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Chair

Mr. Leon Benoit

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• (1100)

[English]

The Chair (Mr. Leon Benoit (Vegreville—Wainwright, CPC)): Good morning, everyone.

I'll just start by going through a few issues briefly.

First of all, I want to say that this meeting is a continuation of a study of nuclear safety issues, including the safety issues at the Chalk River nuclear reactor. We started this study about two weeks ago. We had invited two witnesses, who had agreed to come. The first was the Hon. Gary Lunn, Minister of Natural Resources. The second was the President of the Canadian Nuclear Safety Commission, Linda Keen, who had agreed to come but at the last minute cancelled.

Today we have three witnesses. The first is from the Office of the Auditor General of Canada. I'll go into a little more detail on these later. The second is Linda Keen, who is a commission member. The third is the Hon. Tony Clement, Minister of Health.

I want to explain that this committee, at the last meeting, had agreed to invite three witnesses. The clerk did invite all of those witnesses. One witness, Michael Burns, indicated in a letter, which you should all have in front of you, that he would not appear and he gave an explanation for why he wouldn't appear. I believe you all have the letter in front of you. When that was clear there was a space at the meeting, and I invited the health minister, the Hon. Tony Clement, to come to the meeting. He was actually the first witness requested by the Liberal Party on its list of witnesses submitted. So that's where we are right now.

I see we have someone...I just want to finish the introduction here.

We will get to the witnesses. We have the Auditor General and others from her office at the table, but I understand there is someone who wants to speak, I presume on a point of order.

Madame DeBellefeuille.

[Translation]

Mrs. Claude DeBellefeuille (Beauharnois—Salaberry, BQ): Yes, Mr. Chairman, I would like to discuss the motion the Bloc Québécois sent to the clerk within the required timelines. There is no reference to it on the agenda, probably because of the importance of today's meeting, but I would like to make sure that the Bloc's motion will be given priority at our meeting on Thursday morning. It talks about assistance for the forestry and manufacturing sectors. I think everyone would agree to dealing with it as a priority on Thursday morning. Could we have that commitment this morning?

[English]

The Chair: Madame DeBellefeuille, that makes perfect sense to me, of course. I am guided—and more than guided, I am directed—by the committee. You have given appropriate notice, and that would seem to be a very reasonable approach. Thank you for that.

Mr. Anderson.

• (1105)

Mr. David Anderson (Cypress Hills—Grasslands, CPC): Mr. Chair, I'd like to ask about the status of a couple of the other motions.

Madam Bell brought a motion forward two or three weeks ago, and we had committed to looking at that once we reconvened. I am just wondering what her interest is in that, because that motion was brought forward quite a while before this one we are talking about now.

The Chair: Yes, of course, we know the order of three motions that have been appropriately brought before the committee. It's up to each member to decide whether they would bring that issue to be dealt with by the committee or not. That is where we are now. It's up to the members to decide that.

Mr. Alghabra.

Mr. Omar Alghabra (Mississauga—Erindale, Lib.): Thank you, Mr. Chair.

First I want to echo what has been said by Ms. DeBellefeuille, that perhaps the issue of motions that have been tabled and future witness lists should be discussed on Thursday. We have limited time today with the witnesses, and it looks like there might be consensus to deal with them on Thursday.

The other issue you touched upon was the invitation to Mr. Tony Clement. I want to draw your attention to a couple of quotes from the transcript that took place the last time we met. My colleague Mr. Proulx said:

Is it not a rule that witnesses must be approved by the committee, in the sense that just because one members wants 14 different witnesses that doesn't mean the committee will necessarily accept that?

The Chair: Absolutely.

Mr. Omar Alghabra: I also want to quote another statement, where I said, “Will we examine it”—“it” refers to the witness list —“and consider it as a committee and agree on which witnesses to invite or not?” The chair said yes.

And then, Mr. Chair, you said:

We may have to do that, the clerk and I, two members, without a meeting, if you want to go ahead with the meeting on the 29th and we can't get the witnesses you're talking about.

I responded by saying, "As long as we're all consulted on the witness list."

And the chair said, "Sure. The clerk will do that. Agreed?"

I want to highlight that there was an explicit agreement that any new witnesses could not be added to the list without discussion with committee members. It's human nature to respond to such a unilateral act by becoming obstructionist, but because we're responsible and we want to hear from the witnesses today, we're going to agree. But we want to record our objection that this was an inexplicable action by the chair. I don't know why a witnesses was added, even though it was explicitly agreed....

Today we have a limited time to hear from witnesses. I'd like to have a commitment that if Ms. Keen agrees, the committee will be cooperative to invite her back again. That is a way that I think we can proceed. Even though Ms. Keen will only get an hour today, we could invite her back if we need to.

Thank you.

The Chair: Thank you, Mr. Alghabra.

We have two more people who have asked to speak. I would certainly like to get to the Auditor General with the important questions we have for her.

Ms. Bell.

Ms. Catherine Bell (Vancouver Island North, NDP): Thank you, Mr. Chair.

With regard to the motion I introduced that was tabled, it's my understanding we had agreed to table that until after we heard from several of the witnesses. I'm quite happy to hear we are going to get into motions on Thursday; I don't want to prolong the debate on this today.

The Chair: It's entirely up to you whether you want to bring that forward on Thursday. You're certainly welcome to do that.

Madame DeBellefeuille.

[*Translation*]

Mrs. Claude DeBellefeuille: I would like a clarification, Mr. Chairman. Will we be debating the motion put forward by the Bloc Québécois regarding the serious crisis facing the forestry industry at our meeting on Thursday morning? If I understand correctly, three motions have been presented, and normally, the committee should devote some time to debating them. I need to know what your position is as chair and whether or not committee members agree to debate the Bloc's motion on the crisis facing the manufacturing and forestry industries. Could you clarify that and make a commitment that we will in fact discuss the motion on Thursday morning?

• (1110)

[*English*]

The Chair: Madame DeBellefeuille, as I said before, the chair can't determine the agenda of this committee. Only the members can do that. It's up to the members to decide, through debating the motions, what issues they want to deal with next.

I am always here to do the will of the committee.

[*Translation*]

Mrs. Claude DeBellefeuille: With all due respect, Mr. Chairman, I would point out that it is up to you to set aside time for debating motions before we invite further witnesses to appear on the issue we are studying at the moment.

[*English*]

The Chair: Mr. Anderson.

Mr. David Anderson: Mr. Chair, I think we need to have a meeting to discuss future agendas. We've done this a couple of times and the agenda keeps shifting. I think we need to take some time on Thursday to discuss in what direction the committee wants to go. If the decision is made to go in the direction Ms. DeBellefeuille would like to go, we'll do that. But we need to have a meeting to talk about which of the several future agendas that we've picked in the past we are going to choose to see through.

The Chair: Is it agreed that on Thursday we come here to deal with any of the motions the members would like to bring forward?

Mr. Boshcoff.

Mr. Ken Boshcoff (Thunder Bay—Rainy River, Lib.): Specific to that, we very clearly established forestry as our top priority for this coming year. Except for two members, we established that forestry would be discussed at this meeting and until our break. That was read into the record and we all agreed to it near the end of the last term.

So I would take considerable objection to changing that priority. People across the industry are ready to come forward as witnesses, and we should begin that process as soon as possible.

The Chair: That makes perfect sense to me. Of course, the agenda has already been changed; we're having these meetings. But we'll go ahead from there, absolutely. I don't see a problem with that. It's up to the committee to decide on Thursday through discussion. I'd certainly love to get back to the agenda we agreed to in the last term.

Can we now go to the business before us today? In the first hour today our witness is Sheila Fraser, Auditor General of Canada. With her is Nancy Cheng, assistant auditor general, and Jean-Pierre Plouffe, principal.

Madam Fraser, I assume you have an opening presentation. Go ahead, please.

Ms. Sheila Fraser (Auditor General of Canada, Office of the Auditor General of Canada): Thank you, Mr. Chair.

We thank you for the invitation to discuss our 2007 report of the special examination of Atomic Energy of Canada Limited. As you mentioned, I'm accompanied today by Nancy Cheng, assistant auditor general, and Jean-Pierre Plouffe, audit principal, who are responsible for this examination.

I would like to begin with a few words about special examinations. Special examinations are a key component of the control and accountability framework for federal crown corporations. Our mandate for such examinations is set out in part X of the Financial Administration Act. The act requires the examiner to express an independent opinion to the boards of directors on whether the corporation has systems and practices in place to provide reasonable assurance that its assets are safeguarded and controlled; its financial, human, and physical resources are managed economically and efficiently; and its operations are carried out effectively.

Under the Financial Administration Act, almost all federal crown corporations are subject to a special examination at least once every five years, and the results are to be provided to the board of directors of the corporation. It is the board that decides if and when to make the special examination report public. Although there is no legislative requirement to do so, it is the government's intention to have these reports made public. Since March 2004, most crown corporations have posted the reports on their websites.

[*Translation*]

Although our special examination reports are addressed to the boards of directors of the corporations involved, we may bring the information in the report to the attention of the appropriate minister and of Parliament when we deem it appropriate.

Mr. Chairman, I will now turn to the special examination of Atomic Energy of Canada Limited.

We presented our report to the board of directors of AECL on September 5, 2007. On September 25, 2007, I submitted a copy of the report to Minister Lunn. In early October, I met the minister to discuss the contents of the report. On January 9, 2008, the corporation posted the special examination report on its website.

The areas that we examined included governance, risk management, research and development, products and services management, and the corporation's environmental and sustainable development practices.

We excluded the area that is within the mandate of the regulator, the Canadian Nuclear Safety Commission (CNSC). We did not do a technical assessment of the safety and security of the corporation's nuclear research facilities or waste management practices. Nor did we assess any of the technical design aspects of the corporation's products and services, whether nuclear or non-nuclear.

We reported a significant deficiency related to unresolved strategic challenges, which I will speak about in a moment. But first, let me explain that a significant deficiency is one that prevents or puts at material risk the organization's ability to achieve one or more of its statutory control objectives in support of its mandate. In particular, these objectives are: to safeguard and control the organization's assets; to manage its resources economically and efficiently; and to carry out its operations effectively.

We found and reported on three unresolved strategic challenges that have long-term funding requirements and together could prevent the corporation from achieving its mandate. These challenges are, first, the completion and licensing of the dedicated isotope facility for the production of medical isotopes; the development and licensability of the advanced CANDU reactor in time for the market

requirements; and the replacement of aging facilities at the corporation's Chalk River Laboratories.

•(1115)

[*English*]

I would now like to address each of these challenges, starting with the dedicated isotope facility.

In 1996, AECL undertook a project to construct two MAPLE reactors and a new processing facility at the Chalk River laboratories for a customer to produce medical isotopes. This facility, known as the dedicated isotope facility, was designed to replace the national research universal reactor in the production of isotopes for the health and medicare industry. The NRU reactor is nearing the end of its useful life and is over 50 years old.

The dedicated isotope facility was originally planned to be producing isotopes by the end of 2000. There have been delays and increased costs, and the corporation has not yet resolved certain technical issues. At the end of March 2007, significant investments were still needed. When we completed our examination, AECL indicated that it expected to meet the in-service date of October 2008 for the first MAPLE reactor and the fall of 2009 for the second one, dates that are specified in the revised 2006 contract with its customer for the production of medical isotopes.

The second challenge relates to the development of a new generation of CANDU reactors. Because of changes in market conditions, the corporation changed its design to a larger reactor. This design change, along with more stringent licensing requirements and an enhanced project management approach, resulted in a significant increase in the cost estimates. At the end of March 2007, costs to complete the design of the new CANDU reactor were estimated at \$400 million. Moreover, citing resource constraints, the regulator withdrew its service to provide pre-licensing assessment for AECL, putting the corporation at a competitive disadvantage in marketing the new reactors.

The third challenge involves the replacement of AECL's aging facilities at Chalk River, known as the Chalk River laboratories. AECL estimated that it needs to increase its operating and capital investment by some \$600 million over the next five years and about \$850 million over the next 10 years to address fire and building code deficiencies as well as licensing, health, safety, and security issues. A significant increase in funding is needed, but the source of the funds has yet to be identified.

We discussed all our observations and recommendations with senior management and the board, and they have agreed with us.

These challenges are long-standing issues that we have noted in previous special examination reports. Overall, the government needs to have a strategy for nuclear energy and to provide AECL with a clear mandate and strategic direction in that regard. The lack of clear direction is exacerbated by the fact that on numerous occasions the government has not approved AECL's corporate plan.

In 2002, we reported that its corporate plan had not been approved for seven years. In the 2007 report, we noted that the 2007-08 plan was not approved, and as far as we know, it has still not been approved by government.

• (1120)

[*Translation*]

In closing, I would like to clarify two points.

First, in 2002 we presented our special examination report to the Board of Directors of AECL. We also wrote to the Minister of Natural Resources and provided him with a copy of the report. The minister responded but did not choose to meet us. At that time, special examination reports were not made public and it was not common practice for ministers to request meetings to discuss the reports.

Second, as I noted earlier, we did not examine the area under the mandate of the regulator. When we conducted our examination in 2007, we were not made aware of any regulatory compliance issues related to the operation of the NRU reactor. Aside from the need and challenge involved in replacing this reactor, there is no mention of issues in the report that could be linked to the recent extended shutdown of the NRU reactor.

That concludes my opening remarks, Mr. Chairman. We would be pleased to answer any questions the committee might have.

Thank you.

[*English*]

The Chair: Thank you very much for your presentation.

We'll go directly to questioning now, to the official opposition first.

Mr. Boshcoff, you have seven minutes.

Mr. Ken Boshcoff: Thank you, Mr. Chair. I will be sharing my time with the honourable member from Brant.

Ms. Fraser, on a number of occasions over the past week you've been asked about the late-night dismissal of the former president of the Canadian Nuclear Safety Commission, Linda Keen, and have commented that you felt it sent a chill through the public service.

My questions, then, are the following. In what way has this firing sent a chill through the public service? In your view, what may be some of the repercussions and consequences of that chill? And on a more personal basis, do you yourself feel this chill?

Ms. Sheila Fraser: Thank you, Mr. Chair.

My comments were largely in relation to the independence that is required by quasi-judicial or regulatory bodies. Obviously, I'm not going to comment on the specific events that have occurred because I have no information other than what has been reported in the press. I prefer to do audits before I make comments on those sorts of things.

Clearly, I think there are questions that arise about the independence of regulatory bodies, how they are to be dealt with, and what the protocol is within government. There would certainly seem to be, at a minimum, a lack of clarity around some of this.

I think many of us, agents of Parliament and others, work very hard to ensure that we have independence and the perception of independence when we carry out our work. My comments were related to that, in that this could affect that.

I think time will tell, going forward—once, perhaps, more facts are known about this particular situation—how regulatory bodies are dealt with.

In my case, I can assure you that I have never felt that there have been any attacks or influence upon the independence of the Office of the Auditor General.

Mr. Ken Boshcoff: Thank you.

Mr. Lloyd St. Amand (Brant, Lib.): Thank you, Mr. Chair.

Ms. Fraser, you were appointed by a Liberal prime minister in 2001. Is that correct?

Ms. Sheila Fraser: That's correct.

Mr. Lloyd St. Amand: Just as, as I understand the chronology, Linda Keen was appointed as president of the commission in 2001.

• (1125)

Ms. Sheila Fraser: I'm not aware of when Ms. Keen was appointed.

Mr. Lloyd St. Amand: You were, as I understand it, appointed at the same time as Ms. Keen, or within the same calendar year.

Ms. Fraser, I'll ask you this candidly. Do you consider yourself, or do you think others consider you, a Liberal appointee?

Ms. Sheila Fraser: Mr. Chair, I guess that depends on what we infer from that expression. To say that I was appointed by a Liberal prime minister is factual. If you try to infer from that that I have any partisan leanings, I would take great exception to that.

Mr. Lloyd St. Amand: How would you react—you've indicated that you would take, understandably, exception—if a decision you made was singled out by the Prime Minister as having been influenced by the whims of a political party?

Ms. Sheila Fraser: Quite frankly, Mr. Chair, sometimes we have to make decisions or arrive at conclusions in audits that people don't necessarily agree with. There can be a lot of commentary made about that by parliamentarians and others.

Sometimes those comments come with the job, and we have to ensure, I think, that there's no long-lasting perception of any lack of objectivity. Certainly I would be concerned if people thought there was a lack of objectivity when I was carrying out my work.

Mr. Lloyd St. Amand: Mr. Boshcoff has a follow-up question.

The Chair: Mr. Boshcoff, you have two and a half minutes left.

Mr. Ken Boshcoff: Thank you very much.

When we talk about the independence of quasi-judicial bodies—you mentioned the process and the protocol—the real issue is how the political process comes to interfere and direct quasi-judicial bodies and their independence.

In this case, where is the line between a minister telling such an organization what to do and, in a similar way, the Minister of Finance telling you what to investigate or not to investigate?

Ms. Sheila Fraser: Mr. Chair, I feel very uncomfortable dealing with this line of questioning, because we have not done any work on this. I know there is guidance and there are some directives that I believe the Privy Council Office has published, but we have not actually assessed those, nor have we looked at specific examples.

Obviously, as was mentioned, the Minister of Finance is our minister, if you will, for administrative purposes, but we would take great exception to anyone, quite frankly, telling us what we were to audit or not audit. I think that is understood within government.

Mr. Ken Boshcoff: In your examinations, would Ms. Keen's performance record, in terms of shortcomings in leadership, ever arise as an item through your audits of AECL?

Ms. Sheila Fraser: We have done special examinations of the commission. I believe we did an audit in 2003-04. Actually, it was a follow-up audit to some previous audits. But we examine systems and practices of the commission or the corporation, for example; we do not do specific performance evaluations of individuals.

Mr. Ken Boshcoff: So nothing would have arisen showing a tremendous lack of leadership or direction?

Ms. Sheila Fraser: No, but that would not have been the focus of the audit.

Mr. Ken Boshcoff: Thank you very much.

The Chair: Thank you.

We now go to Madame DeBellefeuille for seven minutes.

[*Translation*]

Mrs. Claude DeBellefeuille: Good morning, Ms. Fraser.

I am the member for Beauharnois—Salaberry. Dundee is part of my riding and the people who live there are very proud of you. So I would therefore like to welcome you to the committee.

The Canadian Nuclear Safety Commission, the regulatory body responsible for insuring nuclear safety for all Quebecers and all Canadians, has been the victim of political interference in our opinion. Ms. Keen has said that AECL was not complying with the conditions of its licence. Consequently, there was a dispute. Could you tell us who has the legal authority to make a decision in this type of dispute?

It appears to us that the behaviour of the president, who did her job in accordance with the act, displeased the minister and the government, and that she was therefore fired. Where does the truth lie in such a situation, and on whom can Canadians and Quebecers rely when it comes to nuclear safety?

• (1130)

Ms. Sheila Fraser: Thank you, Mr. Chairman.

Mrs. DeBellefeuille, we are probably the only two people who know where Dundee is located.

I am not a constitutional expert, but in a case where there may be some very important compromises required and where there is a difference of opinions regarding a regulatory body, I do not think it

is inappropriate for Parliament to make the decision. In fact, it is up to Parliament to make these choices, as has been mentioned on other occasions. This is true in a case of national security, for example. Some compromises have to be made to take costs into account, together with the desired degree of security and the ease with which people can cross the border.

So it is up to Parliament to make decisions of this type and to take a stand on the compromises that should be made. I do not think it is inappropriate to ask Parliament to decide in cases where a regulatory body puts forward an opinion that could have very significant consequences.

Mrs. Claude DeBellefeuille: One of the things mentioned in your special examination report is that you look at human management and governance. I have noticed that there is a lot of turnover in the senior management positions at EACL, and that this was a real problem. I noticed that on November 1, in the middle of the crisis, the CEO, Mr. Robert Van Adel, left his position. He had held it for a few years. In fact, his mandate was renewed on February 5, 2005. Mr. Ken Petrunik replaced him on an acting basis, and, Mr. MacDiarmid was finally appointed on December 14.

I would remind people watching this on television that a CEO at AECL earns over \$300,000 a year.

What do you think about the quality of governance and human resources management at AECL during the crisis? I think it was so lacking that the head people at the corporation may not have done their job properly, and consequently not make some important, crucial decisions regarding the number of days. I think that if there had been stronger and better leadership, rather than unstable government, decisions would have been made more quickly, and this would have avoided the shortage of medical isotopes.

What comments would you make about governance at AECL during the crisis?

Ms. Sheila Fraser: I can obviously not presume that the situation is due to the shortcomings of management. I am not aware of all the facts and I do not know everything that happened. One thing is clear, we pointed out in our report that there would be several changes to the board and that there were upcoming vacancies. It was clear that the president's term was almost up, and that had been known for some time.

Mrs. Claude DeBellefeuille: Are you talking about President Michael Burns? I am talking to you about management.

Ms. Sheila Fraser: No, I was referring to President Van Adel. It was known for several months that the end of his term was coming up and that he would have to be replaced. There were also changes to the board. We brought to the attention of the minister the fact that these appointments would have to be dealt with, and needed to be dealt with more expeditiously.

Mrs. Claude DeBellefeuille: You will agree with me that a lack of leadership during a crisis does not help to quickly resolve problems. That is a principle, even in personnel management.

Ms. Sheila Fraser: I hesitate to comment on that particular situation because I do not have specific information.

Mrs. Claude DeBellefeuille: Mr. Chairman, Mr. Ouellet would like to ask a question.

•(1135)

[English]

The Chair: Go ahead, Mr. Ouellet.

Before you start, I would like to say, Madam Fraser—and you've been a witness before committees probably more than anybody else—that when you are in an area in which you feel uncomfortable answering, just don't answer. You know that.

Monsieur Ouellet.

[Translation]

Mr. Christian Ouellet (Brome—Missisquoi, BQ): Thank you, Mr. Chairman.

Ms. Fraser, if I understand correctly, you published a special examination report in 2007 dealing with the advanced CANDU reactor, or ACR, and its costs. You state the following in that report:

In addition, the Canadian Nuclear Safety Commission withdrew its service of providing pre-licensing assessments for AECL, citing resource constraints.

When you talk about resource constraints, is it a question of money or of human resources? Exactly what are you referring to?

Ms. Sheila Fraser: The commission indicated to us that there was a lack of human resources and of expertise, and that there were other priorities. These people told us they were not able to allocate the necessary resources to the licensing system.

Mr. Christian Ouellet: So do you not feel that the government was underfunding the CNSC?

Ms. Sheila Fraser: From what I understand—and you may have to confirm this with Ms. Keen—the commission was given extra funding in order to try and settle this issue. They indicated that it was not necessarily a question of money, but that in this case, rather, the issue was one of a lack of resources and of the necessary expertise to carry out the job.

Mr. Christian Ouellet: Thank you.

[English]

The Chair: Monsieur Ouellet, your time is up.

We now go to the New Democratic Party, to Ms. Bell, for seven minutes.

Ms. Catherine Bell: Thank you, Mr. Chair.

Thank you, Ms. Fraser, Ms. Cheng, and Mr. Plouffe for attending today. It was a very interesting report that you did.

You say in your report, about the funding issues, that if there was not sufficient funding to replace aging buildings, there was a potential for a safety issue. I think those things are very worrisome for Canadians overall.

And this was over a long period of time. I understand reports were done in 1996, in 2002, and also in 2007. Did all those reports—I haven't seen the older ones—identify underfunding as well?

Ms. Sheila Fraser: Our reports go back at least to 1988. Almost from the very beginning there has been a question of level of funding to address several issues, including the Chalk River installations, but also, for example, the nuclear waste disposal plan. That, I'm pleased

to say, was one issue on which we indicated in this special examination that there had been good improvement made.

Ms. Catherine Bell: Thank you. And I think you indicate throughout the report and in your remarks today that there wasn't enough funding at AECL to maintain their mandate, to maintain their facilities, and also to finish the MAPLEs in a timely fashion.

Ms. Sheila Fraser: Yes, we note that there is significant funding pressure. The major issue, though, is the government policy and the strategy for this corporation—the whole strategy around nuclear energy and then what the role of this crown corporation is in it—and that, of course, could influence the level of funding required. That has been a long-standing issue and one that is still not resolved.

Ms. Catherine Bell: During your investigations into the operations of AECL...you talked about governance, and I don't know what it included. Did you investigate the reporting mechanisms between AECL, the commission, and either NRCan and the ministries of natural resources or health?

Ms. Sheila Fraser: Yes. In fact, we looked at the relationship with the regulators mentioned in paragraph 80. We also talk about the relationship with the federal government. In fact, we noted that there had been improvement in the relationship with the regulator, which had been problematic in the past. AECL had set up a regulatory office and seemed to be establishing a much better relationship with the regulator.

Ms. Catherine Bell: What about the reporting mechanism and timelines? In the case of an incident or an emergency, was there any mandate on the part of AECL to report directly to the minister or to make the Minister of Health or the Minister of Natural Resources aware of the incident in a timely fashion?

•(1140)

Ms. Sheila Fraser: That's not an issue we looked at in this report.

Ms. Catherine Bell: Fair enough.

In point 16 of your notes today you mention that there was a lack of clear direction for AECL's corporate plans. They hadn't been approved over many years. Was any reason given at any point during your investigation for that lack of approval?

Ms. Sheila Fraser: No, there was no reason given.

I would like to emphasize how important corporate plans are. They really set out the strategy for the corporation and the direction it should be going in. In particular, as we note in this special examination report, Atomic Energy's mandate is not specified in legislation, so the corporate plan becomes even more critical to give them a sense of strategic direction and an indication of where they should be going over the longer period.

As we said, that is not a new problem. There was a period of seven years when it was not approved. It is something that needs to be addressed, and we do not have an explanation for it.

Ms. Catherine Bell: It is important. I am quite surprised.

I have one other question.

You also talked about the budget overrun for the MAPLE reactors and for the advanced CANDU reactors because of the changes they were making, and how the Canadian Nuclear Safety Commission could not pre-approve the licence for them. I wonder whether that, in your mind, created any of the systemic dysfunction we were told about by Mr. Burns, in his comment back in December or early January that there was systemic dysfunction between AECL and CNSC.

Ms. Sheila Fraser: I think it has been clear—certainly in past reports we have indicated—that there has been a very difficult relationship between the regulator and the corporation, although in this report we noted that AECL had made attempts by establishing this office and more regular communication to establish a better relationship.

Certainly it is no secret to anyone that the corporation was quite upset when they were not able to get the pre-licensing done, because it is a major impediment to their marketing these reactors internationally.

Ms. Catherine Bell: Thank you so much.

Do I have more time?

The Chair: You have about 40 seconds, Ms. Bell.

Ms. Catherine Bell: Lastly, then, the MAPLE reactors were going to be the dedicated isotope facility. If they were online today, have you any sense of what percentage of isotope production they would have?

Ms. Sheila Fraser: Their intention was to replace the NRU because the NRU is over 50 years old. This was the solution, the replacement for the NRU. In fact there were two MAPLE reactors so there would be a backup in case there was ever an issue.

There is a contractual agreement that one should be operating later this year. It is still, to our knowledge, not operating, and there are technical difficulties that have yet to be overcome.

The Chair: Thank you, Ms. Bell.

We go now to the government side to end the first round of questioning, to Mr. Allen for seven minutes.

Go ahead.

Mr. Mike Allen (Tobique—Mactaquac, CPC): Thank you, Mr. Chair.

Ms. Fraser, thanks for being here. I have a couple of quick clarification questions to start out, just so I understand the context of this audit.

If I understand correctly, the report was issued in August 2007. Their audit plan was developed in the fall of 2006. Is that correct?

Ms. Sheila Fraser: That would be correct.

Mr. Mike Allen: What was the timeline for when this audit was conducted?

Ms. Sheila Fraser: It was conducted from September 2006 to March 2007.

Mr. Mike Allen: Okay, and the audit findings were reviewed with AECL prior to the final report?

• (1145)

Ms. Sheila Fraser: Absolutely.

Mr. Mike Allen: Okay.

As you pointed out, your special examination option states that you did not do a technical assessment; that was CNSC's responsibility. Just to clarify, none of the issues with respect to AECL and CNSC over the licence requirements or any extended shutdown were part of this audit?

Ms. Sheila Fraser: That is correct.

Mr. Mike Allen: Do I also conclude, then, that the licensing of the reactor and the debate between AECL and CNSC was not part of your discussion with Minister Lunn, and specifically, AECL's work with respect to these pumps?

Ms. Sheila Fraser: That is absolutely correct. We had no indication at any time that there was difficulty with licensing. As I mentioned in my opening statement, there is certainly nothing in the report, other than, of course, the longer-term issue of having to replace the NRU for the isotope production, that could have indicated that there would have been the shutdown and the problem that occurred in November-December.

Mr. Mike Allen: Thank you.

One of the interesting sections I saw in the 2007 report was section 81, where you talked about how the CNSC established a regulatory office in the Chalk River site and hosted monthly meetings between CNSC and AECL at both the project and executive levels. These meetings existed to discuss regulatory matters and emerging issues of licence non-compliance.

Did you have an opportunity as part of your examination to know if these meetings were happening and if minutes were actually taken during those meetings?

Ms. Sheila Fraser: Yes, that's correct. The meetings were happening and there were minutes of those meetings.

Mr. Mike Allen: Okay, so there would have been an ongoing monthly record of all the issues that were going on between AECL and CNSC, then?

Ms. Sheila Fraser: That's right.

Mr. Mike Allen: So in this case there could have been a pretty good indication over time of any types of issues that would lead up to a health crisis? It should have been documented in the minutes.

Ms. Sheila Fraser: One would have expected it. This was, of course, after the period that we looked at, and I don't believe we had an indication of that. But one would have expected that obviously that would have come up in those meetings, yes.

Mr. Mike Allen: Thank you.

In the previous reports of 1998 and 2002 there's been pretty consistent tracking for some of these serious issues associated with AECL. As you stated previously, you did not meet with the previous minister after the 2002 report. Am I right to suggest that some of these basic issues have been ongoing, potentially as far back as the mid-90s?

Ms. Sheila Fraser: Yes. In fact I would say even in our first report back in 1988 some of those issues were coming up. So they are long-standing issues.

Mr. Mike Allen: Would it be fair to say that the governments of the day, at least previously...? Based on your audit and on your follow-up audits, have you concluded that the previous governments have acted appropriately on the recommendations that you've made?

Ms. Sheila Fraser: There has been some improvement. I would say one of the major issues that was brought up in the past special examination report was the whole question of nuclear waste disposal. There is now a plan in place, and funding has been secured for five years. There has been improvement on some of the quality control mechanisms as well, the project management. So the corporation has responded.

I think the big issue that has affected the corporation for many years is the lack of a clear strategy, by various governments, on nuclear energy and what the role of AECL is in that. And then from there, of course, flow the decisions on the funding that would be required.

Mr. Mike Allen: At the end of March 2007, there was an investment of approximately \$300 million for developing the ACR. I want to ask you questions about the risk this has introduced into the marketing plans of AECL for the ACR reactor and about, basically, the comment with respect to pre-licensing being a major constraint for AECL in developing this in the future. The costs necessary to develop the facility by 2016 were estimated at \$400 million, yet CNSC found it necessary to withdraw its service of pre-licensing, citing resource constraints.

I recall, when looking at the department's estimates, that there was an allocation of around \$3 million for these pre-licensing activities when that whistle was blown. Yet I believe those dollars were never spent. Was there any insight you gained in the audit as to why CNSC made the abrupt change in pre-licensing when it looked like there was funding provided for that task?

Ms. Sheila Fraser: What we understand, Mr. Chair, from the discussions with the commission—and that, of course, would have to be discussed with the commission—is that it was a question of a shortage of resources with the expertise to do these pre-licensing activities.

Sometimes in these specialized areas money isn't enough and the people just aren't available. And that seemed to be the explanation we were given. Of course, that would have to be explored further with the commission itself.

• (1150)

Mr. Mike Allen: So there is no indication of why the CNSC had a drag-down in their technically competent staff, then, over the past number of years.

Ms. Sheila Fraser: It was just a question of them not having the resources available to do this in addition to the other assets and responsibilities they have. I think site inspections were mentioned. So it was a question of prioritizing the resources they had. But the commission would be better able to answer those questions.

The Chair: You have half a minute, Mr. Allen.

Mr. Mike Allen: I'll be quick, then. In 2000 you examined CNSC and recommended the separation of the positions of chief executive officer and chair. Can you explain briefly why you made this recommendation and what benefits you think would be gained as a result of that recommendation?

Ms. Sheila Fraser: At the time, we did make that recommendation. I think it was becoming common practice, certainly in crown corporations and others, that the chair and CEO functions be separate. There were some comments within industry that there should be a separation between the chair of the commission, who conducts the hearings, and the CEO of the regulator.

We made that recommendation. It was not accepted. There was an indication that there had been reviews done of other regulators more broadly—internationally—and that the practice was to have those two positions together.

The Chair: Thank you, Mr. Allen.

We have about five minutes left, and I am going to allow one short question from each party, if you wish to speak, starting with Mr. Tonks from the official opposition.

Mr. Alan Tonks (York South—Weston, Lib.): Thank you very much, Mr. Chair.

Madam Auditor General, welcome to you and your colleagues.

As you were giving your overview, I was reminded of the statement that there are three kinds of people: people who make things happen, people who watch things happen, and people who say, "What happened?" I think the public is trying to understand, through this committee, what happened.

In your report you indicated that when your examination was made in 2007, you were not aware of any regulatory compliance issues related to the operation of the NRU reactor and that there was no mention in the report of issues linked to the recent shutdown.

My question is aimed at attempting to take further steps with respect to closing the accountability loop. In other words, where does the buck stop?

Earlier you indicated, with respect to the licensing conditions, that in your examination, between February and October 2006, some licensing issues had cropped up. You also said that timely corrective action was taken to address these situations. My question is this. Had the AECL and the CNSC made an application for regulatory changes under their statutory area, is it possible that if action had been taken at that time, the shutdown of the Chalk River reactor could have been avoided? Did you have any follow-up role with respect to that?

As I say, Madam Auditor General, my question is aimed at knowing what recommendations would be made to close that accountability loop. It is not meant to be unduly investigative or anything like that. Thank you.

Ms. Sheila Fraser: Thank you, Mr. Chair. I believe the incidents that have been referred to were environmental in nature. There were some incidents that occurred that were dealt with effectively. The commission was advised and corrective action was taken appropriately.

I really can't comment on what happened in December because we haven't looked at that and we don't know what the facts are around that. But at the time of our audit, up until March, there was certainly no indication by either the corporation or the commission that there was a licensing problem with the NRU.

The Chair: Thank you, Mr. Tonks.

We go now to the Bloc Québécois, Madame DeBellefeuille.

[*Translation*]

Mrs. Claude DeBellefeuille: Thank you, Mr. Chairman.

Ms. Fraser, the CNSC deals with nuclear safety. That is its mandate as defined in the legislation. The AECL must, amongst other things, supply its clients with medical isotopes. These are two completely different mandates. The commission has nothing to do with medical isotopes.

The Prime Minister attacked Ms. Keen's credibility in the House, accusing her of partisanship. Minister Lunn, who is guilty of political interference where Ms. Keen is concerned, also accused her, saying that she had poor judgment and that she had badly managed the situation. In our opinion, she was not the right target. We believe that if the minister had acted responsibly, he would have convened parliamentarians so that they could decide on the issue. Had he done that, he would have shown Quebecers and Canadians that he respects arms-length organizations and that their independence is important to him. He could have used other tools rather than publicly denouncing a person who has a perfect record and who had complied with the law.

Who is responsible for the hiring and appointment of AECL's CEO?

• (1155)

Ms. Sheila Fraser: That appointment is made by the governor-in-council.

Mrs. Claude DeBellefeuille: Does that mean that it is made by the Minister of Natural Resources?

Ms. Sheila Fraser: The minister obviously has a role to play in this matter. This is often also done with the Privy Council Office and others.

Mrs. Claude DeBellefeuille: All right. You are telling us that we have been in full crisis mode for at least two years. The government and the Department of Natural Resources know that things are not going very well at AECL, particularly at Chalk River Laboratories. They are aware of this, everyone knows it, we have read all of the notes. The government was aware that the CEO was leaving on November 1, but it did not appoint a new one until December 14.

Do you not feel, Ms. Fraser, that there was a significant lack of leadership on the part of the government as far as the appointment of AECL executives is concerned, particularly given the information they had concerning the problems of the aging reactor?

As a citizen and a member of Parliament, I say to myself that it is inconceivable that a government that was aware of the situation in these laboratories could have neglected to hire someone very quickly in order to avoid AECL experiencing a vacuum in their management and governance. What do you think?

The Chair: Thank you, Mrs. DeBellefeuille.

[*English*]

Madam Fraser.

[*Translation*]

Ms. Sheila Fraser: I do not want to comment on that particular situation because I do not have enough information. However, I must say that during previous audits, we emphasized the fact that there are quite frequently delays in appointments to crown corporations. In some cases, it concerns appointments to boards; in others, it concerns hiring a CEO. There can be vacant positions on boards for long periods of time. It also happens that the leaders of several organizations are appointed on an interim basis or are waiting to obtain the position. This governance problem is not a recent one. It has been going on for several years, and we would like a lot more attention to be paid to appointments. In fact, we are currently doing an audit that deals with appointments.

[*English*]

The Chair: Merci.

We now go to Ms. Gallant for about two minutes.

Mrs. Cheryl Gallant (Renfrew—Nipissing—Pembroke, CPC): Thank you, Mr. Chairman.

If you don't have time, I would ask that you respond to the questions in writing to the committee after this.

• (1200)

Through you, Mr. Chairman, to the Auditor General, we hear that one of the outstanding problems that AECL had with the previous government was its inability to get approval for a corporate plan. This led to a number of unresolved strategic issues, including the funding of a replacement research reactor mentioned in the 1998 report. The issue came up again in the 2002 report, where it was stated that there was no consensus on how best to manage the nuclear platform, which included sustaining nuclear medicine.

So the previous government had been made aware of the problems at AECL on more than one occasion by your office. In the special examination report of the board of directors of AECL in 2007, in the section that refers to the unresolved strategic challenges and, more specifically, the completion of a dedicated isotopes facility, there was not the same sense of urgency that had been indicated in the 2002 report. How should the government of the day have responded to the 2002 report—which would have avoided what happened in 2007?

In 2002, billions of dollars were being directed into foundations. So funds for R and D were available, but why not for AECL?

What was AECL doing wrong that they would not be considered an appropriate candidate for what your reports have identified as a crown corporation in desperate need of funding?

Does your office audit the CNSC?

And lastly, in the 1998 report, there was mention of the workers finding some kind of nerve gas buried there. Could you tell me specifically what that substance was, and on whose behalf was it buried there?

We'll just go from there. Thank you.

The Chair: Thank you, Ms. Gallant.

Madam Fraser, we only have a couple of minutes left. See what you can do.

Ms. Sheila Fraser: I can answer very rapidly.

I have no knowledge of the question of nerve gas. That was certainly not raised in any audits we did.

Yes, we audit the commission. Our last audit report was within a report tabled in Parliament in February 2005.

All of the previous questions are largely questions of government policy as to why certain funds were directed.... I do not comment on policy. I will say, though, that the question of a lack of strategy and policy for nuclear energy is a long-standing issue. It has been present throughout all of the special examination reports. It is evidenced by the lack of approval of a corporate plan for many years. Again, for the current year, the corporate plan has not been approved. So it is an ongoing issue that, hopefully, will be resolved.

The Chair: Thank you very much, Madam Fraser, for your concise answers, as usual. They're very much appreciated. I say this, of course, to the Auditor General of Canada, and also to Ms. Cheng and Monsieur Plouffe. Thank you for coming today. We appreciate it very much.

We're only going to suspend for about three minutes, because we want to get to the next witness as soon as possible.

Thank you very much.

• (1200) _____ (Pause) _____

• (1205)

The Chair: Good afternoon, everyone.

We are continuing our meeting with the second hour and the second witness. We have in this hour, Linda Keen, commission member, ex-president of the Canadian Nuclear Safety Commission.

Thank you very much, Ms. Keen, for being here today. You have about 10 minutes for an opening statement, and then we'll get directly to the questions.

Please proceed.

[*Translation*]

Ms. Linda Keen (Commission member, Ex-President, Canadian Nuclear Safety Commission): Thank you, Mr. Chairman.

Thank you, members of the committee, for this opportunity to meet with you today.

[*English*]

The recent events surrounding the nuclear facility at Chalk River and their impact on the supply of medical isotopes has raised a lot of questions among Canadians.

[*Translation*]

Canadians want to know—quite rightly—how such a situation could have developed. And they want to know what role the Canadian Nuclear Safety Commission played in these events.

[*English*]

This morning I'd like to answer those questions, and I hope the information I supply will be helpful to this committee as it carries on its work.

First, why didn't the CNSC just go ahead and allow the NRU to operate without the emergency power system connected, given that there was a medical crisis, and why did the CNSC close it down?

The role of the CNSC is to ensure the safety of Canadians by regulating Canada's nuclear facilities. That's our job, that's our responsibility, and that's what the law prescribes. Some have suggested that the chance of a nuclear accident was low and the reactor was safe enough. With respect, safe enough is simply not good enough. Safety at a nuclear facility needs to meet the same high standards we expect from a space shuttle or a jumbo jet. The regulations the commission enforces and the standards it upholds are about far more than pushing paper; they are really about protecting lives. That's why when it comes to nuclear facilities, ignoring safety requirements is simply not an option—not now, not ever.

Some will say that the operation of a reactor always carries some risk with it, and that's true. But there are carefully established international standards as to what constitutes an acceptable risk. In the case of a nuclear fuel failure, the international standard for acceptable risk is one in a million. The chance of such an event happening at Chalk River without either of those pumps connected to the emergency power supply was one in a thousand. That is a thousand times greater than the international standard. Remember that NRU, as originally designed and constructed over 50 years ago, would not be licensable today by any nuclear regulator in the world.

There seems to be an impression left that CNSC ordered the NRU shut down. In fact, Atomic Energy of Canada Limited shut it down on November 19, 2007, for routine maintenance. It was AECL that extended that shutdown, because, as its senior vice-president told a CNSC public meeting on December 6, 2007:

the only safe and prudent action available to me, I believe, in this situation was to shut the—keep the reactor shut down and perform those upgrades.

The commission's responsibility was to oversee that those upgrades were completed by AECL. Prior to the passage of Bill C-38, those upgrades were not in place.

The second question was why the CNSC didn't take into account the effect of a shutdown on the production of medical isotopes. This is an important question that goes directly to the mandate of the CNSC.

As I mentioned, our primary responsibility in the case of this facility is to protect Canadians by ensuring that the nuclear facility is operating safely. Under the law, the commission did not have the authority to take the issue of isotopes into consideration when making its decision up to December 10. Indeed, in its directive of December 10, 2007, the government implicitly recognized this limitation on the commission's mandate by seeking to expand its authority to include consideration of the availability of isotopes. Such an expansion would not have been necessary if the commission already had that responsibility. The fact is it did not.

●(1210)

That said, the CNSC has always been very sensitive to the importance of these isotopes. The medical community relied on them and patients needed them; that's why the commission took every action available to it under the law to alleviate the situation. As the body responsible for licensing hospitals and clinics that use medical isotopes, the commission was able to amend licences on request in less than 24 hours to permit the use of alternative isotopes and to increase their inventory. That was within our mandate.

AECL itself recognized these efforts in a letter to the commission dated December 7, 2007, where it said:

We believe that the health care community and the public at large have been reassured by the CNSC's demonstrated sensitivity to the importance of the beneficial use of radioisotopes....

To further alleviate the isotope situation, the commission also agreed to fast-track a complete application from AECL to get the reactor up and running, with a commitment to meet within 24 hours rather than the usual 60 days. In addition, the commission advised AECL that commission staff stood ready on a 24/7 basis to do everything in their power to help.

The third question is, why has the CNSC made such a big deal about its independence?

Well, Mr. Chair, independence in regulating nuclear facilities matters. It matters because nuclear reactors are in communities where Canadians live.

People in Chalk River, in Clarington, and in Bécancour all depend on the CNSC to ensure their families are safe. They need to know that the commission will make its decisions based on what's right. Indeed, Parliament delegates decision-making powers to these independent bodies like the CNSC precisely to preserve public confidence in the fairness of the process and the safety of the facilities. Under the law, that's how it's supposed to work. The Nuclear Safety and Control Act establishes the CNSC as a quasi-judicial body, as a court of record, and like a court, to be free of interference.

The government itself recognized the importance of such independence in its *Accountable Government: A Guide for Ministers*, 2006, which states:

The nature of the relationship between a Minister and an administrative tribunal with independent decision-making or quasi-judicial functions is a particularly sensitive issue. Ministers must not intervene in specific decisions of those bodies.

So the importance of independence is not something I've come to recently, as a matter of convenience.

●(1215)

[Translation]

That is why, before every hearing—and I have presided over hundreds as President of the CNSC—I read out a statement explaining the independence of the Commission.

[English]

So I haven't come to this recently. It's not a matter of convenience; it's a principle that I've insisted on.

Question 4, and relatedly, how did the CNSC react to Parliament's decision to legislate the reopening of the NRU reactor?

Well, Mr. Chair, Parliament is supreme, period. Neither I nor any Canadian would ever question the right of Parliament to act as it did.

Parliament was faced with two competing interests: nuclear safety, on the one hand, and the need for medical isotopes, on the other—not an easy decision, and one appropriately made by the elected representatives of Canadians.

Since the passage of that legislation, and as long as I was president, the CNSC has done everything it can to ensure it is in compliance with that bill. I also launched a lessons learned study led by international experts, a study that the commission had hoped would feed into a wider government review.

Mr. Chair, the situation that developed at Chalk River was one that no one sought and few foresaw. Different actors had different roles to play and different responsibilities to fulfill. I believe that at all times the CNSC acted as mandated by Parliament, as the body charged with ensuring nuclear safety.

Beyond that, Mr. Chair, I would hope that we would focus on learning the lessons of Chalk River so that this situation would never arise again. Canadians shouldn't have to choose between nuclear safety and medical isotopes; they should be assured of both.

To do that, we need to be sure that we have appropriate systems in place and that the roles and accountabilities are clearly defined. Canadians expect no more and they deserve no less.

With that, I thank you, Mr. Chair.

[Translation]

Thank you, Mr. Chairman.

I am now available to answer questions.

[English]

The Chair: Thank you very much, Ms. Keen.

We'll go directly to questioning now, starting with the official opposition.

Mr. Alghabra, you have seven minutes.

Mr. Omar Alghabra: Thank you, Mr. Chair.

Ms. Keen, thank you for coming here today.

Before I begin my questions, I would like to offer you my apologies for the way the Conservative government has treated you. I don't personally know you, but from everything I've learned that is available in the public domain, I know you have been and continue to be a dedicated public servant who is committed to her job and takes her responsibility extremely seriously.

For no other reason, from what I can see, than purely political reasons, unfortunately your name and reputation have been dragged through the mud by this Prime Minister. It must have been horrifying for you and your family to watch it happen.

I just want to assure you that Prime Minister Stephen Harper and Minister Gary Lunn do not speak for me as a member of Parliament, and I want to reiterate my apology. This is not how I believe dedicated public servants who have committed 20 years of public life should be treated. Thank you again for being here.

As I understand it, you were fired the night before you were about to testify before this committee, late at night. Can you please elaborate on that? Can you tell the committee how it happened?

•(1220)

Ms. Linda Keen: Thank you very much for the question.

Well, of course, I was preparing to come to the committee on the 16th and very much looking forward to this. About 8 o'clock I went home. The staff were still putting some materials together, copies of the presentation, because I had a presentation to give to you then, and they received a call from PCO—it wasn't clear which part of PCO—saying that something was coming over for me and to wait.

My staff waited from 8 o'clock that night. Constantly, of course, as I was wont to do, I was checking what was happening, where it was from, what it was about, and no question, nothing at all. Then about 10 o'clock, the secretary of the commission was told that a package was coming from Patricia Hassard's office, which is senior personnel. I knew her. It arrived. He was there, opened it up and read it, and then he made sure I had it.

To say that it was a difficult evening is an understatement.

Mr. Omar Alhabra: Were you provided any justification for that firing?

Ms. Linda Keen: I actually have in front of me the letter I received. It goes on for a number of pages. It has a lot of "whereases". There's one "whereas" that is applicable, I believe, to the question:

Whereas, the President of the Canadian Nuclear Safety Commission failed to take the necessary initiative to address the crisis in a timely fashion using the means at her disposal, and failed to demonstrate the leadership expected by the Governor in Council;

That's the explanation I was given.

Mr. Omar Alhabra: Can you tell the committee where in the act it specifies that the commission or the president of the commission is responsible for the supply of isotopes?

Ms. Linda Keen: As I spoke to in my presentation, the Nuclear Safety and Control Act is a new act relative to much legislation of this type around the world, and it doesn't specify this in terms of the supply.

We had opinions by our legal services some time before of what the act covered. We've always examined the act, continuously, and independent counsel agreed. You'll recall that legal services were removed from us on December 10, in the morning. So the commission, when I was there, did not have the expert counsel it had to review that. But it's never included the supply of isotopes.

As I said, I think with the directive implicitly, by the need for the directive to be given to us, the government acknowledged that they were adding a new factor to our mandate. In addition, I've worked with this act for seven years. I've done hundreds of hearings on it. We have 2,500 licensees, 220 of which are medical clinics. No one has ever raised the issue of supply of isotopes with us in terms of a factor to be considered in their licensing.

Mr. Omar Alhabra: Do you know how financially dependent AECL is on the supply of isotopes?

Ms. Linda Keen: No, Mr. Chair. I have no understanding of that because economic factors are not to be included in the decision. The decisions of the commission are to be about health, safety, and the protection of the environment. And that's what the legislation tells us to consider when we give a licence, not what the cost would be to that facility to put that in.

If I could add, that was really an important factor when I handled the crises after 9/11, for example, because it was important for us to add extra security. So we absolutely cannot be looking at safety as balancing off with a price tag.

•(1225)

Mr. Omar Alhabra: To that point, are you familiar with or aware of any regulator responsible for the commercial success of the organizations it regulates?

Ms. Linda Keen: Mr. Chair, no, I do not know of any regulator of that type.

Since I was the president of the Convention on Nuclear Safety, which included all the world's countries with safety organizations, I have a very good idea of what is the international standard. And I was president of that for three years.

Mr. Omar Alhabra: By the way, before I ask the other question, it's up to you, of course, but if you don't mind, we would like you to table that letter that the minister.... I know it might be sensitive, so that's up to you. But if that's okay with you, we would like to see it.

The Chair: Thank you, Mr. Alhabra. Your time is up.

We now go to the Bloc Québécois, Madame DeBellefeuille, for seven minutes.

[*Translation*]

Mrs. Claude DeBellefeuille: Thank you, Mr. Chairman.

Thank you, Madam Keen, for your testimony.

To begin, I will join the Liberal critic in saying that at no time did the Bloc Québécois ever doubt your judgment and your competence, even though it supported the bill last December 11. We decided to choose the lesser of two evils. We do not agree with the minister's statement that we supported the bill because we agreed with him that you lacked judgment and competence.

You are a senior official and a woman, and there are not many of those. As a female member of Parliament, I support you and empathize with you in light of your situation. I believe you have a flawless record. Please rest assured that at no time did we ever shed doubt on your competence or judgment.

The more we learn about the situation, the clearer it becomes that there was political interference with the Canadian Nuclear Safety Commission. It has become increasingly clear that the Minister of Natural Resources and the Minister of Health had other means at their disposal to avoid the crisis we went through.

We sincerely believe that the government chose the wrong target by firing you in such a cavalier and callous manner. In doing so, the government has sent a message to Canadians, namely that it will not shy away from attacking an independent organization whose sole mission is to protect Quebecers and Canadians in the area of nuclear safety.

As a citizen and member of Parliament, I certainly do not find it reassuring that we are dealing with a government which does not hesitate to attack the independence of an organization like the one you headed.

A reporter from the newspaper *Le Soleil* said: "The nuclear sector is so dangerous that it requires the greatest degree of transparency, the greatest degree of information and public debate on the issue." I have read all of the transcripts and every document related to discussions on the matter, and at no time did I have the impression that the CNSC did not give AECL its entire support and energy—you said it was 24/7—to move the process along so that the reactor could be safely started up again without breaching the conditions of the operating licence.

Ms. Keen, given the way the Conservative government dealt with you and the way it disregarded the independence of the organization, do you feel that it has sent a negative message to Quebecers and Canadians, which is that it does not hold in high regard senior officials and organizations like yours, nor the role played by them, despite the fact that they are incredibly important to the safety of Canadians?

Ms. Linda Keen: Mr. Chairman,
[English]

I think there are two aspects to the question from the honourable member.

First of all, as I indicated in my letter of January 8 to the minister, I strongly believed that the Canadian Nuclear Safety Commission was an independent organization and that we knew what it was like to be a quasi-judicial tribunal. I was the chair of the tribunal organization. I understood what it was and I understood what the guide said.

I put that chronology in my letter, and I thought about it very seriously, of the phone call the minister made to me on December 8

—you'll recall that this was a Saturday—at home, and the subsequent letter I received on December 10, which asked me to justify the actions.... When, as it is discussed in adjudicative terms, the commission was "seized with the matter" of the AECL possible amendment, and because of it, this was a stepping over the line of what was reasonable for a minister in this case.

The second part of the question is.... As I noted again in my letter of December 8, I strongly believe that this action, including the letter the minister sent to me on December 27, wherein he asked me to justify why I shouldn't be fired.... It's not just the firing; it was the actions of December 8 and 10, as these were reported, and then it was the letter of December 27. Then finally there was the firing. This is the first time there has been discussion of what was actually in the letter. I think all of this will continue to put a chill through those organizations.

I can honestly say that the phone calls I get at night from people who will phone me at home—not from their offices.... They'll phone me at home with support or they'll send a note to my private e-mail. They won't send it to that.... I'm also a director of the Canadian Council of Administrative Tribunals, and it was discussed quite recently.

It's inevitable that people will at least look at this and ask what it means for them during the time period for which they're appointed.

That's my opinion.

• (1230)

The Chair: We have time for a very short question.

[Translation]

Mrs. Claude DeBellefeuille: Ms. Keen, as the natural resources critic, I received a lot of email from the citizens of my riding, as well as from other provinces, who are deeply concerned about the Conservative government's attack on the independence of your organization. Many people share your fears. Canadians don't really understand why you were scapegoated and why you are being made to bear the brunt of the medical isotopes crisis.

Ms. Keen, your job is to ensure nuclear safety. AECL's job is to meet its clients' needs by producing medical isotopes. Given this fact, and after having gone through all the available information, I believe, as does the Bloc Québécois, that AECL failed in delivering isotopes to its clients. We also believe that you are not responsible for whether or not the isotope contracts are respected. We believe that the roles got mixed up and the public debate and media spotlight were turned on to you rather than on to those who were responsible, namely Minister Lunn, the government and AECL.

Unless I'm shown evidence...

[English]

The Chair: Madame DeBellefeuille, your time has long since passed, in terms of your questioning period.

We'll turn to Ms. Bell, please, for seven minutes.

• (1235)

Ms. Catherine Bell: Thank you, Mr. Chair, and thank you, Ms. Keen, for appearing.

I echo some of the sentiments that were made by my colleagues. I won't go into them all, but you have in your presentation to us today echoed some of the words I've used, as to the magnitude of the decision we had to grapple with in Parliament in December around Bill C-38 and with regard to confidence that Canadians have about nuclear safety for the future, based on what has happened here.

I want to thank you for your thoughtful presentation. I will get right to my questions, because I don't get a lot of time.

You have been with the Nuclear Safety Commission for seven years?

Ms. Linda Keen: Mr. Chair, that's correct.

Ms. Catherine Bell: And you've been on international boards and organizations, so you are quite aware of the extent of nuclear capacity worldwide?

Ms. Linda Keen: Yes, I'm quite well aware of what's going on around the world. Yes.

Ms. Catherine Bell: Good.

One of the things we're hearing is that there were alternate supplies. We've been in contact with nuclear radioisotope suppliers in other parts of the world who said they were increasing their capacity of isotope supply because they had heard about what was happening in Canada—this was as early as late November—and you said you had been working with the hospitals to identify an alternate supply. Would any of those supplies come from those places where they were increasing the production?

Ms. Linda Keen: Mr. Chair, I probably should seek to clarify.

The hospitals that were phoning us were all licensees of ours. Their licence could have specified a certain isotope, and in one case there was a company that wanted to import generators, etc. What they would be doing is phoning us saying that their licence specifies X and what they wanted to do was switch to Y, and they were asking, do you agree? And of course we move very quickly for that.

We were not involved at all in the discussion about where the isotopes supply was coming from. In fact, I wasn't aware that there were surveys going on or anything of the type, and we weren't involved, because it wasn't our responsibility to do this.

But you'll note in the transcript of the December 6 meeting that one of the commission members, Dr. Barnes, actually gave the senior vice-president an opportunity to talk about isotopes and supply in the issue, and he didn't really discuss it very much. That's in the transcripts.

But this wasn't among our responsibilities.

Ms. Catherine Bell: So it was just approving the licence for the hospitals to get the alternative supplied.

Ms. Linda Keen: Yes.

Ms. Catherine Bell: Can you remind me when you started those conversations with hospitals?

Ms. Linda Keen: I don't have those details with me, and unfortunately, because I'm not the president, I no longer can bring staff into this. That would be a question to the commission. But it would have been around that same time period, that really compressed week.

Ms. Catherine Bell: Which week was that?

Ms. Linda Keen: This would have started probably the week of the 10th and 11th, when they really were seeking alternatives.

Ms. Catherine Bell: Do you know what the world supply of radioisotopes is?

You don't have any idea of it? Okay.

You've established what your mandate is, and those were some of my questions as well.

Is it your estimation that Minister Lunn overstepped his bounds in seeking to have you change the safety commission's decision regarding the pumps and the procedures that were put in place that caused the AECL to remain closed?

Ms. Linda Keen: My concern was that on the December 8 phone call that Minister Lunn requested—he requested this phone call, and I arranged for one of my staff to be with me on the phone call—it was the belief of both myself and the person on that phone call that the minister was telling us that we would bring the commission together and this is what the commission would decide to do. That was our impression of that December 8 phone call.

As I said, in the letter of the 10th as well, which is public information—and I have the exact quote here—the minister said to me in that letter, we want to know what were your reasons for doing this. Under quasi-judicial tribunals, once you're seized with a scenario, which we were because of AECL's letter of intent of December 7, this now becomes someone telling you what to do in a specific decision.

• (1240)

Ms. Catherine Bell: I've called for an independent investigation into this whole scenario that led us up to the passing of Bill C-38, because I felt that a lot of questions were unanswered. Since that time, have you called for an independent investigation into your dismissal as president? Is that what I'm to understand?

Ms. Linda Keen: Yes. In my letter of January 8, I specifically said I would be willing to subject myself to a review of my performance by an independent or international group.

Ms. Catherine Bell: Thank you.

I've also called, in a motion to the House, to have the Canadian Nuclear Safety Commission report to the Minister of Environment instead of the natural resources minister, because at this point, CNSC and AECL both report to the same minister. Would you think that is a conflict? You've been in a position of having to report to the minister, and I'm just wondering if it would help at all if CNSC reported to a different minister.

Ms. Linda Keen: I have raised the issue of the problems that arise when a licensee and a regulator report to the same minister. I've repeatedly raised this with ministers and deputies as they've changed and I've done the briefing. In fact, this had been the source of several private members' bills.

I actually met with one of the people sponsoring that bill, which was the MP, Mr. Chatters, who is from Athabasca country, which I know very well. He had said at that time that he could see that I behaved independently, but his purpose for that bill to separate was to ensure that, for future people, that would be the independence. So I can say that it has been a source of tension.

The Chair: Thank you, Ms. Bell.

Now we'll go to the government side for seven minutes.

Ms. Gallant.

Mrs. Cheryl Gallant: Thank you, Mr. Chairman. Before I start my questions, I do want to clarify the record. Ms. Keen quoted herself as stating that the decision to extend the shutdown was made by AECL alone and was entirely voluntary. At the December 6 meeting of the CNSC to which she referred, the former president indicated that the commission would have shut down the reactor if AECL had not done so. The quote is:

I mean, you are shut down, you chose to keep shut down and that is commendable because otherwise, there would have been order by the Commission to do that.

My first question refers to a report completed by the CNSC. I'd like to start by asking you how aware the CNSC was of the very real impact extending the shutdown would have had on the health of Canadians. In Canada, 30,000 patients per week have nuclear medical scans; 10% of the scans are used for critical diagnostic procedures such as in heart function testing, in breast cancer, and in kidney transplant rejections.

In the CNSC's original notification of the licensing issue, the significant development report prepared November 23 for your December 6 meeting, in the section "Effects of Event", the subsection regarding persons who are affected, there's a yes or no option under "Workers" and "Public". The commission put "no" on both of these categories. Was it the perspective of the CNSC at that time that disrupting the supply of critical diagnostic material was not affecting the public?

• (1245)

Ms. Linda Keen: Thank you very much for the question, Mr. Chair. There were actually three comments in there, but I'll deal with the last, which is a question.

The Significant Development Report was reporting the state of risk to people and risk to the environment because of the situation that occurred at that time. Because the reactor was in shutdown state when the Significant Development Report was done and when it came to the commission meeting of the six, it wasn't a hazard to people or a hazard to the environment, because it was closed down. So that was the assessment of the staff at the time.

If the reactor had been in a different state, there would have been a different reaction. But it wasn't a hazard to people or the environment at that time because it was shut down.

Mrs. Cheryl Gallant: It's my understanding that the Atomic Energy Control Board and the CNSC in its early days had a committee that included medical experts in order to provide advice to the CNSC and that this committee was disbanded. Did you ever consider the utility of having a committee to obtain ongoing advice from medical experts on radiation safety and on the use and

availability of nuclear technology and medical isotopes in medical practice?

Ms. Linda Keen: Mr. Chair, there are two aspects there. First of all, radiation protection of people—the staff, the people in communities, the general public, in clinics—is the responsibility of the CNSC, and the CNSC has expert staff who are part of international organizations. The International Commission on Radiological Protection gets involved in this quite often. So there is now a broader community available for radiation protection advice.

In terms of advice on supply of radioisotopes, that was not the mandate of the CNSC. We would have assumed that whoever was responsible—Health Canada or the provinces—would themselves have sought that expert advice and not the commission.

Mrs. Cheryl Gallant: Thank you, Mr. Chairman. So I will take the answer to that question as no, they're not seeking ongoing advice from medical experts on radiation safety.

I forgot to mention, Mr. Chairman, that if I have any time left over, I'll be sharing my time with Mr. Trost.

The CNSC has staff on site at AECL. AECL was re-licensed in August of 2006. How could the CNSC staff not have known that this significant safety upgrade that you're referring to was not carried out until November of last year?

Ms. Linda Keen: It's absolutely correct, Mr. Chair, that we recently put staff on site because of the significant regulatory oversight issues that we have had on that site. So it actually was a response to the ongoing difficult, complex regulatory oversight needed at that site.

When the licence is given, the commission and the commission staff have the expectation that the licensee actually will put in those processes themselves to make sure that things are in place. The AECL absolutely told the commission on at least three occasions that the EPS system, as one of the seven upgrades, was in existence.

So first of all, the responsibility for ensuring the safety of that site is primarily AECL's. The CNSC staff would have had an inspection program, and in fact it was the CNSC staff who, on November 5, as pointed out in my chronology, actually pointed out the issue. That was during an arrangement for an inspection. So in fact the CNSC have had an inspection. One lesson learned, which I talked about, would in fact be to look at this. I think every organization can learn.

Mrs. Cheryl Gallant: Thank you. I will note that the CNSC inspectors had been on site for well over a full year. So if this hookup—the battery backup safety system—was not backed up, the CNSC knew. It came as no surprise. They did know.

• (1250)

Ms. Linda Keen: That's not true. That's not true.

Mrs. Cheryl Gallant: You also indicated in your January 8 letter to Minister Lunn, now advertised on your website, that the CNSC staff is compiling the kind of evidence that would be necessary for the commission to review in any consideration of a licence violation.

Since you're only now collecting the relevant information to affirm that AECL was in violation of the licence, how did you make the decision back in December that they were out of licence?

Ms. Linda Keen: When the commission staff were on site they actually looked at the facility, they looked at the backup documents, and they absolutely knew there was an issue here. They gave AECL a set time—I think it was over a week—to justify why this documentation was incorrect. AECL finally admitted to the CNSC that it wasn't connected. That took them quite a long period of time.

Then they proceeded to look at this. They were looking at the non-compliance issue. But because AECL, on November 22, chose to keep this facility in a shutdown, the immediate priority was to look at how to get to the next step of this. It wasn't to start to compile non-compliance issues; it was how to address the issue that the connection wasn't made. I think it would have been paperwork to go the other way, to spend a lot of time compiling non-compliance rather than getting on with the job.

The Chair: Thank you, Ms. Keen.

Ms. Gallant, your time is up.

We now go to the second round. We're only going to have time for two minutes each in the second round.

We'll go to the official opposition, with Mr. St. Amand, for two minutes.

Mr. Lloyd St. Amand: Ms. Keen, I now understand why the government didn't want you to speak at our last meeting. Your presentation is concise, compelling, and very clear.

Not so clear is Minister Lunn's appreciation of the important principle of independence. He can verbalize it; he can talk it, as he did on December 10 in the House of Commons when he said the commission is absolutely independent of government. That was his phrasing. But when I look at his behaviour during the previous week, his actions that week were totally inconsistent with what he said on December 10.

As I understand it, he telephoned you on December 5.

Ms. Linda Keen: That's correct, Mr. Chair.

Mr. Lloyd St. Amand: He telephoned you again on December 8.

Ms. Linda Keen: That's correct, Mr. Chair.

Mr. Lloyd St. Amand: Let me say this is a rare event for you, as an independent commission, to receive a telephone call from the Minister of Natural Resources.

Ms. Linda Keen: Yes, Mr. Chair. In fact, I had not had any communication with the minister for over a year before this event.

Mr. Lloyd St. Amand: The upshot of the December 5 and the December 8 telephone calls placed by the minister left you and your staff person with no illusion whatsoever. You were being told by the Minister of Natural Resources what to do and how to do it.

Is that not the case?

Ms. Linda Keen: Mr. Chair, just to clarify, on December 5 it was a phone call during office hours. There were a number of staff there. The minister started that phone call by saying, "Well, I guess AECL has dropped the ball, haven't they?" He just said, "Can you tell me something about what's going on?" That phone call itself, we felt, didn't step over the line. I did do a note to file, as I do with all phone calls with ministers and deputies.

However, on December 7 we received a letter from AECL saying that they intended to apply for an application for a one-pump solution. That letter was copied to Mr. Lunn and to the deputy. What that meant was that on December 7, we were seized with the—

• (1255)

Mr. Lloyd St. Amand: You, as the commission.

Ms. Linda Keen: We were the commission, all of the five members—not me, not the staff.

In fact, when the December 8 phone call came in, it could have just been another general type of call. On a Saturday it would have been unusual. But there is absolutely no doubt in our mind that we were being told when to do it and what to do on that date. That was my impression. I have been in this chair for seven years.

The Chair: Thank you very much, Ms. Keen.

Yes, Mr. Anderson.

Mr. David Anderson: I have a point of clarification, please, Mr. Chair.

You said December 8 you were at home. It was a Saturday night and you were at home. The minister called you at home.

Ms. Linda Keen: It wasn't a Saturday.... It wasn't at home...no, let me see. It was exactly at 3:30.

Mr. David Anderson: You said you were at home earlier.

Ms. Linda Keen: Yes, I was at home.

Mr. David Anderson: Your letter to the minister said the telephone call came to you and one of your officials.

The Chair: Mr. Anderson—

Mr. David Anderson: It's a clarification. I just want her... She said in the letter the telephone call came to her and her officials. Did it, in fact?

The Chair: Mr. Anderson, you'll have to ask that question in your allocated time.

Is there anyone from the Bloc who wants to ask questions?

Next is Monsieur Ouellet for two minutes.

[Translation]

Mr. Christian Ouellet: Ms. Keen, I understand you. For 17 months, the Chalk River reactor was operating in violation of the licensing conditions, even if AECL had confirmed on three occasions that it was meeting these conditions. Isn't that right?

[English]

Ms. Linda Keen: Yes, Mr. Chair, correct.

[Translation]

Mr. Christian Ouellet: We have some letters of confirmation, for example, the one from Mr. Shorter dated December 23, 2005:

[English]

"This letter confirms that License Condition 13.1 of the Chalk River Nuclear..."

[Translation]

is compliant.

Ms. Linda Keen: Exactly, Mr. Chairman.

Mr. Christian Ouellet: There are therefore conditions associated with the licence, and these conditions were not respected.

[English]

Ms. Linda Keen: Yes, Mr. Chair, that's correct.

[Translation]

Mr. Christian Ouellet: I'd like to come back to health protection, Ms. Keen. The minister still claims that you were not concerned with protecting the health of Canadians. However, in your letter or notice of December 11 to both ministers, you stated that cases of non-compliance and radioactive emissions into the environment were possible.

Were you thinking, at the time, of lithium? What substance did you have in mind when you referred to radioactive emissions that could be hazardous to the public, not only to people living close to Chalk River but also to people living on the other side of the river, in Quebec?

[English]

Ms. Linda Keen: Mr. Chair, I apologize, I don't have that correspondence in front of me, so I wouldn't be able to give that specificity.

Clearly, since the war, Chalk River has had a responsibility for waste management. This has been a very serious responsibility for it, and it continues to look at waste management.

[Translation]

The Chair: Thank you very much, Mr. Ouellet.

[English]

Now we go to the government side, to Mr. Trost, for about two and a half minutes.

Mr. Bradley Trost (Saskatoon—Humboldt, CPC): Thank you, Mr. Chair.

I need a quick clarification of something you said to Ms. Bell. Was the CNSC involved in trying to get isotopes from overseas, contacting...anything of that accord?

Ms. Linda Keen: No, that wasn't our responsibility.

Mr. Bradley Trost: But in your December 10 letter you say:

We also have taken measures to facilitate the import of isotopes into Canada to increase the supply. In summary, the CNSC has taken actions within our mandate to assist the health sector to deal with the current situation.

Ms. Linda Keen: Yes, just to clarify, importation would be done by MDS Nordion. MDS Nordion is also a licensee of ours. We do license the importation.

Mr. Bradley Trost: So it was just MDS Nordion you were talking about in this letter, nothing at all with the other ones.

Ms. Linda Keen: Yes.

Mr. Bradley Trost: I think I'm beginning to see where some of the point of disagreement is, and it's about the interpretation of section 9 in the CNSC. I'll just give you some idea of where some of the government members—maybe not all—are coming from.

This is part of your mandate. In subparagraph 9(a)(i) of the legislation it says to “prevent unreasonable risk, to the environment

and to the health and safety of persons, associated with that development, production, possession or use”. Looking through the act, nowhere does it specifically exclude being concerned about cancer patients and their treatments. As a legislator, I look at that and see that it's a risk to people when they don't get their medicine, so that's roughly where we're coming from.

I want to ask you also—

• (1300)

Ms. Linda Keen: I'm sorry, was that a question?

Mr. Bradley Trost: It was a statement to help you understand where we're coming from here. You seem to have completely dismissed that, and the legislation doesn't specifically exclude what you're specifically excluding.

I also want to ask why you didn't use your subsection 47(1) emergency powers, specifically in light of section 7, where it says:

The Commission may, in accordance with the regulations, exempt any activity, person, class of person or quantity of a nuclear substance, temporarily or permanently, from the application of this Act or the regulations or any provision thereof.

Section 7 is part of your powers. Subsection 47(1) of the act states, “Notwithstanding any other provision of this Act, in case of emergency”—and I think we would agree that this was an emergency—“the Commission may, without conducting any proceedings, make any order that it considers necessary to protect the environment or the health and safety of persons or to maintain national security and compliance with Canada's international obligations.” The “health and safety of persons” is what I'm onto there.

The Chair: Thank you, Mr. Trost. Your time is up.

I don't know if there's any need for a response. I don't know if there was a question there.

Ms. Keen.

Ms. Linda Keen: I think that would be a bit difficult to respond to in a very short manner. It comes back to the issue that this was not the mandate of the CNSC. It has been independently reviewed for seven years, and that was not the mandate of the CNSC.

The Chair: Thank you, Ms. Keen.

On a point of order, Mr. Alhabra.

Mr. Omar Alhabra: Mr. Chair, I would like you to consider the fact that Ms. Keen started ten minutes late. Could we just go on for another round of ten minutes so she can stay for the full hour? I think it's a reasonable request. She was allotted an hour and she started ten minutes late. We have a lot more questions.

Could we get one more round, please?

The Chair: Mr. Alhabra, we have the Minister of Health here, ready to go. It's beyond the time that his meeting was scheduled to start. He also will be shorted some time, if you'd like to look at it that way.

Thank you very much, Ms. Keen, for coming today. We appreciate it very much.

We will suspend the meeting for about three minutes and come back with the next witness, the Minister of Health.

• (1300)

(Pause)

• (1305)

The Chair: We'll reconvene the meeting with the third hour this morning. We have as our witness the honourable Tony Clement, Minister of Health. With him is Morris Rosenberg, deputy minister, and Meena Ballantyne, who is assistant deputy minister, health products and food branch. I thank you all very much for coming today.

Minister, go ahead with your statement, and then we'll get directly to questioning.

Hon. Tony Clement (Minister of Health): Thank you, Mr. Chairman.

I do have some opening remarks.

[*Translation*]

Before answering questions, I will review the measures taken by my department when it became aware of the prolonged shutdown of the NRU reactors in Chalk River and the ensuing shortage of medical isotopes.

[*English*]

Of course, I'm addressing this issue, Mr. Chair, from my perspective as the federal Minister of Health and my mandate to help protect, maintain, and improve the health of Canadians.

As members know, the Chalk River reactor is a critical source of medical isotopes in Canada and indeed worldwide. Radioisotopes are used in diagnosing and treating cancer and cardiovascular disease. They are relied upon by health care facilities in Canada and around the world.

In Canada alone, approximately 30,000 patients per week undergo nuclear medicine scans. As well, Chalk River provides isotopes for 76,000 tests per day worldwide. When the NRU reactor was shut down from November 18 to mid-December, I can tell you it significantly reduced the supply of these isotopes in Canada and around the world. In all, MDS Nordion estimates a 65% reduction of the isotopes in Canada during this period.

[*Translation*]

As soon as this fact was announced on December 5, we started taking immediate action. We began working with provinces and territories and with health system partners to determine the extent of the shortage and to assess options to respond effectively.

• (1310)

[*English*]

We communicated with nuclear medicine specialists to assess how best to manage the impacts on the health care system and on patients. We contacted 773 health care facilities across Canada, including up to 245 nuclear medicine facilities to determine the severity of the shortage. I personally communicated with provincial and territorial health ministers, and my officials kept in close contact with their provincial and territorial counterparts closely monitoring the situation as it evolved.

We also contacted other international agencies to determine the extent of the shortages worldwide. We quickly formed a group of experts from the fields of oncology, cardiology, and nuclear medicine, as well as representatives of the Canadian Medical Association and the Canadian Society of Nuclear Medicine.

I want to refer, if I may, to the information we received from this group. Some people out there seem to think there really wasn't a health crisis after all and our response was overblown. Let me say that based on the information we gained from our advisory group, such people are absolutely wrong. This advisory group made it crystal clear to our government that we certainly were in the midst of what was a growing health crisis and one that needed action. This group estimated that approximately 10% of affected patients were facing life and death decisions and another 30% to 40% were facing the risk of under-equipped physicians making inappropriate diagnostic and treatment decisions. In short, Mr. Chair, the situation was not sustainable and certainly not acceptable.

[*Translation*]

In realizing the impacts of the shortage, the Canadian Medical Association issued a statement saying that nuclear medicine services were now being rationed across Canada; that patients were deprived of timely access to critical diagnostic procedures; that this was impacting diagnostic services, timely surgery, and therapy planning, placing patients increasingly at risk; and that the decision to take the reactor off-line for an extended period of time had already affected critical medical management decisions and the numbers affected would escalate every day that the shutdown was in effect.

[*English*]

The most severe shortages were felt in smaller rural and remote centres, particularly in Atlantic Canada. One hospital in Newfoundland told me that most of their staff in nuclear medicine had been sent home because without isotopes no work could be done. Their last generator expired at noon on December 7 and they had no backup. All appointments for patients had been cancelled and all emergency patients were being turned away. For the health of Canadians we needed production to resume to prevent even more hospitals from going without. In the short term, the situation was threatening lives. If left unchecked over the long term, the situation would have started taking lives.

Given the serious consequences to the health of Canadians, we had a responsibility to seek information from the Canadian Nuclear Safety Commission about ways to resolve the growing health crisis. We wanted to see if there could be an expeditious hearing to consider the merits of AECL's safety case without in any way directing that the commission reach a particular conclusion, but as we know, such a hearing did not take place.

Our government then issued a directive stipulating that the commission's decisions take into account the health of Canadians who are dependent upon nuclear substances for medical purposes, but that had no effect. As a result, the government had to take the decisive action on December 12, proposing C-38 to Parliament. Following all-party passage of that bill, the reactor came back online on December 19 and isotope deliveries resumed during the holidays.

I believe we acted in such a way that we balanced the likelihood of a potential incident of nuclear safety with the real certainty—the real certainty—of a serious and growing health crisis. For this action, the Canadian Medical Association and the Canadian Society of Nuclear Medicine publicly thanked the Prime Minister, myself, and all members of Parliament “of all political stripes”, to use their words, for the fast legislative action.

Some have said we could have obtained extra supply from international sources. Indeed, we moved quickly to try to obtain supply from the four other suppliers in France, Belgium, the Netherlands, and South Africa. We contacted European suppliers. They were willing to help, but they found they could only increase their output by 10% to 15%, which would not be enough to meet Canadian demand. Also during this time, French and South African reactors were going through their own routine maintenance and were unable to meet Canada's supply shortage. Furthermore, time for producing and transporting these isotopes was significant, especially given the short lifespan of these products. In short, Mr. Chair, it was not an option to meet Canada's demand from international suppliers, particularly since Chalk River produces more than half the world's supply.

Now that production and delivery has resumed, my officials are continuing our work with the expert advisory group to examine contingency plans in the event of any future supply disruption. This work includes assessing the possibility of alternative sources of medical isotopes, along with substitute diagnostic techniques that could be used if needed. In addition, this work is also looking at opportunities for enhancing international collaboration to coordinate supply. Our expert advisory group will be preparing its initial assessment in February. At that point, I intend to convene health care professionals, provincial and territorial representatives, and other experts to assess the lessons learned and discuss the work of the expert advisory group.

Of course, one very important issue to consider in all of this is timely information sharing. Going forward to ensure timely notification of issues that may affect supply, we have developed a notification protocol among AECL, Natural Resources Canada, and Health Canada. This protocol provides clarity about who needs to be contacted and when. As well, it states that information will be shared immediately when it concerns the operations of the Chalk River reactor and, as a result, the supply of medical isotopes.

Under the new protocol, once my department receives timely information about a potential supply impact, a process will be triggered to contact provinces, territories, and relevant experts to assess the potential impact and launch strategies to respond. We will also be more closely monitoring information from suppliers, along with clinical trial and import licence applications, all of which could be early warning signals of potential medical isotope supply issues.

●(1315)

Let me give you an example. Health Canada receives routine requests from companies, including medical isotope supply companies, seeking special importation permits to adjust to supply shortages. This request is not unusual, and in fact we received one on December 3 from a company that had made the same request twice before in the past year.

[*Translation*]

As I mentioned earlier, when we were faced with the situation of shortages in early December, we took responsible action. I want to thank members from all parties—the Liberals, the New Democrats, the Bloc along with my fellow Conservatives—in both the House of Commons and the Senate—for passing our legislation so quickly.

[*English*]

In closing, I want to reiterate my central point that we had to act. Repeated requests to the regulator to see about an expeditious hearing were not met. Consequently, with all-party support in Parliament, we passed the necessary legislation, and the CMA and the Canadian Society of Nuclear Medicine thanked us.

I will leave it at that and say that partisan considerations aside, we're all here to do the utmost for human health and well-being. It was in that spirit that I believe we acted with good sense.

The Chair: Thank you very much for your presentation.

We'll go directly to questioning now, starting with the official opposition and Mr. Alhabra. If there's time left, we'll go to Mr. McGuinty.

Mr. Omar Alhabra: Thank you, Mr. Chair. You are correct that I'll be sharing my time with Mr. McGuinty.

Minister, thank you for coming here.

By the way, the more you keep highlighting the urgency of the situation and the crisis that has arisen from that situation, the more you reveal your failure in doing your job, because your job should have been to prevent it from reaching that level. Your job should have been to manage this crisis before it got to a crisis level. Your job should not have been done by Parliament, but you are taking pride in the fact that Parliament had to step in and do your job for you.

In your initial statement you say, “After I was made aware of the situation on December 5, we started taking immediate action.” Then you tell us that you had a conference call with suppliers on December 10, five days later. Is that your definition of immediate?

●(1320)

Hon. Tony Clement: Thank you for the question.

I would say a couple of things. First of all, I've been a health minister in this country for close to five years. I know that the honourable member has not had that wonderful experience, but I can tell him that despite the best laid plans of mice, women, and men, there's always something that crops up where you have to respond to a situation that was not planned for. After you respond in the best interests of your constituents, Canadians, there's always a group of people who say you did far too much and overreacted and there's always a group of people who say you did far too little and underreacted. That's the price one pays.

But I am quite convinced that once we heard that this was an unscheduled shutdown that was going to occur to such an extent that it was going to have an impact on supply, we acted immediately. The first thing you do is collect information, and that's what we did. My own personal conversation with one of the European suppliers actually took place on Saturday, December 8—not on December 10, as you suggest—with the CEO of AREVA in Paris. Indeed, there were many official contacts as well by NRCan on Friday, December 7, when we learned about the extent of the issue we faced.

So the first thing you do in any potential crisis situation is collect information, and that's what we did. We started talking to hospitals, and then we created a plan.

Mr. Omar Alghabra: Thanks.

I'll hand it over to Mr. McGuinty.

[*Translation*]

Mr. David McGuinty (Ottawa South, Lib.): Thank you, Mr. Chairman.

Minister Clement, we are all well aware of your background, your experience and your achievements as a former minister in Ontario. You were part of a government that closed 29 hospitals and laid off 8,000 nurses in the province. So if I were you, I wouldn't be so quick to tout my past achievements.

Mr. Minister, I am asking you outright what exact role you played in this sorry business. Ms. Keen clearly told us this morning that Prime Minister Harper personally authorized her dismissal. She stated that she received a letter from the Privy Council that was authorized by the Prime Minister. What role did you play in her dismissal, Mr. Minister?

[*English*]

Hon. Tony Clement: Thank you for the question.

I would say, Chair, that some of his earlier partisan comments on my record in Ontario are factually incorrect, but I'm not going to go over that well-trod ground. I know the honourable member thinks he's an expert on Ontario politics, but he's not.

I would say in response to the honourable member's question that of course I agree with the government's decision. Parliament rendered its decision. Parliament said that of the—

[*Translation*]

Mr. David McGuinty: Mr. Minister, that is not what I'm talking about.

Mr. Chairman, with all due respect...

[*English*]

The Chair: Mr. McGuinty, let the minister answer the question. Give him a reasonable amount of time to answer.

Go ahead, Mr. Minister.

[*Translation*]

Mr. David McGuinty: That is not at all the question that was asked.

Hon. Tony Clement: Naturally, I would prefer to answer your question.

[*English*]

Please give me some time to do that.

I would say that Parliament made the right decision. The decision Parliament made was that Linda Keen, as president of the commission, got it wrong when she failed to balance the risks to the health and safety of Canadians, many of whom required treatment for cancer and cardiac therapies. She failed to balance their needs against the potential for some form of nuclear accident. I think Parliament got it right.

It was clear to us in government that after Parliament made its decision there needed to be a change of leadership at the top of the Nuclear Safety Commission. I'm not going to get into all the details that may be subject to legal battles in the future.

I can tell you that I agree with the decision. I think it's the right decision. I think it protects Canadians in the future. It's not a decision you take lightly. You don't fire heads of commissions every day of the week or every month in the year, but when it is for the health and safety of Canadians, you have to make those kinds of difficult decisions at times.

● (1325)

[*Translation*]

Mr. David McGuinty: Are you expecting legal action to be taken, Minister? Are you now telling Canadians that legal action will be taken against your government? Or are you going to launch a lawsuit? What exactly are you telling us?

Please do not try to tell us that the vote in the House of Commons to authorize 120 days of repair work is unrelated to Ms. Keen's dismissal. Stop spouting such nonsense, Minister. Canadians know full well that you are spinning a yarn to defend what is becoming increasingly indefensible.

Let us be clear and frank. What was your role in all of this? Do you have any evidence? Have you sought a legal opinion to support your decision, as a member of cabinet, to back Mr. Harper's decision to personally sanction Ms. Keen's dismissal? What was your role in all of this?

[*English*]

Hon. Tony Clement: I approved of the decision. It was a decision made by the executive council, so that's answering that question.

I can tell you that in terms of the evidence needed for a change, I gave you the evidence in my opening statement.

There is no question in my mind that if this crisis were allowed to continue—which was certainly the desired option of the then-head of the Canadian Nuclear Safety Commission—we were literally days away from huge human health impacts, not only in Canada but around the world, which would have led to deaths. I can't say it more plainly than that, Mr. Chair.

I think we made the right decision. I think the Canadian Nuclear Safety Commission got it wrong.

When we sought a way to get the parties together, there was resistance by the commission in that regard. I'm sure my colleague, Mr. Lunn, has gone over that ground.

All I can tell you as health minister is that my responsibility in cabinet is for the health and safety of Canadians. I think Parliament made the right decision, and I think we've got better protocols in place now and a better relationship with both the commission and with the new management at AECL so we can respond better in future situations.

The Chair: Thank you, Mr. McGuinty and Mr. Minister.

We go now to the Bloc Québécois, Madame Gagnon.

[Translation]

Ms. Christiane Gagnon (Québec, , BQ): Good afternoon, Minister.

You claim to have acted out of a sense of duty, a desire to protect the welfare of patients and of Canadians in general. You said that you did not have a response protocol. That is what you seem to be trying to tell us. However, in light of certain information, Minister, I have to question your candour. We have found out, for example, that you did not contact European producers for help until December 10. You did not do all that you could to find another solution.

Having listened to your testimony, we can conclude that this was not your primary objective. Indeed, you perceive Canada as being in competition with other producers. Market share was at stake and you did not want to lose face. You claim that other producers were unable to provide isotopes to those who are usually served by the Chalk River reactor. Minister, I question your candour. Your actual objective was probably to keep Canada's market share, and to do so—as you said on many occasions—the reactor had to be restarted as soon as was possible. It seems to me that your strategy was to restart the reactor and not to seek help from other countries for Canada's hospitals.

Hon. Tony Clement: It is a question of having two tandem solutions. When I was informed of the situation, we obviously got in touch with the South African authorities. That was on December 6, 2007. On December 7, NRCAN officials contacted other countries. I myself spoke with the President of the Areva group on the phone. We were, however, at the same time, also implementing local, Canadian solutions. As there was no solution to be found on the international front, the best solution was to restart the nuclear reactor.

• (1330)

Ms. Christiane Gagnon: As you know, last December 11, the House of Commons was taken hostage. We had to adopt emergency legislation. We felt very much responsible for what was happening, but we did not have in hand all of the data we needed. We supported

the bill, but as you know, security was also one of our concerns, and it had to be taken into account. We were caught between two ethical issues: meeting patients' needs and considering safety issues.

In an interview, a journalist spoke to foreign representatives, namely from Belgium, and to someone in charge in the Netherlands. They could have increased their output and taken over the production of isotopes, but action would have been required prior to December 10. You knew that the Chalk River facility was not complying with operational requirements. Why did you not take any action prior to December 10? You knew there was a problem. There were warning signs.

I think that the Canadian Nuclear Safety Commission did its job. It brought Atomic Energy of Canada Limited into step. During the plenary, I was under the impression that AECL controlled the commission, not the opposite. AECL did not feel compelled to upgrade the reactor within the required time. It was during a monitoring operation that they realized the reactor had not been upgraded in accordance with operational standards.

I see some bad faith in what you are telling us about the dates. You can tell us that you called a French, African or Dutch representative, but apart from the dates, the fact remains that there was a problem. You were aware of it: it had been ongoing for two years. AECL was in survival mode, and you let the situation continue instead of developing a memorandum of understanding with the Canadian Nuclear Safety Commission.

By firing the president, you removed all authority from the CNSC. You had us pass the bill using a somewhat questionable process.

Hon. Tony Clement: I can only say that my role is to protect the health and safety of Canadians. When we realized that the interruption would not just last a few days, but that it would last for an extended period, we took action. We discovered at the international level, sources could provide us with 10% to 15% of the radio isotopes we needed. That did not solve the problem. The only solution was to start the reactor again. That was the solution in December. Permanent solutions will perhaps arise in the future. At least I hope so, because this is important at both the Canadian and international levels. The fact remains, however, that in December, that was the situation.

Ms. Christiane Gagnon: My point of view is not partisan. You say that it is very important, but you also know that this is about a nuclear reactor. Why wasn't there a memorandum of understanding? If a breakdown were to occur, the situation had to be dealt with at the last minute.

Hon. Tony Clement: I agree with you that that is not perfect.

Ms. Christiane Gagnon: What's more, you took time to act. You waited until the last minute, until December 11, to introduce the bill. It was the end of a session, and we were preparing to leave for the holidays. Why was nothing planned ahead of time? You knew that it would happen and that it would have serious consequences, both in terms of safety and in terms of the supply of isotopes. Why didn't you act sooner? Moreover, when you were asked about your...

[English]

The Chair: Madame Gagnon, your time is up.

Madame Gagnon, we will allow the minister to answer the question now if you'd like.

Minister.

[Translation]

Hon. Tony Clement: As I have already stated, when it became clear that there was a problem with medical isotopes, we took action.

• (1335)

[English]

When it was just in a scheduled shutdown it was not clear that this would go on for an extended period of time. When it became clear that this was going on for an extended period of time, that we were beyond just a regularly scheduled shutdown, when it was clear that the Nuclear Safety Commission was not going to re-license so that they could get out of a shutdown, that's when everyone clued in, starting with the Society of Nuclear Medicine specialists, and then others very quickly, that we were in a situation where the health and safety of Canadians were affected. That's when I became part of the story, not before, because I'm not the line minister.

When there's a nexus with health and safety, of course, I'm going to be involved. And I can give you the timeline, but the very day we found out is the very day we started to act.

The Chair: Thank you, Mr. Minister.

A point of order.

Mrs. Cheryl Gallant: Mr. Chairman, Madame Gagnon mentioned that AECL was not in compliance. I would like to point out that this issue is in dispute. AECL's non-compliance was decreed by the CNSC, but no hearing was ever held where the commission considered the evidence for AECL's case and concluded that AECL was in violation.

The Chair: That's not a point of order.

We'll go to the next questioner. We will go now to the New Democratic Party, to Ms. Bell, for seven minutes.

Ms. Catherine Bell: Thank you, Mr. Chair.

Thank you, Minister, for appearing today.

I have a lot of questions based on your testimony, based on things that I've also done some investigation on myself, and based on the notes from Minister Lunn that we received in a previous meeting.

I will set the tone here. On November 30, Natural Resources Canada received details from AECL on the implications of a prolonged shutdown on isotope supply. They were already being made aware on November 30 that there was going to be a prolonged

shutdown. I'm just curious to know why it took until December 5 for you to get that information. That was another five days that we could have had to make sure that the supply was brought up to capacity.

I read from your documents that you are changing your reporting mechanisms. I think that's very important, because those were the first questions I had when this all came about. Why did it get to this point, and why did it take so long for ministers to be informed? Where did it all break down? Obviously some reporting mechanisms were not in place or people were not doing their jobs.

I find that quite disturbing, because this is such an important issue, and it put parliamentarians in a very disturbing position at the time to make the decision. And of course we made that decision, in all good conscience, on the health and safety of Canadians, and for all the right reasons. But again it goes back to how we got there in the first place.

Hon. Tony Clement: Sure, and I appreciate the question. I think it's a valid question as we review what happened, when it happened, and so on.

I was actually under the understanding that Minister Lunn deposed to this committee that he was first informed on December 3. Regardless of that, I think you're quite right to key in on an issue that we have also keyed in on. That is why we have the protocol in place right now. Chalk River has been there for 50 years. There's never been a protocol and now we have a protocol. It says, here's a defining event that has to be shared with not only Natural Resources Canada but also Health Canada if there are health impacts.

Ms. Catherine Bell: Thank you.

Before that you say there was no protocol in place, but in 1996 a plan was drafted to deal with any closures at Chalk River due to a labour dispute that created a prolonged shutdown, or was going to—I think that happened in 1998. So there was some mechanism in place to deal with the shortage of isotopes. I'm curious to know why this plan wasn't used in this instance.

• (1340)

Hon. Tony Clement: I'll say a couple of things.

First of all, as we are all now well aware, the half-life of isotopes is such that you're really dealing with, in some cases, a 72-hour timeline, so it's not the usual situation in which you can stockpile supplies. I wish it were not that way, but that is the way it is with radioisotopes. That's the first issue.

The second issue was that we had almost a perfect storm of circumstances around this shutdown, in that at the same time as the unscheduled shutdown, because of the regulatory issues with Chalk River and the NRU, two out of the four were also in scheduled shutdown at precisely the same moment. If you believe in Murphy's law, then certainly we faced a variation of that.

I think the protocol we have in place right now, Ms. Bell, will be helpful in this regard.

Ms. Catherine Bell: I have heard what you had to say about the worldwide supply, and I have listened to some experts, and I actually had my office make some phone calls to some of those suppliers to find out about the world's supply. They have indicated to us that indeed there would have been a shortage. It might not have been to the extent that we were led to believe, but there were already facilities, one of them in Belgium, that had already stepped up their supply in late November when they heard about what was happening at AECL and that there would be a prolonged shutdown.

They knew on the other side of the planet that there would be a prolonged shutdown and they were stepping up their supply. Of course, as I said, there would have been a shortage, but we would have been able to assist people who were in emergency situations and put other ones on hold had the situation been managed properly, so there was the potential to have that supply if we had acted sooner.

Hon. Tony Clement: I guess I have to respectfully disagree in this regard.

Based on our research of the Belgian option and the other options, that could have added at maximum 15% to our supply. It would not have solved the problem. The only way to solve the problem in the month of December, which was when we needed to solve the problem, was to get the Chalk River reactor, the NRU reactor, up and running again.

Yes, other facilities could have been of modest assistance at the margins, but in order to ensure that every single Canadian would get the right diagnostics, would get the right treatments, there was no option other than to get Chalk River up and running in a safe manner.

Ms. Catherine Bell: How much time do I have left?

The Chair: You have 40 seconds, Ms. Bell.

Ms. Catherine Bell: Minister Clement, whose responsibility is it to ensure that medical isotopes are available, in your opinion?

Hon. Tony Clement: I would say certainly there is a direct contractual relationship between the hospitals that use the isotopes and the producers of the isotopes. Health Canada is one step removed from that. I would say that we take our responsibility seriously, so that when the hospitals, and by extension their patients, were facing a crisis situation, of course we sought to be part of the solution.

The Chair: Thank you, Ms. Bell and Mr. Minister.

We go now to the government side, to the parliamentary secretary to the Minister of Natural Resources.

Mr. Anderson, you have seven minutes. Go ahead.

Mr. David Anderson: Thank you, Mr. Chair.

Thank you, Mr. Minister, for coming today. I appreciate your clarification.

Apart from what you've had to say today, I don't think we've heard much new, but it seems to me we've had a series of increasingly desperate attempts by the opposition and some others to try to find an issue in this whole process.

If you'll recall, I think they began with the timelines, trying to confuse the timelines, trying to confuse the public with those

timelines. The Minister of Natural Resources was here, was very clear on that, and clarified those timelines. Then the opposition resorted to trying to make some phoney connections between the Auditor General's report and Chalk River. It was clear, after the minister was here, and today, after the Auditor General was here, that there is no connection between her reports and what happened in November and December at Chalk River.

It's unfortunate, and probably most disconcerting to people, that the opposition now wants to rewrite the night of December 11. We had a genuine emergency. They supported us wholeheartedly while the emergency existed. Then once it was over they bailed out, and then have tried to make a political game out of this. Now I hear they want to try to pretend there was no issue at all.

At our last meeting with the Minister of Natural Resources, Mr. McGuinty called them fabricated health concerns, that the health crisis was fabricated. That contradicted, by the way, what his deputy leader had said, that the Canadian Association of Nuclear Medicine estimated that 50,000 Canadians a month would experience delays in their medical tests. He called it a national medical crisis and also said this situation was endangering the lives of millions of Canadians. So clearly we had a situation.

I also found it strange today that Mr. Alghabra seemed to be angry that you didn't move faster, but then we spent an hour listening to the fact that we shouldn't have moved at all, that we should have stayed out of this entirely. It's another one of the inconsistencies we've seen from them.

Yesterday, another strange accusation was made about you when it was said that you were actually discouraging isotope supply. I want to ask you to comment on that, but secondly, I just want to clear this up. The Canadian Medical Association and the Canadian Nuclear Medical Association, the government, the deputy leader of the Liberals, all the opposition parties agreed there was an emergency, a health crisis. I want you to tell us if that health crisis was real or if the health concerns were fabricated, as Mr. McGuinty said.

• (1345)

Hon. Tony Clement: Let me answer that question directly first. The crisis was real, based on the assessment of the experts and our expert advisory group. These are nuclear medicine professionals and oncologists and cardiac specialists.

At the point at which Parliament passed the bill, our supply in Canada was already down by 65% and we were reaching the point at which mere inconvenience was tipping over into life or death situations. This is very serious. It was recognized as serious at the time by Parliament.

I can tell you none of that is fabricated. It doesn't come from me; it comes from the experts in the field, the people I rely on. I go to the field. I respect my colleagues I work with in the public service, but they, quite rightly, assisted me in going right down into the field, at the hospital level, at the clinic level, hearing from the experts. That's the first point I would make.

The second point I would make is to categorically reject the accusation that somehow we were trying to avoid foreign suppliers. We contacted foreign suppliers. A minister doesn't just get on the phone on a Saturday morning to phone the president of a rival of AECL in Paris. You don't do that if you're trying to discourage alternative supply. You're looking for alternative supply. That's exactly what I did and that's exactly what officials in Natural Resources Canada and Health Canada, working together, did.

So that is false. It's just not the way it happened. I am quite convinced that there was no stone left unturned by our departments, by the Government of Canada, by all those involved, to seek the best way to resume supply.

The Chair: Thank you, Mr. Anderson.

Mr. Trost, you have about three minutes.

Mr. Bradley Trost: Thank you, Mr. Chair.

I'm just a little bit curious. Are there other critical health products for which similar supply issues could arise? If there are, what is the government starting to do and to take on to try to make sure that any shortages could be addressed? What should the federal government do if any other issues potentially come about?

Hon. Tony Clement: On a very small or modest scale, from time to time there can be shortages of pharmaceutical products, for instance. We have a program called the special access program that can help us expedite unlicensed health products in these kinds of situations and speed up clinical trials of replacement products and that kind of thing. So that does exist.

Isotopes are unique in the sense that, as I said, their half-life is so short and the suppliers are so few in number that we are in this situation. Having said that, one of the take-home lessons is let's build up our relationship with alternative suppliers; let's work on various scenarios for future shortages and make sure we have at least some kind of reactive way.... We learned a lot in the days of the crisis. There was a heck of a lot of brain power in Canada being used at the ground level to try to come up with ingenious short-term triage solutions. That will help us if we face this again. I hope we don't, but if we do, we can benefit from that knowledge and experience.

• (1350)

Mr. Bradley Trost: What contingency plans are in place to mitigate future risks? If the reactor were to shut down tomorrow for a period of one year or longer, what are we doing to get ready for a situation like that? How would we manage it?

Hon. Tony Clement: It will be a challenge. Having the protocol in place will allow us to more immediately know of any potential issues so that there's a timely notification. I take some stock in the protocol. If it is a prolonged shortage, as I say, then some of the ingenious triaging methods will be useful. We can learn from that. I think it's fair to say that having gone through the last couple of

months, many of us around the world are much more aware of the impact of potential shortages.

I have tasked my officials to continue to work with the advisory group. They're going to come back in February with more recommendations for the medium and longer term. Certainly I'll be tabling those with the public at the appropriate time.

The Chair: Thank you, Mr. Trost and Minister.

We're going to the second round now. Each of the parties in the second round will have about three minutes, starting with Mr. Boshcoff.

Go ahead, please.

Mr. Ken Boshcoff: Mr. Chair, I'll be sharing my time with the honourable member from Brant.

Mr. Minister, I have two quick questions.

You referred to a conference call with other isotope suppliers that could have increased the supply by 15%. Were those suppliers willing to supplement the shortage—not replace it—to help alleviate the shortage at that time? Did they offer to do that, and did you take them up on it?

The second question is whether it is possible for you to table a list of the membership of your special advisory group, along with the dates and times of the advice you received from them, as well as written copies of that advice. Maybe you're able to do that now, and if not, perhaps to the committee at the end of the day when you—

Hon. Tony Clement: The second point was to table what from the advisory group?

Mr. Ken Boshcoff: The advice you received from them and any chronological confirmation of time and dates.

Hon. Tony Clement: Sure. We have a chronology. If it has not been available to you, we can supply that. Absolutely.

Let me make the point that once we initiated contact with the alternative suppliers, they had to think about what they could offer Canada, at a time when I'm sure they were getting a few phone calls from other places around the world.

What became clear, in the case of the French, the Dutch, and the Belgians, was that they could get their 10% to 15% increment to us but not before the end of December. This, again, goes to the timing. We were going, as I said to Madame Gagnon, in parallel. At the same time as we were looking for alternative sources of supply, we were assessing the situation domestically. We came to the necessary conclusion that our only way out before the end of December, which to me would have put many Canadians at risk, was to table the legislation.

The Chair: Mr. St. Amand, you have time for a 30-second question and a 30-second response.

Go ahead, please.

Mr. Lloyd St. Amand: Mr. Clement, Minister Lunn, when he spoke on December 5 with Ms. Keen, indicated that AECL dropped the ball. It's odd, of course, nobody has been fired from AECL, to the best of my knowledge.

You've talked on a few occasions this afternoon about your new protocol—as I understand it, a new protocol to ensure the safe supply of isotopes involving your ministry, the Ministry of Natural Resources, and AECL. Specifically excluded is the Canadian Nuclear Safety Commission.

Is that because you get it, Minister, that it is not the job or the mandate of that commission to ensure that there's a safe, ready supply of isotopes? Do you get it in a way that your colleague, Minister Lunn, doesn't get it?

• (1355)

Hon. Tony Clement: I agree with my colleague, Minister Lunn, not surprisingly, that certainly the CNSC has a broader obligation with respect to the health and safety of Canadians. In fact, a point that should be underlined is that they were given, as is a government's right to give, a directive to interpret their mandate to protect the health and safety of Canadians generally.

Mr. Lloyd St. Amand: Minister, I'm asking why—

The Chair: Time's up, Mr. St. Amand.

We'll now go to Madame DeBellefeuille for three minutes.

[*Translation*]

Mrs. Claude DeBellefeuille: Thank you, Mr. Chairman.

Minister Clement, I would ask that you reply in a concise manner. When were you made aware that the reactor shutdown would be extended?

Hon. Tony Clement: December 5.

Mrs. Claude DeBellefeuille: Do you find it reasonable that the Minister of Health was only informed on December 5, whereas the Minister of Natural Resources had been made aware of the serious problems and risk of extension since November 30? To your mind, isn't it serious that two deputy ministers serving on the board of directors of Atomic Energy of Canada Limited, including Ms. Cassie Doyle of Natural Resources Canada, were aware that everything was going wrong and that there was a risk of an extended shutdown around November 30, and that despite this, the Minister of Health was only informed on December 5?

Do you find this reasonable and responsible?

Hon. Tony Clement: I do not agree with your timeline. Indeed, Minister Lunn said before this committee that they had been informed on December 3, and not on November 30.

Mrs. Claude DeBellefeuille: Pardon me, Minister Clement, but according to the minister's statements, his department had received an email—which of course was not addressed to him personally—making the information available to the department as of November 30.

We are dealing here with a lack of communication between Natural Resources Canada, Atomic Energy of Canada Limited, and your department. As you said yourself, each day counts. Time had

already been wasted once European suppliers were called upon to help you deal with the shortage.

You can say that I am mistaken in my chronology, but I do not think this makes any sense. Minister Gary Lunn sits right next to you in the House of Commons, and when a problem of this scale arises, wouldn't it be the subject of discussions, be it in the hallways, at meetings, or through email? In my opinion, it is totally unimaginable that the two of you did not communicate to take action as soon as possible.

Minister Clement, were you in contact with Belgium to obtain isotopes, and if so, when?

Hon. Tony Clement: My officials were.

Mrs. Claude DeBellefeuille: On what date?

Hon. Tony Clement: A telephone conference attended by my department was held on December 10, 2007. Before this call, on December 7, officials from Natural Resources Canada communicated with the Department of Foreign Affairs with respect to the international commitment.

Mrs. Claude DeBellefeuille: Therefore, Minister Clement, you are confirming that all European suppliers of medical isotopes were contacted, but you are not telling me the date on which each supplier was contacted.

I, along with all Canadians, am trying to understand why such an important telephone conference was held on December 10. Even if we cannot agree on the dates, those being November 30 and December 4, December 10 was still too late, given the fact that you were informed on December 5.

The Chair: Thank you, Mrs. DeBellefeuille.

[*English*]

Hon. Tony Clement: If I am permitted, I will answer in English, because my notes are in English on this particular file, and it's important to be exact.

The detailed chronology, which I am quite prepared to table to this committee, indicates that every single day—I don't want to go overboard, but practically every single hour, though not every single hour, for there were a couple of gaps in hours—there was the collection of new information and then decisions made to act and react to the information we were collecting.

Health Canada was first engaged on December 5; I have been quite clear about that. By December 6, we were collecting information and, through our briefing, understanding what potential other sources there were. That's when we first started the contact with South Africa and learned that they were closed down as well.

On December 7, NRCan officials contacted the foreign affairs department, because they take the lead on international engagement, and we started to send notices out to Canadian missions around the world to make the contacts with the key supplier companies.

On December 8, which was a Saturday, I personally contacted the CEO of one of the biggest suppliers in the world, AREVA, in Paris, and that individual was saying that she wanted to be of assistance to us. I started to get them connected into the system as well.

On December 9, the Canadian missions began their *démarche* with producers and processors and national governments.

On December 10, we got that conference call I referred to with all of the European producers to update them, to gather further intelligence, and to seek their support.

As you can see—and I would encourage you not to look at one day in particular—if you look at it as a stream of days, as more information came in and as more decisions were made on how best to deal with the crisis, obviously more actions were taking place.

• (1400)

The Chair: Thank you, Minister.

For the last three minutes it's Mr. Allen.

Mr. Mike Allen: Thank you, Mr. Chair.

I have just one question to ask, and my colleague, Ms. Gallant, will probably ask a question.

Mr. Minister, I hate to ask you an “if” question, because you always get into these “if the bear hadn't scratched his rear end on the tree, he wouldn't have got splinters either”. If you had been informed earlier about this whole situation, with the benefit of hindsight, could that crisis have been averted and the situation better managed? How would it have been better managed, considering the medical idiosyncrasies of these isotopes?

Hon. Tony Clement: I was always taught that if “coulds” and “shoulds” were “woulds”, we'd all be lumberjacks. But we're making the same point, I think.

I agree that there are certain aspects of this that could be tightened up, and that's why I think a protocol is so important. But when you look at what was available in terms of international supply and at the fact that this was an unscheduled shutdown—that is to say, a temporary shutdown was extended by the commission—those facts obviously made it difficult to come to any conclusion other than to restart the reactor, and that's what Parliament decided to do.

If we had known a little earlier, there is no question that we could have contacted provincial and territorial governments a bit earlier and could have gotten the experts into the field a little earlier. But when you are dealing with a shelf life for technetium of six hours

and for its parent compound of less than three days—66 hours—as I said earlier, stockpiling is not an option. You can't stockpile for a rainy day in this situation, and that is the technical and technological challenge we face in this particular issue.

The Chair: Thank you, Mr. Minister.

Ms. Gallant, you have time for about a 30-second question and then a 30-second answer.

Mrs. Cheryl Gallant: Thank you, Mr. Chairman.

Now that we have the first 30-day report to the House of Commons in relation to Bill C-38 from AECL, and while the work on the second pump will be completed as expected within the 120-day period, and since the CNSC was going to take weeks to grant a licence on a one-pump solution, if it was going to grant one at all—and of course the reactor is in routine shutdown right now for maintenance—what would have been the effect, had we not gone forward with Bill C-38, on the world's medical isotope supply and, more importantly, the impact on the people who were waiting for them?

Hon. Tony Clement: It's not my place to be overly dramatic—you don't want overly dramatic health ministers—but I am absolutely convinced that people would have died. I can't say it more plainly than that. I think Parliament was right to act the way it did. Parliament took the health and safety of Canadians into account, and that's what staved off both a national and an international tragedy.

The Chair: Thank you very much, Mr. Minister, for your presentation and your answers today. It was very much appreciated. Also, thanks to your staff—the deputy minister and the ADM.

I know you have to get to question period. Go ahead.

Our meeting on Thursday will deal with future committee business.

Madame DeBellefeuille, did you have... ? No?

Okay, then we will adjourn the meeting.

The meeting is adjourned.

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