Minister, International Trade and Chief Trade Commissioner, Department of Foreign Affairs, Trade and Development): Thank you very much, Mr. Chair.

[Translation]

Thank you for giving me the opportunity to speak to the committee.

The Government of Canada recognizes and appreciates the committee members' interest in eliminating forced labour in Canadian supply chains.

Forced labour constitutes a serious violation of fundamental human rights. This violation disproportionately affects the world's most vulnerable people by exploiting their lack of protection and limited economic opportunities.

[English]

Forced labour also distorts global markets and creates unfair competition for businesses that operate responsibly. Companies that invest in ethical sourcing should not be placed at a disadvantage by competitors who benefit directly or indirectly from exploitative labour practices.

[Translation]

For these reasons, the Government of Canada is committed to eliminating forced labour from Canadian supply chains. This is both a moral imperative and a key factor in ensuring a level playing field for Canadian companies. It also helps strengthen the resilience and security of supply chains, which serves the economic and security interests of Canada and our allies.

[English]

Canada has already taken significant steps to address forced labour through two separate but complementary mechanisms: an import prohibition on goods produced with forced labour introduced in 2020 and the supply chains act, which came into force in 2024 and requires certain entities and government institutions to publicly report on measures taken to prevent and reduce risks in their supply chains. Notably, Canada is the only country in the world to have both an import prohibition and federal supply chain transparency legislation to combat forced labour.

[Translation]

On June 12, the Government of Canada introduced a bill to strengthen Canada's current import ban by improving our ability to identify, intercept and prohibit goods produced in whole or in part using forced labour.

[English]

The proposed legislation complements Canada's broader approach to responsible business conduct, which includes international partnerships that advance human rights protections and co-operation with like-minded countries to address forced labour globally. It also ensures that Canada is meeting its international commitments, including obligations under the International Labour Organization conventions, UN instruments and agreements with our trading partners. We recognize that this is a complex global challenge that requires collaboration across governments, industry and civil society.

The introduction of this legislation marks a significant step forward in our ongoing efforts to address forced labour and underscores Canada's leadership in promoting human rights, strengthening the integrity of supply chains and supporting fair and open trade.

[Translation]

Thank you, Mr. Chair.

I would be happy to answer the committee members' questions.

I would like to point out that my colleagues from the Canada Border Services Agency are also here. I want to thank them for being here. They will be happy to answer any questions about our activities and law enforcement.

Thank you.

• (1105)

[English]

The Vice-Chair (Adam Chambers): Thank you very much.

For the first round, we have Mr. Mantle.

Jacob Mantle (York—Durham, CPC): Thank you, Mr. Chair.

Thank you to our witnesses for appearing. We appreciate your valuable testimony.

I want to start with some questions on enforcement.

An import ban sounds good, but if goods come in, it's not really much of a ban, is it? Last year, the U.S. blocked shipments of sea salt products from Taepyeong Salt Farm because of concerns they were produced by forced labour. Those goods appear to be available in Canada. Has the CBSA investigated whether those goods are produced by forced labour?

Graeme Hamilton (Director General, Traveller, Commercial and Trade Policy Directorate, Canada Border Services Agency): Thank you very much for the question.

On the detailed level of investigation question, I don't have that information in front of me, in terms of the actual investigations ongoing. My responsibilities within CBSA are outside of that particular area. I'm happy to take back those questions on notice, if you want, but I don't have that information available with me right now.

Jacob Mantle: Okay, let's try another one.

Last year, the U.S. blocked shipments of bicycles and bicycle parts made by Giant Manufacturing Co., the world's largest bicycle manufacturer. There are two stores that sell Giant bicycles here in Ottawa and several in the Toronto region.

Has the CBSA investigated whether those bicycles available for purchase today in Canada were made by forced labour?

Graeme Hamilton: Mr. Chair, again, my apologies to the committee member asking the questions. My role within CBSA is around the development of policy and authorities associated with a variety of different laws and regulations that the Government of Canada is trying to advance. I am not on the side of the CBSA house, so to speak, that works on either the investigations piece from a national targeting centre side or the implementation of the

operations around the current export ban. I wouldn't be able to testify with any certainty in terms of details on any ongoing investigations or specifics related to goods that may or may not have been imported previously.

Jacob Mantle: Okay, I'll try one more.

Two days ago, the U.S. blocked shipments of copper products made at a mine in Serbia by Serbia Zijin Copper because they determined they were being produced by forced labour. It appears from public reporting that those copper products have been exported to Canada.

Has the CBSA investigated whether those copper products entering Canada were made with forced labour?

Graeme Hamilton: I would say, in terms of items that have been blocked from entering the U.S. system, there is a healthy collaboration that takes place between the U.S. CBP and Canada Border Services around sharing information, especially around re-exportation, which is a concern, so that it doesn't get redirected into Canada.

Again, I can't speak to the specifics of the case that's being identified, but I do know there are regular exchanges between ourselves and the CBP around such issues as re-exportation, where there are concerns with the goods that are trying to be imported into the U.S.

Jacob Mantle: I have to say it's kind of concerning to me that we have five people here from what are supposed to be the responsible departments, yet no one can provide answers or any information on goods that for months have been publicly known to have caused concerns about forced labour. I find that unacceptable.

I don't think the CBP in the U.S. shares your view. CBP says:

Canada has not taken action to restrict the importation of goods for which there is a known risk of forced labor. For example, Canada has taken only minimal action to investigate the importation of goods that are subject to CBP's WROs [withhold release orders] or Findings, or to comprehensively address forced labor goods produced in regions of concern.

Is that true?

Graeme Hamilton: I believe the quote is coming from the US-TR 301 investigation report.

Jacob Mantle: It is, yes.

Graeme Hamilton: I would say, from my role in CBSA and my understanding of the co-operation that takes place between our two organizations, we have embeds within national targeting centres in the U.S. that are run by the CBP. They also have embeds in ours. There's a healthy exchange of information that does take place. Operationally, how that plays out in terms of different imports, I wouldn't want to speak to the specifics.

Those are the words of the U.S. I wouldn't want to testify to them specifically. I would maybe defer to Global Affairs if they have overall comments on the USTR report and its findings.

Jacob Mantle: Another concerning aspect of that report is that they say:

The Canada Border Services Agency, the agency responsible for enforcing Canada's forced labor import prohibition, does not appear to publish official statistics or other information regarding its enforcement efforts.

Is that true?

Graeme Hamilton: With respect to forced labour import bans, that is true. We have not published statistics in terms of how many goods have been intercepted and whether they're successful, abandoned or re-exported.

The CBSA does take an open and transparent approach to publishing a lot of its enforcement statistics. It publishes an annual report, for example. There are often online statistics related to drugs, guns and inadmissibility concerns published on a regular basis on CBSA's website.

Given the limited number of cases that we have on the forced labour side, we have not moved forward with public reporting on those goods. However, there would be nothing that would prohibit the publication of generic material around the success of the import ban and the success of enforcement actions, so long as it does not lead to inadvertent disclosure of specific companies, because there are elements of privacy and there are concerns related to section 107 of the Customs Act around disclosure of some of that information.

• (1110)

Jacob Mantle: If the U.S. can publish the names of companies, the regions of concern and the goods at issue, why can't the CBSA do the same?

Graeme Hamilton: I would just defer the question to the broader Government of Canada posture on this. CBSA is an enforcement agency. We are not experts on forced labour. We do have MOUs in place with ESDC, which provides general reporting on conditions of concern where products are made, and that is what we use to inform our targeting, but we ourselves are not publishing a list of goods.

Jacob Mantle: Thank you.

The Vice-Chair (Adam Chambers): Go ahead, Mr. Ehsassi.

Hon. Ali Ehsassi (Willowdale, Lib.): Thank you, Mr. Chair.

Thank you to the witnesses for being here today.

Mr. Mantle cited a USTR report. He's trying to paint a picture that Canada is a laggard. As I understand it, that USTR report explicitly looked at practices in over 60 countries. Am I correct in that assumption?

Lynn McDonald (Director General, North America Trade Policy Bureau, Department of Foreign Affairs, Trade and Development): Yes, you are correct. The USTR report looked into 60 economies, as they called them, given that they included the countries of the European Union.

Hon. Ali Ehsassi: Absolutely. That's my understanding as well. Thank you for clarifying that.

I note, as was suggested in the opening remarks, that we have two pieces of legislation. Now we're proceeding with Bill C-35 to ensure that we're at the forefront of this.

This is obviously a very challenging issue for countries around the world to deal with. It's complex, but of course there's the moral imperative as well.

Who could tell us more about Bill C-35? Some of the provisions I've seen in it seem to suggest that our system could very well become more robust than the American system, especially given the reality that the onus is going to be put on companies as opposed to the onus being put on our officials.

Mr. Brookfield, I'm sure you know this new piece of legislation inside out. If you could tell us the key features of Bill C-35, I'd be grateful.

Robert Brookfield (Director General, Sanctions and Strategic Export Controls, Department of Foreign Affairs, Trade and Development): Certainly. As you may be aware, Canada is one of the first countries in the world to do a forced labour prohibition. We did that initially through the customs tariff.

One of the challenges with that process, which my colleagues in CBSA can elaborate on, is that it did not allow for transparency for companies or the details for allowing a system to be in place for advance notice and analysis. One of the key elements of Bill C-35 is the ability to establish a list that would deal with goods and with regions and/or companies providing it. It would be a signal to companies importing that in those cases they need to have a very good demonstration, through regulations that would be established, that they are meeting the requirements, or the item would be banned at the border.

Hon. Ali Ehsassi: Would it be fair to say, in the event that Bill C-35 is adopted, that we would be at the forefront and that this would create a more robust system than exists even in the U.S. and in Europe?

Robert Brookfield: Europe is in the process of implementing this legislation. It has passed some bills, but I believe its law doesn't come into force until the end of 2027. Experts from ESDC are able to speak in more detail to that.

I won't try to compare with the U.S. specifically. You no doubt could have witnesses, when the bill is examined, to deal with the advantages and disadvantages, but I would say it's very comparable to the U.S. measure and that virtually no other countries in the world, including the EU, have anything that's equivalent to it.

Hon. Ali Ehsassi: Would it be fair to say that there's quite a bit of information sharing that's going on between our authorities and the Americans, as well as Europeans?

Robert Brookfield: I believe so. I can't speak to it personally. Those areas of forced labour co-operation tend to happen at the ESDC level, but it's their response at the International Labour Organization and elsewhere.

Certainly we already deal very extensively with other countries. Part of the point, I believe, of having the bill under the Ministry of Foreign Affairs is that this will facilitate the kinds of exchanges that ESDC is presently doing at the foreign affairs level as well.

• (1115)

Hon. Ali Ehsassi: I understand that, for Bill C-35, there are going to be comprehensive consultations this summer, where stakeholders and interested parties can come forward to make sure that Bill C-35 is strengthened. Am I correct in that?

Robert Brookfield: Minister Anand has indicated that she'll be going forth with consultations this summer. We're in the process of identifying how those can best be structured in such a way to complement the many consultations that have happened already.

Hon. Ali Ehsassi: Thank you. That's been very helpful.

The Vice-Chair (Adam Chambers): Monsieur Bonin, you have the floor.

[Translation]

Patrick Bonin (Repentigny, BQ): Thank you, Mr. Chair.

Obviously, we're pleased with the recent developments. For a number of years now, the Bloc Québécois has been calling for stronger measures than the current ones. That said, we have questions about the effectiveness of the measures currently proposed in the bill.

In the text of the bill that it just introduced, the government specifically determines the products that would be banned from entry. Yet we don't know what those products will be.

You also just said that you can't specify the products in question for confidentiality reasons.

Did I understand that correctly?

Robert Brookfield: If I said that, I was wrong. I apologize.

The list won't take effect until the bill is passed. The regulations, including the list, will then come into force. We can't say what will be included on the list until the bill is passed.

Patrick Bonin: We had been asking for this for years, but the government wasn't doing anything. Now, Mr. Trump just made an announcement. As if by magic, the bill quickly materializes.

To the best of your knowledge, has the government been working on this bill for a long time?

Were you consulted in the past regarding the drafting of this bill?

Robert Brookfield: During the implementation of the Fighting Against Forced Labour and Child Labour in Supply Chains Act, when it comes to the customs tariff, multiple consultations took place. Efforts were made in this area, including with regard to other legislation. The work on this issue has been ongoing since 2020.

Patrick Bonin: Better late than never.

Can you explain the difference between the current bill and the current legislation in place?

I would like you to summarize it for us. Since we don't have much time, I would like you to send the committee a document outlining the differences between the current system and what the bill proposes.

Sara Wilshaw: Thank you for the question.

Bill C-251 proposed certain—

Patrick Bonin: Could you submit additional details to the committee regarding the comparison between the current system and the bill?

Sara Wilshaw: Yes. We can provide that for you.

Patrick Bonin: Great.

You can start answering the question now.

Sara Wilshaw: Bill C-251 proposed some similar changes, particularly concerning the creation of a list and the rebuttable presumption. However, it continued to use customs tariffs as a legislative tool, which posed certain challenges for our colleagues in terms of border regulations.

Patrick Bonin: My Conservative colleague asked three questions earlier about specific products, including Giant bicycles and copper. You didn't have the answers to those questions.

Could you send the committee a written response? For example, we would like to know whether these products have been investigated.

You spoke about your review and the fact that you're carrying out a number of investigations. Personally, I thought that the number of intercepted or banned products wasn't that high.

Can you submit to the committee the list of the investigations carried out, along with the types of products approved or rejected?

Graeme Hamilton: Thank you for the question.

Regarding our activities, I have a list here that outlines the main points. However, if you would like specific figures, we'll send them to the committee later.

• (1120)

Patrick Bonin: We appreciate it.

You seemed to be saying earlier that the proposed bill is comparable to the approach taken by world leaders, such as the United States.

Why doesn't the government simply propose the system used in the United States?

Instead of responding to a request from President Trump practically overnight in order to satisfy him, why don't we just copy the approach taken in the United States?

Can you explain the difference between the proposal and the United States' approach?

Since I don't have much time left, I would like you to send us a written response as well. That would be helpful.

Robert Brookfield: I think that the committee will have the opportunity to study the bill more closely.

For now, I can say two things.

First, the United States' legal system is quite different from ours. As a result, we can't use the exact same system.

Second, I would emphasize the fact that the American legislation applies only to certain regions. I would argue that this legislation provides the advantage of greater flexibility. We can add or remove regions and products with greater flexibility than the American system affords.

As I said earlier, I can't compare this legislation with the United States' legislation, because they're different.

That said, both are quite good. I can say that, if we compare our legislation to the approach taken in other parts of the world, we can see that our legislation is one of the best.

Patrick Bonin: You said earlier—or you were made to say—that Canada's proposal is better than the United States' system in place.

Robert Brookfield: I don't want to compare Canada with the United States. However, I would say that Canada's proposal is stronger than the measures found in most countries around the world, as far as I know.

Patrick Bonin: Okay.

Could you provide the committee with a comparison between the United States' approach and Canada's approach?

You said that this will be studied later, but it may not be studied by this committee. We would like to have this information.

Robert Brookfield: We could give you a response. It won't be a legal analysis, but it will at least be an answer to policy questions—

Patrick Bonin: You have many resources. We are, after all, talking about a bill. We would like to have as much legal information as possible.

You also seem to be saying that Canada couldn't adopt the same approach as the United States for some reason. Could you elaborate on this and also provide supporting documents explaining why Canada couldn't use the same approach as the United States?

Robert Brookfield: I'm not an expert on American law. However, I can say that their legal and legislative system is different from ours.

Patrick Bonin: I know that. However, you said that we couldn't do this, so does that mean—

Robert Brookfield: We couldn't just copy what they do, because our legal system—

Patrick Bonin: Could you elaborate on this?

[English]

The Vice-Chair (Adam Chambers): We will have to pick this up in the next round.

[Translation]

Thank you.

[English]

Mr. Kram, go ahead.

Michael Kram (Regina—Wascana, CPC): Thank you very much, Mr. Chair.

Thank you to all the witnesses for joining us today.

Article 23.6 of the existing CUSMA reads, in part, “each party shall prohibit the importation of goods into its territory from other sources produced in whole or in part by forced or compulsory labor, including forced or compulsory child labor.”

Given that Canada is going to be importing electric vehicles from China, do you expect this practice to be a significant challenge in the upcoming CUSMA negotiations?

Lynn McDonald: With respect to article 23.6, you're correct that that's the existing obligation on the parties to implement and enforce a forced labour ban. Canada has been clear that we feel we have met all of our obligations under the CUSMA. With respect to the potential for Chinese EVs, I can't speculate on how the U.S. or Mexico may approach that in the context of the CUSMA review.

Michael Kram: Okay, but they're not going to say that all of a sudden it is okay to import goods made from child labour. I don't understand. If there is considerable evidence that automotive parts and automobiles are made with forced labour in China, and they're going to be coming to Canada, how could that not be a significant challenge during the CUSMA review?

Sara Wilshaw: It's important to underscore that this import ban applies to all products made in whole or in part with forced labour, not about a specific country. We wouldn't at this stage be saying that one product or one region.... We're not at the stage of having a list. At the point that we are at, it applies to all products. It's not about one specific country and not directly related to the issue that has been raised.

• (1125)

Michael Kram: In Bill C-35, which was tabled last month, it does refer to a list. Subclause 6(1) reads:

The Minister may, by regulation, establish a list of goods in respect of which there are reasonable grounds to suspect that they are produced wholly or in part by forced labour.

Are we expecting automobiles, EVs and automobile parts from these troubling regions of China to be included in the list in Bill C-35?

Sara Wilshaw: In terms of the process, at this time it would be premature to say what might be on that list. The bill was just tabled on Friday. It needs to go through the normal process. The regulations need to be developed and the list produced in due course.

Michael Kram: I have a report here from the U.S. Department of Labor from September 2024. I'd like to read a quote from that report:

In addition to manufacturing aluminum automotive parts, China processes a large percentage of other key inputs in the automotive industry. For example, China processes iron into steel, lithium and cobalt into battery-grade materials, and bauxite into aluminum. The U.S. Department of Labor specifically identifies electronics and lithium-ion batteries produced in China as automotive components that are produced with child or forced labor.

This is the U.S. Department of Labor. I can't imagine this not coming up in the CUSMA review.

Are we going to be putting a stop on the import of EVs from China once the CUSMA review is under way? I just don't understand how you reconcile the two. I'd appreciate it if you could shed some light on how that's going to work.

Sara Wilshaw: It's still premature to say what would and would not be on the list. At this point, we don't have a list to demonstrate what we're concerned about. However, it is not premature to say that the intention of the legislation is to prohibit the entry of all goods made, in whole or in part, with forced labour. It's not saying a specific at this time but all products that are made, in whole or in part, with forced labour.

The U.S. system, as I think my colleague mentioned, is their own and unique. We would take into account a number of pieces of research and evidence in formulating a list of goods and high-risk regions, but at this time, I can't say what would actually be on that list, at the end of the day.

The Vice-Chair (Adam Chambers): Thank you very much.

Just for the benefit of committee members, what's worked well in other committees is that if you have additional questions, you can submit them in writing. We can submit them to the officials later.

Madam Lapointe, you have an extra minute, because your colleague Mr. Ehsassi yielded that time.

[Translation]

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

Good morning, everyone. Thank you for being here. You're giving us valuable information. It's helping us to better understand the situation.

How many other countries are in the process of adopting similar legislation that includes a public list of high-risk goods and a reverse onus mechanism for importers bringing goods into Canada?

Robert Brookfield: I apologize, but I can't give you an exact figure at this time. However, I can tell you that, according to Employment and Social Development Canada, 35 countries are in the process of implementing similar legislative measures across the board. However, I can't give you more specific details.

Linda Lapointe: For these 35 countries, how far along is the implementation of their respective systems? How many of them have established public lists, as seems to be the goal?

Robert Brookfield: I don't have the answer right now, but we could check.

The United States obviously must have a list. Mexico has a system, but I don't know whether the list is public. The European Union countries are in the process of developing their system. However, I don't think that their list is public yet.

Linda Lapointe: Okay. Thank you.

I know that you nevertheless brought up the United States a number of times. You said in particular that the United States has a good system, but that it's difficult to compare Canada with the United States. From a legislative standpoint, we're different, and so much the better.

Could you provide a more detailed explanation?

For example, what's the structure of the American legal framework for forced labour?

What's the difference between the enforcement of measures targeting high-risk goods under the Trafficking Victims Protection Reauthorization Act and the enforcement of measures under the Uyghur Forced Labor Prevention Act of 2020?

Could you shed some light on this?

• (1130)

Robert Brookfield: Sorry, but Global Affairs Canada doesn't currently have expertise in these areas of American law. Perhaps my colleagues at Employment and Social Development Canada or experts in American law could shed some light on this for you.

Linda Lapointe: Okay. Thank you.

I'll still ask you one more quick question.

How exactly does the United States Customs and Border Protection share data in practice? Does it regularly publish reports on seizures, broken down by type of goods? I know that my colleague spoke about bicycles earlier. How is the information broken down, and how can we access it?

In addition, can you name the top five countries whose goods have been seized on suspicion of forced labour? Sara Wilshaw said earlier that it wasn't necessarily China, but rather various countries.

I would like you to elaborate on this.

Graeme Hamilton: Thank you for the question. I'll answer it in English, just to be clearer.

[English]

The U.S. CBP actually has a public website. I'm happy to provide the web link to the committee that allows the data to be searchable. You can search it by total value, by region and by commodity type. They update that website on a regular basis, specifically for forced labour. The CBP also publishes similar stats related to drugs and other commodities that they enforce. It's a pretty rich dataset that one can sort through to understand not only where the goods are coming from but also where they're being imported into from a port of entry perspective. We'll make sure that is provided to the committee members and they can have a look.

In terms of the top five countries, I've not gone through and sorted them from that particular perspective. However, I would say from discussions we've had with colleagues at Global Affairs and ESDC that we tend to see forced labour risks materialize more acutely in the types of industries that are very labour-intensive, such as the textile industry, agriculture, fishing, etc., and then some manufacturing processes as well. Those types of industries that rely heavily on human capital in order to create value or create products are typically where we end up seeing forced labour appearing most acutely.

[Translation]

Linda Lapointe: So you're looking at industries rather than countries, if I understand correctly.

Graeme Hamilton: Absolutely. That's right, yes.

Linda Lapointe: I'll get back to the American system, because everyone seems to say that it's a good system. There are differences between our system and the United States' system.

Compared to the American system, would it be accurate to say that the proposed Canadian approach provides a simpler and better integrated process that connects the list of high-risk goods to the implementation of the legislation governing the Canada Border Services Agency?

Robert Brookfield: Yes. I would say that this is the goal. Of course, there will be debates in Parliament about whether the proposed bill would achieve that goal. However, the goal is to create a clearer and simpler system through a single piece of legislation, rather than multiple pieces of legislation as in the United States. As I said earlier, the goal is also to create a more flexible list than what the American system proposes, at least in part.

Linda Lapointe: I gather that it will be easier to set this up and put it into effect.

Robert Brookfield: That's the goal.

Linda Lapointe: How will the list of high-risk goods be established? Can it be developed in conjunction with the legislative process for Bill C-35?

Robert Brookfield: Bill C-35, as currently drafted, would give the Minister of Foreign Affairs the authority to establish the list. As I said earlier, the minister said that consultations would be held on how to create the list. Of course, the bill could be amended. However, based on the current proposal, the decision to add items to the list or to remove them would be up to the Minister of Foreign Affairs.

Linda Lapointe: You said earlier that consultations had already taken place, but that they would continue during the summer.

Robert Brookfield: Yes. Minister Anand said that consultations would be held this summer. The main topics would be how to create the list, the issue of evidence and, perhaps, the key factors involved in deciding whether something should be added to the list.

Linda Lapointe: Thank you.

[English]

The Vice-Chair (Adam Chambers): You're right on time. Thank you.

[Translation]

Mr. Bonin, you have the floor.

Patrick Bonin: I'll try to do the same, Mr. Chair.

You just said that the bill would make things simpler than the current system in the United States, for example. Now, let's talk about a bill introduced by the Bloc Québécois. It proposes to target certain regions where forced labour is known to take place—such as the Uyghur region—and to require importers of goods from those regions to show that their products weren't produced using forced labour.

It seems simpler to tell an importer that, if their products come from a region where forced labour takes place, they must prove to us that their products weren't produced using forced labour. I don't understand your argument that the proposed approach involving a list established by the government would be simpler than putting the onus on the importers that bring in products from a region where forced labour is known to take place.

• (1135)

Robert Brookfield: I'm sorry, but I don't exactly understand the question, because the bill proposes to do exactly that. A list will be created by the Minister of Foreign Affairs. If a product ends up on the list and is linked to a region or an individual—

Patrick Bonin: I'm well aware of what the bill proposes.

You answered my colleague opposite that having a list would be simpler than the U.S. system, for example. We in the Bloc Québécois have introduced a bill on this subject that states that.... It's unfortunate, I lost a minute because you didn't understand the question. In short, you said that it was simpler to have a list than to have the equivalent of what there is in the United States, where sectors are identified and where importers of goods from those sectors are required to prove that there was no forced labour.

Robert Brookfield: There's a more flexible element. From what I understand, the U.S. law directly names regions. That means the law has to be amended to make any changes to the established regions. Bill C-35 would enable the Minister of Foreign Affairs to change the list without having to amend the law.

Patrick Bonin: It's simpler for the government, then. In fact, who is that simpler for?

Robert Brookfield: It's more flexible. It makes it possible to add or remove regions. I think that's what I said.

Patrick Bonin: No, you said it was simpler. That's not the same thing.

Robert Brookfield: I think I said “flexible”, but—

Patrick Bonin: Is it complicated to identify sectors, as the United States does, and require proof that no products are made with forced labour? Could we do that in Canada?

Robert Brookfield: The bill will mean that the list has to be prepared, yes.

Patrick Bonin: No, that's not what my question is.

Could we do the equivalent of what the United States does, that is, identify sectors or places where forced labour exists and require importers to prove that there are no products made with forced labour?

Robert Brookfield: Parliament could, as in the United States, decide that certain regions are associated with forced labour and require that a certain process be put in place when products come from those regions. If Canada were to do that, any changes to the regions or the details would also require an amendment to the law.

Patrick Bonin: Do you have discussions with the United States to see what they're doing and what products are being seized because they're considered to be made with forced labour? You don't seem to be aware of the situation for basic goods. Have you had any discussions with them to develop your bill?

Robert Brookfield: I have not personally.

[English]

The Vice-Chair (Adam Chambers): I'm going to interject. We can follow up with an answer in the next round. It will be the first. You could ask the same question, or you don't even have to bother asking the question. We'll just start with the answer in the next round, if you like, to save some time.

Mr. Mantle, go ahead.

Jacob Mantle: Thank you, Mr. Chair.

I want to come back to your comments, Ms. Wilshaw, that there's no list that is currently used. Did I understand from your testimony or evidence that there's no list yet?

Sara Wilshaw: That's correct. We have not produced a list or published a list at this stage.

Jacob Mantle: What has CBSA been using for the last five or six years to inform its enforcement of the import ban?

Graeme Hamilton: In terms of the list as envisioned under the legislation, there is no public list. There is a target list that we have internally. Again, I'm not on the operational side, but I understand there are fewer than 1,000 but more than a dozen, so there are several hundred entities that are listed. We review import data against those to see whether or not those companies are importing goods directly into Canada. Where they are, targets are sent to the front line in order to detain the goods for redetermination or inspection upon arrival.

Jacob Mantle: You mentioned that the list includes entities. Is it solely entities? Does it include goods, regions or countries?

Graeme Hamilton: In terms of...?

Jacob Mantle: I mean the targeted list that you say the CBSA uses.

Graeme Hamilton: We can get back to you on the exact components of it. I don't have this. I don't operationalize the list on a daily basis, and so I wouldn't want to inadvertently say there's no X on it when, in fact, maybe one of the places has an X listed.

Jacob Mantle: That's fair.

Could you provide the committee with a copy of that targeted list?

Graeme Hamilton: I don't know whether or not that is possible. However, I will endeavour to find out from those who are able to make that determination from a disclosure perspective whether or not that can be provided.

Jacob Mantle: Would it be fair to say that this list will likely inform whatever proposed list is made or put forward for Bill C-35, or are you going to create a new list from scratch?

Graeme Hamilton: The bill obviously creates a new process for listing, a new standard of evidence. It provides additional indicators that need to be considered when the list is made. Will this be one information source that is used to inform that eventual list? Most likely. I wouldn't want to prejudice future decisions around that. However, obviously we do know from working with our U.S. CBP colleagues that 90% of what ends up on the U.S. list starts from public reporting and NGO reporting around forced labour concerns. We'll be looking at a wide variety of information sources, obviously, including the ones held by government.

• (1140)

Jacob Mantle: Can you tell me when the first draft of Bill C-35 was completed and sent to the minister's office?

Maybe Ms. Wilshaw can respond.

Sara Wilshaw: I think that question was asked in the FAAE hearing.

Jacob Mantle: It was.

Sara Wilshaw: Officials committed to looking into the possibility of providing that timeline to the committee there.

Jacob Mantle: Thank you.

For months we've heard from the government that Canada has robust measures in place to combat forced labour. However, the issue is not the laws; the issue is the enforcement, as we've found out. If we have such robust laws, why was Bill C-35 necessary?

Robert Brookfield: As you've heard from other testimony, I think the government believes that this bill will provide a number of advantages. One of them is providing greater clarity in terms of which products, regions and, potentially, individual companies will be covered, but also providing greater transparency to importers. One challenge right now is that an importer is at a bit of a loss, potentially, in terms of knowing when it needs to have a higher burden of proof, when it needs to have greater detail and what that detail would be.

Clause 8 of the law, for example, provides for regulations that would provide greater detail about what documentation is required to establish, in one of the listed areas or products, that they meet the requirement. That's one of the advantages of the present bill.

Jacob Mantle: I'm hearing you say that the previous regime wasn't sufficient.

Robert Brookfield: As I said earlier, Canada was one of the first countries in the world to have a forced labour regime. As we've heard, since 2020, when that was introduced, the Canadian government has been seeking to improve it. I would suggest that this bill is an attempt to improve that.

Jacob Mantle: That's fair enough, and we'll discuss the bill in more detail.

Is either department or any government department going to be making submissions in the U.S. hearing process on its proposed actions?

Lynn McDonald: Thank you, Chair, for the question.

That is under consideration right now, and no decision has yet been made.

Jacob Mantle: That's fair enough.

I'll end with this in my last seconds here.

Mr. Hamilton, you spoke about great collaboration between CB-SA and CBP. Can you answer, then, if there's great collaboration, if you're working together, why...? Obviously, CBP is taking a different view on Canada's enforcement, and it provided facts in its report, which this committee has discussed. If there's collaboration, why is it proposing broad-based tariffs in response to our failure to combat forced labour?

Lynn McDonald: Thank you for the question, Mr. Chair.

I think there are a number of factors feeding into U.S. decision-making with respect to the section 301 investigation. Ambassador Greer has stated publicly that part of the motivation behind looking into forced labour regimes is to increase and enhance enforcement of the existing prohibitions and to encourage countries that have not put in place prohibitions to move forward in that direction. As noted in the report on the investigation, they found that there are a number of countries that have not put in place bans, and countries, including Canada, that have, but they are encouraging greater enforcement.

There is also the underlying motivation behind this: the fact that a number of the U.S. broad-based tariffs, including the section 122 tariffs, are expiring as of the end of July. There is some sense that part of the motivation behind the U.S. is finding an alternative source of tariff authority. I think the findings of the USTR need to be looked at in that context as well.

The Vice-Chair (Adam Chambers): Thank you very much.

Mr. Fonseca, go ahead.

Peter Fonseca (Mississauga East—Cooksville, Lib.): Thank you, Mr. Chair. I will be sharing my time with MP Acan.

First up, the focus of my questions will be Bill C-35. Would you agree that this bill builds on the 2020 import ban and the 2024 sup-

ply chains act to create one of the most comprehensive forced labour frameworks in the world?

• (1145)

Robert Brookfield: I think you probably will have experts, or Parliament will have experts who would be better placed to provide a more neutral assessment. However, that is certainly the intent.

Peter Fonseca: Canada would have one of the most comprehensive forced labour frameworks in the world.

Robert Brookfield: That's the intent.

Peter Fonseca: Would you also agree that Bill C-35 shifts Canada's approach from proving forced labour after the fact to preventing suspect goods from entering Canada in the first place?

Graeme Hamilton: Obviously, I think that, when you look at Canada's overall forced labour regime, there is that dual intent. In many ways, the forced labour import ban is the backstop or the last line of defence against the importation of those goods. That needs to work co-operatively with the supply chains act, incentivizing Canadian businesses to understand their supply chains and to make alternative purchasing decisions in order to eliminate those goods from even coming into Canada. I think that together those two items work to provide a very comprehensive regime.

I'm sorry, but I missed the last bit of your question. If I didn't respond to it, please let me know. I'm happy to elaborate.

Peter Fonseca: Rather than proving forced labour after the fact, it's to prevent suspect goods from entering Canada in the first place. What are the steps that would change that, reverse that onus so that businesses would be able to provide the information? What information would you be looking for from businesses before that importation takes place?

Graeme Hamilton: There are two elements within Bill C-35 that facilitate that prevention element. One is the public list. Companies making purchasing decisions to import goods into Canada will know where there are risks, and they may choose to make purchases elsewhere. There will also be regulations that prescribe pieces of information that will need to be presented to the CBSA if they're importing goods off the list. That will require those purchasers and the importers to understand their supply chains and to really dig deep to understand where those products come from. Potentially, through that process they will proactively identify forced labour within their supply chain and make alternative purchasing decisions, and it will prevent those goods from being imported into Canada.

Peter Fonseca: I understand there will be consultations over the summer as we go through Bill C-35. In terms of recommendations that have come from labour organizations, human rights groups and businesses that have called for these enforcement tools, have some of those been addressed within Bill C-35? Can you respond to that?

Graeme Hamilton: Yes. Broadly speaking, in 2023 and again in 2024, the government—once under Global Affairs, once combined with ESDC and CBSA—undertook public consultations around the forced labour frameworks. A number of the items that were identified through those consultations are reflected in the legislation that came forward, Bill C-35, primarily, the ability to produce a public list and provide transparency for importer obligations. I would say that the other piece that came up in 2023 was, obviously, the ability to do this prearrival, the ability for the government to work with importers to make sure that, for those goods, the determination is made in advance in order to smooth and facilitate, ultimately, the importation of those goods.

Peter Fonseca: Thank you.

MP Acan, go ahead.

Sima Acan (Oakville West, Lib.): Mr. Hamilton, the current framework relies on a risk-based approach using risk assessment and random selection to identify the shipments of goods that may have been produced by forced labour. With the introduction of Bill C-35, the agency would work from a targeted list of higher-risk products, with the onus on the importer to prove their goods are free of forced labour.

You explained very well the steps that you will be taking. Could you please also tell us how this targeted intelligence-led approach strengthens enforcement, as compared to the current method?

Graeme Hamilton: As we have learned to operationalize the current forced labour ban within the customs tariff, one challenge we've identified is that the application is done on a shipment-by-shipment basis. We need to identify a particular shipment at risk in order to be able to target it, as opposed to a much broader list. In fact, it's broader, but it's actually more targeted because it allows us to focus our enforcement efforts.

Through the elements in Bill C-35, we anticipate being able to better direct our officers' attention to very specific shipments coming in. Then, the information requirement elements within Bill C-35 will also mean that our officers will be able to make faster determinations because we will know that the importer will have to have the information available, which we will be able to review in making determinations around whether or not those goods were made with forced labour.

• (1150)

Sima Acan: Thank you very much.

The Vice-Chair (Adam Chambers): Thank you very much.

For the last round, we have Mr. Kram, followed by Mr. Naqvi, and we'll have Mr. Bonin for two and a half minutes. That will conclude our meeting, and then we'll get to some of the motions.

Mr. Kram, go ahead.

Michael Kram: Thank you, Mr. Chair.

I would like to circle back to the witnesses about the Chinese EV imports. Just a couple of weeks ago, in an article with the headline "Chinese-made electric vehicles start arriving in Canada", CBC reported, "Nearly 3,000 Chinese-manufactured EVs landed in the country last month."

I'm told that's all based on data from Global Affairs Canada.

What guarantees do we have today that those 3,000 Chinese EVs that arrived two months ago were not made with forced or child labour?

Sara Wilshaw: All I can say is that the existing forced labour import ban applies to all products, and that is currently the mechanism being used to prevent goods that are made with forced labour from coming into the country. In the customs tariff, that is the existing mechanism by which goods coming into the country would be assessed.

Michael Kram: If the U.S. Department of Labor has found that many automobiles, electric vehicles and auto parts made in China are used with forced and child labour, can you give us some insight into the enforcement mechanism? Do we have inspectors who go to China to look at the assembly lines? How does that work?

Sara Wilshaw: I would defer to my colleagues about how the enforcement is currently done.

Graeme Hamilton: In some ways, you're stumbling onto some of the challenges we have identified through the use of the customs tariff. Because it's on a shipment-by-shipment basis, broad-based reporting around high risks of use of forced labour in general industries would not necessarily allow us to have a successful detention at the border. The burden of proof is that the particular car that is in front of you has a particular chassis which was made from aluminum that was produced using forced labour. Therefore, because it's shipment by shipment, it becomes a very challenging level to get to. Then, for the next shipment of cars, we'd have to re-prove that the exact same supply chain is in place in order to determine that they were made with forced labour. It becomes inherently difficult, on a shipment-by-shipment basis, under the customs tariff, which, I think, is one thing that Bill C-35's intent aims to address.

Michael Kram: Okay, so we can anticipate that automobile parts and EVs from these regions of China probably should be included in the list in Bill C-35. Is that a fair statement?

Graeme Hamilton: I wouldn't want to speculate in terms of what will make the list, but I can say that, in terms of the targets that we currently have ongoing, automobile parts, textiles and seafood are some of the commodities that are in there, so it would not surprise me that automobile parts would be in there, whether or not they're specifically linked to a region. I wouldn't want to presuppose what ultimately makes it onto the list though.

Michael Kram: Okay, but if we are, let's suspend disbelief for a minute and assume that the U.S. Department of Labor study is correct and that these parts and these imports do have to be stopped. We're going to stop these Chinese EVs as soon as Bill C-35 is up and running and in force then.

What does that look like, and what does that mean with the canola tariffs that the Chinese recently lifted?

Sara Wilshaw: I think we just have to go back to what we've said, which is that we can't presuppose what's on the list at the moment, nor can we anticipate the reaction of any trading partner to their position on the list if that is named at this point. It's too early to say.

Michael Kram: Would you say that it's more than a little bit irresponsible for the government to have let in these 3,000 EVs from China without the ability to ensure at every step of the way that the supply chains do not have forced labour or child labour?

Sara Wilshaw: I'm not sure who's best placed to answer that question.

I don't think any of us would want to presume where the government has been in terms of this. We have a ban on imports made with forced labour. My colleagues have described the challenges with the enforcement of that, but there is a total ban on goods made with forced labour at this moment.

• (1155)

Michael Kram: Chair, I think that's my time.

The Vice-Chair (Adam Chambers): Thank you.

Mr. Naqvi.

Yasir Naqvi (Ottawa Centre, Lib.): Thank you, Chair.

Thank you, witnesses, for being here today and for your fairly detailed analysis.

This committee has taken a lot of interest in forced labour issues, so we really appreciate your coming to committee.

I'm obviously happy to see Bill C-35 being tabled because I think a lot of issues that have been discussed in this committee are reflected in the bill.

I am always keenly interested in a bit of a comparison with other like-minded jurisdictions to better understand where we lie, especially when it comes to our allies, the United States and the European Union, for instance. Can you give us a sense of where Bill C-35 is in terms of alignment with the regulatory regime the European Union has put forward and the legislative scheme that our American partners use? Are we somewhere in the middle? Are we sort of going one particular way or the other? Could you provide a bit of a comparator in that, and have you received any feedback from our partners in Europe or United States, for example?

Robert Brookfield: I think it's premature to provide any comments on what Bill C-35 might be compared to the United States and the EU, since it's recently been introduced. We certainly are in touch with the United States, Mexico, the European Union and other of the 35 countries I mentioned that are working on addressing this issue.

I think it's fair to say that the U.S. system is longer standing. I believe their law dates back to 1930, and other countries and economies like the European Union are looking carefully at the U.S. system and how to potentially improve it.

My understanding is that the European Union's ban on products made with forced labour entered into force on December 13, 2024, but will not become applicable in full until December 14, 2027. I think the European Union is a comparator that we'll be looking at very closely. Their system is obviously, like the U.S. system, very different from ours, so it's not necessarily going to be possible to compare it one for one.

Again, I expect there will be experts before Parliament who can provide a more nuanced analysis, but our intention is to be as strong or stronger than the European Union in terms of outcomes.

Yasir Naqvi: Thank you.

Can you speak to the enforcement aspect in this bill and the dispute resolution mechanism?

I understand that the onus is on businesses, on companies, to make sure they comply if a product or jurisdiction is listed.

First, from a CBSA perspective, what is the enforcement mechanism envisioned on our end, and if there is a disagreement with that enforcement, what are the remedies available for the companies in question if they want to dispute?

Graeme Hamilton: Bill C-35 lays out a dispute mechanism. The importer can appeal for a judicial review in the Federal Court if they disagree with the decision that has been made by the CBSA in order to allow those goods to enter. That has some advantages. It is a faster process. It's a transparent process. The results would be available online publicly. There are some advantages to having it set up that way.

In terms of the enforcement action that would flow out of Bill C-35, I don't want to speculate on what will take place in the future. I would say, though, that Bill C-35 contains a number of elements that address a number of challenges the CBSA has identified within the implementation of the current forced labour ban. We anticipate that it would be favourable in terms of our overall enforcement action.

The public list will also provide a lot of visibility to importers to better understand areas where they should be taking a bit more time and attention to understand who their suppliers are. That in and of itself may change purchasing behaviours, which may negatively impact enforcement action, because businesses are being more responsible and getting supplies elsewhere. We'll have to see how that plays out in the implementation of whatever Bill C-35 looks like if it passes Parliament.

Yasir Naqvi: My last question is around the consultation process. I know there's been a fair bit of consultation that has gone into the drafting and tabling of this bill.

Ms. Wilshaw, you mentioned that the minister intends to consult on the list aspect. Can you speak to that? What might the content be around the consultation, what's the process that's being envisioned and what's the time frame, if you have that information?

• (1200)

Robert Brookfield: I can say that Ms. Anand is committed to consulting this summer on what factors would inform her choice, should this bill become law, in terms of clause 6 and the creation of the list. I expect that it would draw on existing consultations and existing material, including that provided by the United States and elsewhere, and that the focus will be on seeking views from Canadians on what the Minister of Foreign Affairs' role should be in implementing this legislation and, notably, what approach she should take to preparing that list.

Yasir Naqvi: Thank you.

[Translation]

The Vice-Chair (Adam Chambers): Thank you.

Mr. Bonin, you have the floor.

Patrick Bonin: I would like to come back to your relationship with the United States. For example, when they determine that a particular product is clearly made with forced labour, do you have discussions with them so that you can then identify those products too?

[English]

Cathy Toxopeus (Director General, Commercial Program Directorate, Canada Border Services Agency): Thank you, Mr. Chair, for the question.

Yes, we have information sharing established with the U.S. We exchange that through our national targeting centre, and we inform our targets based on that.

[Translation]

Patrick Bonin: In Canada, how many products are currently considered to be made with forced labour and are banned?

[English]

Cathy Toxopeus: I apologize. I do not have the answers right now.

[Translation]

Patrick Bonin: Are we talking about zero, a thousand or a million products?

[English]

Cathy Toxopeus: I don't—

[Translation]

Patrick Bonin: You have no idea.

[English]

Cathy Toxopeus: Not me, no.

[Translation]

Patrick Bonin: You don't know how many products in Canada are considered to be made with forced labour. No one can give me a number for that.

[English]

Graeme Hamilton: Mr. Chair, it's a difficult question to answer. In some ways, it has to be time-bound. Honestly, I'm not 100% sure.

[Translation]

Patrick Bonin: Who is responsible for that, if not you?

[English]

Graeme Hamilton: Do you mean for the number of goods in Canada produced?

[Translation]

Patrick Bonin: I'm talking about determining whether products are made with forced labour.

[English]

Graeme Hamilton: At the border, it's the responsibility of the CBSA to enforce the laws that come into play when goods enter Canada. That's what we do. Once goods are released into the economy, accounting for those goods would be the responsibility of other ministers and, I would argue, probably some provincial jurisdictions as well.

[Translation]

Patrick Bonin: Can you provide that list? I imagine there must be a list of banned products.

[English]

Graeme Hamilton: On the internal list of items that we have reviewed, we have committed to seeing whether or not we can release it to the committee.

[Translation]

Patrick Bonin: What are you basing the list of products on? For example, do you look into a product when you know it's banned in the United States? Do you go off observations from Human Rights Watch? How do you determine the list of products? There may not even be one; I don't know.

Graeme Hamilton: The list is created from various information sources. We also have agreements with Employment and Social Development Canada.

[English]

They undertake research that informs that list. Obviously, there are consultations with the U.S. and other parties. The exchange of information under the customs mutual assistance agreements supports the creation of that as well.

[Translation]

Patrick Bonin: Can you provide the committee with the list of criteria that enable you to conclude that a product is made with forced labour? What filter, methodology or approach do you use?

Graeme Hamilton: I will talk to the people at Employment and Social Development Canada to try to provide you with that information.

Patrick Bonin: Okay.

Thank you.

[English]

The Vice-Chair (Adam Chambers): Thank you very much.

That concludes our rounds. I want to thank our witnesses.

Before you go, I have a couple of things I want to clarify.

There's some confusion around lists. Is there a current list that either department is working on with respect to goods that would fall under Bill C-35?

Sara Wilshaw: To clarify, we were talking about a public list, which is something we will be working on going forward that is envisaged in Bill C-35.

What my colleagues have been talking about—and I would defer to them—is an internal listing of high-risk products.

Maybe you can clarify that these are two separate things.

The Vice-Chair (Adam Chambers): To the extent that you can share the list you currently have with the committee, we would appreciate that. That's been asked in a follow-up.

[Translation]

Patrick Bonin: I have a point of order, Mr. Chair.

[English]

The Vice-Chair (Adam Chambers): Mr. Bonin.

[Translation]

Patrick Bonin: I would like to clarify one thing, following this discussion. Earlier, you mentioned that it was possible to submit requests in writing. We'll do so, because, quite clearly, I'm not sure that our requests have been understood properly.

[English]

The Vice-Chair (Adam Chambers): Absolutely.

You'll have to forgive my time on the finance committee, but in your follow-up with the committee, could you provide an estimation of the number of FTEs that will be assigned to enforce Bill C-35 when that comes out?

Finally, there's an issue with which we have been having a difficult time. You mentioned unfairly traded goods for Canadian companies. We've been having a difficult time getting the SIMA handbook. I would appreciate it if you could take that back to your colleagues and provide that to the committee. That's been an outstanding request of this committee, and there's a motion on notice, actually, to the same effect. We would certainly appreciate your efforts in helping us get that.

With that, I would like to thank you for appearing and spending your time with us on short notice.

Everyone, have a wonderful weekend.

Thank you to all of those who help us: our translators, our support, our analysts and, of course, our wonderful clerk in seat number one.

Some hon. members: Hear, hear!

The Vice-Chair (Adam Chambers): Thank you very much, and have a great summer.

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