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## **Standing Committee on Transport, Infrastructure and Communities**

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**EVIDENCE**

**Monday, November 30, 2009**

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**Chair**

**Mr. Merv Tweed**



# Standing Committee on Transport, Infrastructure and Communities

Monday, November 30, 2009

• (1530)

[English]

**The Chair (Mr. Merv Tweed (Brandon—Souris, CPC)):** Thank you, and good afternoon, everyone. Welcome to the Standing Committee on Transport, Infrastructure and Communities. This is meeting number 39.

For the acknowledgement of our members, this will be a video recording. Orders of the day are pursuant to Standing Order 108(2), a study of Canada's enforcement of air safety regulations and implementation of safety management systems for the aviation industry.

Joining us today from the Department of Transport we have Mr. Marc Grégoire, assistant deputy minister, safety and security group; and Martin Eley, director general, civil aviation.

Welcome, gentlemen. You've been here before, so I presume you know the routine. You'll present, and then we'll go around the table with questions.

Mr. Grégoire, the floor is yours.

**Mr. Marc Grégoire (Assistant Deputy Minister, Safety and Security Group, Department of Transport):** Thank you very much, Mr. Chairman.

Before I get into my formal statement, I would like to extend our sincere condolences to those affected by yesterday's crash in British Columbia.

I would also like to introduce Mr. Martin Eley more completely, in his first appearance at this committee. I'm sure it won't be his last either. He has been our new director general of civil aviation since May 4, 2009. Mr. Eley has held positions of increasing responsibility in the civil aviation organization since 1982. Prior to his appointment as director general, he was director of the national aircraft certification branch, and as such, he was a member of the management team of civil aviation for the last eight years. Mr. Eley is a professional engineer and an associate fellow of the Canadian Aeronautics and Space Institute.

[Translation]

My remarks today will describe the current civil aviation safety program, our role as regulator and industry's role. I will also provide information about areas of the program that have been reviewed by other parties, such as the Auditor General and other international civil aviation authorities.

I hope that this information will help to focus your study. Although we have a solid aviation safety record, there is always

room to improve the already high level of aviation safety in Canada. As the second largest national aviation system in the world, Canada is considered a world leader in the international aviation community. That's an important point because virtually all technical, operational and licensing standards in the world are in line with the International Civil Aviation Organization's Standards and Recommended Practices.

This environment has been created to ensure, as much as possible, the seamless international flow of aviation activity.

[English]

Let me explain ICAO's role. It is a standards setting organization. It has never been a prescriptive body or an enforcement organization. The standards and guidance material developed by ICAO allow for flexibility so that individual members can have measures in place that reflect their operational reality. Member states, including Canada, use these standards and guidance as an adaptable tool kit to improve civil aviation at the domestic level. International requirements define what we do in Canada when setting strategic policy direction and developing regulations and standards where they are required. Transport Canada uses a consultative approach, where everyone has the opportunity to provide input on regulatory changes as they are being developed. Public comments to regulatory proposals as part of the pre-publication process in part 1 of the *Canada Gazette* are also an important aspect of our consultation.

Once the regulations make it through the consultative process, the Canadian aviation regulations and associated standards provide the legal framework within which the aviation safety program operates.

Transport Canada delivers Canada's civil aviation safety program. Using risk management techniques, we develop regulations, standards, guidelines, and education to promote a safe and harmonized aviation system for Canadians, for air travellers in Canada, and for Canada's aviation industry as a whole.

Aviation safety oversight is risk-based and supports the aviation industry's compliance with our regulations. Transport Canada provides services to the aviation industry based on the Canadian aviation regulatory framework in areas such as issuing personal licences, medical assessments required for the certification of licensed aviation personnel, issuing operating certificates to organizations, and certification of aeronautical products.

● (1535)

[*Translation*]

While the end product is the delivery of a certificate, a license, or some other document to an aviation stakeholder, the underlying purpose is for Transport Canada to be reasonably assured that individuals, organizations and aeronautical products can operate safely and in compliance with applicable requirements.

Transport Canada conducts ongoing surveillance of these aviation stakeholders to monitor compliance with the regulatory framework. This is done primarily through assessments and inspections, audits when more information is required, and enforcement action, when necessary.

[*English*]

At Transport Canada we take our oversight role very seriously. Make no mistake, if an air operator is not following the rules, that operator is not allowed to continue working. For this we hold the aviation industry accountable. They must operate safely, complying with the regulations, or face enforcement action. When there are regulatory infractions, they are subject to a firm but fair approach to enforcement.

Regulations require companies to use a systems approach to manage the safety of their organizations. This means implementing safety management systems. The guiding principle of SMS is that the companies must implement procedures that allow them to operate in a safe manner and identify potential issues in order to correct them and prevent accidents or incidents.

The first phase of implementation of these regulations for the commercial aviation sector of the industry, which carries 95% of the travelling public, was in 2005, with large airports and the air navigation system providers coming on in 2007.

[*Translation*]

We have recently made adjustments to the schedule for the introduction of these regulations to allow more time for smaller operators to prepare for implementation. Specifically, that means the regulations have been delayed until January 2011 at the earliest. This time will also allow us to improve the tools that our inspectors use to conduct oversight and to provide more training to inspectors.

[*English*]

It is worth noting that ICAO is currently developing a standard and recommended practices for a state safety program. Canada already has the main elements in place—regulations, standards, guidelines, and education—to promote a safe and harmonized aviation system. We anticipate that when it comes into effect, Canada will be well placed to meet this ICAO standard.

In addition to the international recognition of our leadership on a systems approach to safety, there have been a number of independent conclusions that we are on the right track. In her May 2008 audit report of Transport Canada's transition to safety management systems—more specifically, our implementation strategy—the Auditor General recognized Transport Canada's leadership role in implementing SMS and the international recognition it has received. More recently, the European Aviation Safety Agency determined that

our system is equivalent to theirs. They have described this to us as a confidence-building exercise.

The U.S. National Transportation Safety Board recently recommended, in two accident investigation reports, the adoption of SMS. It also recommended that the Federal Aviation Administration mandate the use of SMS for commercial operators. In recent reports, the Transportation Safety Board of Canada has also recognized the benefits of a systems approach to safety.

● (1540)

[*Translation*]

The history of aviation has been one of continuous change. In order for change to be successful, it is important to have support from all levels of the organization. The delay in the implementation schedule we've imposed will allow more time to refine oversight tools for our staff based on the experience gained during the assessments of the larger operators and to enhance training.

Let me conclude by saying that we've listened to the concerns that have been voiced, that we will continue to listen, and that we are making adjustments to keep moving the program forward. The department welcomes this public discussion on aviation safety. Public confidence is a key measure of our commitment to aviation safety.

[*English*]

Thank you for your time. We look forward to answering your questions.

**The Chair:** Thank you, Mr. Grégoire.

Mr. Volpe.

**Hon. Joseph Volpe (Eglinton—Lawrence, Lib.):** Thank you, Mr. Chairman.

[*Translation*]

Thank you, Mr. Grégoire and Mr. Eley.

Welcome back to our committee, Mr. Grégoire. We have already had the pleasure of exchanging some views about safety management systems.

[*English*]

Notwithstanding everything you just said, apparently there's a press release out today that says Transport Canada halted its decision to roll out the aviation safety management system. In an e-mail dated November 13—that's two weeks ago—it cited common concerns about SMS amongst Transport Canada inspection staff.

Is this a bogus item, or is it in fact true?

**Mr. Marc Grégoire:** No, that e-mail was written by Martin Eley after discussion with me and others. We decided to postpone the implementation for small commercial operators, the operators who fall under Canadian aviation regulations—or CARs—703 and 704. These are operators who are flying airplanes with fewer than 20 passengers. CAR 703 is for up to 9 passengers, and it's 10 to 19 passengers for a CAR 704 operator.

We stopped this for a number of reasons, but mainly after discussion with a number of our inspectors and the unions representing our inspectors—which I gather you will see right after us—claiming that we have a few things to fix before we move ahead.

Most importantly—

**Hon. Joseph Volpe:** You accepted those things.

**Mr. Marc Grégoire:** We accepted that and we delayed the implementation.

**Hon. Joseph Volpe:** Excuse me, Monsieur Grégoire, but you'll recall that when you came before this committee in the past, the big concern of committee members, or at least a good number of committee members, as well as some of the intervenors was that you would not have sufficient inspectors to ensure the mechanical integrity of the equipment as well as doing the audits.

If my recollection serves me correctly, you and your colleagues insisted always that there would be a sufficient number of inspectors and there would not in fact be a diminution of numbers. However, it would appear that you have about 115 to 130 vacancies yet to be filled from an inspection side, and secondly, you've moved a lot of your inspectors to an audit assessment side of the business. Are you surprised that you had such concerns?

**Mr. Marc Grégoire:** We have a number of vacancies. That number has been reduced lately. We are in the process now of hiring about 60 inspectors, so we think by the end of next summer we will have filled all these positions.

The number of vacancies is now below 100. We have 98 vacancies at this point in time. We still think we have enough inspectors positioned to handle the workload, but we will reassess this in the future.

**Hon. Joseph Volpe:** In previous presentations before this committee you acknowledged that the SMS could be worthwhile only if you maintained—the government maintained, the department maintained—the funding for a number of inspectors, which was deemed already borderline when you appeared before the committee. Now you have, by your acknowledgment, 98 fewer than you had then.

You know the concern on safety issues by all the intervenors was that you would not be able to maintain the integrity of the mechanical functionality of the industry if you didn't dedicate your time and your resources to spot inspections and recurring inspections, both for small operators and for the major carriers.

Don't you think this internal memo that Monsieur Eley distributed really indicates that you have come to grips with the realization that you have a problem and that Canadians might be right to question the safety of the equipment on which they travel?

• (1545)

**Mr. Marc Grégoire:** No, I am not ready to draw such a conclusion. In fact, the opposite might be better for me to say. I think the public can be totally reassured in flying what they fly mostly now—that is, 95% of the travelling public fly with companies that are under regulation under SMS. Since 2005, Air Canada, down to every operator that operates airplanes with 20 passengers or more, has been under SMS.

**Hon. Joseph Volpe:** I've been doing the math in my own mind, Mr. Grégoire. If 95% can feel more or less assured, given about 60 million movements around the country, that leaves roughly three million Canadians up the proverbial creek, so to speak, because they're buying a lottery ticket every time they get on a plane. You're saying that this is okay?

**Mr. Marc Grégoire:** No, no. Canada has one of the safest safety records in the world. We compare favourably with any other civilized nation in this world. Our accident rate in fact is lower than anywhere else in any other continent, and still we want to implement SMS to save more lives, to reduce the rate of accidents, and to make the skies safer.

**Hon. Joseph Volpe:** The only way you can make the sky safer is to reduce those accidents, at least the predictable ones, down to zero. Mechanical and personnel issues associated with safety in the business are the ones that at least this committee addressed, and you were here; we talked about those things very seriously. I think, quite frankly, telling me that we have a good record, and 95% are covered by our good record... We're not sure what that means. That's still three million travellers, or three million trips—call it one and a half million travellers, assuming they want to go back from where they came from, who aren't covered by any of these measures. That sounds to me like a department and, if I dare say it, a minister who is not all that attentive to the safety issues facing the Canadian travelling public, at least as far as the aviation industry is concerned.

**Mr. Marc Grégoire:** I'm not sure I understand correctly your question. Are you asking why we're delaying?

**Hon. Joseph Volpe:** My question is this. Judge Moshansky appeared before this committee and said you can go ahead with the audit process, but if you don't have the inspectors in place, you're just putting the public at risk.

**Mr. Marc Grégoire:** We have the inspectors in place; we have 878 inspector positions. There are 98 vacancies at this point in time, and I just told you we are staffing those positions and we will be up by the end of the summer to full staff. So there's no plan to reduce the number of inspectors whatsoever.

[Translation]

**The Chair:** Mr. Laframboise.

**Mr. Mario Laframboise (Argenteuil—Papineau—Mirabel, BQ):** Thank you very much, Mr. Chair.

Thank you, Mr. Grégoire and Mr. Eley.

Mr. Grégoire, the committee has had ample opportunity to discuss the Safety Management System.

Your regulatory regime concerns me. If you recall, the ICAO conducted an initial assessment of your Safety Management System in 2006. At the time, their biggest concern was accountability issues. So then, this was already a concern following the 2006 assessment. We had an opportunity to discuss this matter.

A few days ago, you announced that you were postponing the system's roll-out—and I probably have to agree with that announcement. However, there is one long-standing problem to contend with, namely regulatory enforcement and the obligation to be accountable. Are you aware of this problem?

• (1550)

**Mr. Marc Grégoire:** Yes, but we will still continue to enforce the act. We will continue to monitor operators' compliance with the regulations.

Over the past year, we have conducted SMS assessments of Canada's major carriers. We will be completing our work by the end of March. We hope to use the lessons learned to improve the instruction and training we provide to our inspectors.

Some employees may have mistakenly thought that we decided to stop enforcing certain parts of the act. We are also meeting at this time with employees from across the country to reassure them that we are keeping all of our tools and will continue to use them in the future.

**Mr. Mario Laframboise:** However, Mr. Grégoire, when ICAO officials testified before our committee, they agreed with us that a parallel inspection system maintained by Transport Canada was required. I'm sure you agree with me on that score. That was the recommendation put forward and the government committed to implementing it as well.

**Mr. Marc Grégoire:** Absolutely and that is what we are doing.

**Mr. Mario Laframboise:** Later on, representatives of the Union of Canadian Transport Employees will be coming here to testify that as we speak, there are 115 vacant positions in the air inspection and safety division. We will also hear from them that inspectors are no longer inspecting aircraft.

During the course of our discussions with ICAO officials, I understood them to say that a parallel inspection system was needed, including one for aircraft inspections. Therefore, you will need to convince me if later on, your own employees report to us that aircraft are no longer being inspected. You are telling me that you still inspect them. Is that right?

**Mr. Marc Grégoire:** For the past 15 of 20 years, planes have been inspected by the carriers.

**Mr. Mario Laframboise:** Nevertheless, there used to be an inspection system that enabled you to conduct from time to time...

**Mr. Marc Grégoire:** ... regulatory assessments and inspections. Today, we carry out SMS assessments and validation inspections. We are currently in the process of doing SMS assessments of our major carriers.

We are doing more than we have ever done before with a carrier. We are interviewing dozens of employees in each instance. When we do our assessment reports, we identify risk areas, so that we can go back and conduct validation inspections, sometimes in the short

term, or, as the case may be, sometime later down the road in 2010. As part of the inspection process, we thoroughly examine the system which is part of the carrier's operations, much in the same way as we have always done. Instead of doing random inspections, as was the case in the past, we focus on risk factors and truly target our efforts where the payoff will be the greatest, namely air safety.

**Mr. Mario Laframboise:** As I said, the ICAO concluded that random inspections should continue to be carried out.

Furthermore, employees will be telling us later that all inspectors do right now is verify and check off the findings contained in the airline company reports. That may be true, but they also claim that other countries have not opted to do what Canada is doing.

That concerns me, all the more so when you say that our system is the best in the world. Jean Chrétien spoke of Canada as the "best country in the world", but the fact remains that we are playing with people's safety.

Add to that the fact that you have delayed the system's implementation in another area and we have a problem somewhere.

**Mr. Marc Grégoire:** I don't see a problem. First of all, it's important to understand that for all of us at Transport Canada, especially those with the Civil Aviation Safety and Security Group, our main concern is safety. We all want to contribute, we are all professionals. Mr. Eley is an engineer, I am a trained pilot and an engineer. Our goal is to find ways to improve air safety.

• (1555)

**Mr. Mario Laframboise:** Except that all you're doing right now is reviewing the reports prepared by the carriers. You are no longer actually inspecting aircraft.

**Mr. Marc Grégoire:** That isn't true. We continue to conduct the same number of inspections. Do you think we have 878 inspectors who sit around the office playing cards? We continue to do inspections. Our inspectors are very professional, very serious people.

We are learning a great deal from this exercise. We are the first country in the world to be doing this. These airlines were regulated in 2005 and Canada is the first country to have reached this stage in the enforcement of the act.

**Mr. Mario Laframboise:** Meanwhile, you are still short 115 inspectors.

**Mr. Marc Grégoire:** Currently, we have 98 vacant positions.

**Mr. Mario Laframboise:** In any event, we will see later, because there is always a problem with numbers. As you know, we disagreed the last time around.

The francophone press reported this morning on a statement by the Canadian Federal Pilots Association to the effect that the implementation of safety management systems for the major airlines was taking longer than expected. You seem to be telling us the opposite.

**Mr. Marc Grégoire:** We have not slowed down the pace of implementation in the least. We have delayed the roll-out of the regulations to small carriers and small commercial operators. As for the large carriers like Air Canada, Sky Service, Air Transat and so forth, they are already regulated. We have not slowed down the pace in terms of implementing SMS. These carriers have been regulated since 2005.

[English]

**The Chair:** I have to interrupt. I'm sorry, we're past our time.

Mr. Bevington.

**Mr. Dennis Bevington (Western Arctic, NDP):** Thanks, Mr. Chair. Thanks to the witnesses for coming today.

I've heard many concerns about safety in the aviation industry. I recognize that Canada has always had a great reputation for safety, and I'm sure everyone on this committee wants to maintain it. I'm sure the department does as well. But what we're hearing is that there are some real concerns. There are some real concerns with the implementation of the safety management systems around the 705 carriers: concern about the inspectors not inspecting aircraft; that the random inspections and audits occur with prior notification to airlines; there is very little whistle-blower protection for people who may notice issues within the industry and report them; and certainly concerning the business jets there was some very deep concern about the outsourcing of the responsibility to the trade associations. These are some of the things that led to this discussion

In your e-mail of November 13, in which you acknowledge the concerns about how SMS is being implemented and the delay for air taxis and commuter operations—the 704s—why haven't you recommended actions to review SMS with the larger carriers, the ones for whom the system has been in place and for whom you can actually, through review, analyze the results you're getting with the system you have now?

**Mr. Marc Grégoire:** The assessment is being done now. Of course, we always want to improve; this is not a stale system. As we go, the inspectors who participate in the assessments of the major carriers provide us with invaluable feedback, and using that feedback, and also in talking with the unions and listening to our inspectors, we will improve staff instruction.

But just to make sure that we're clear here, a portion—and it has yet to be determined, and it depends on the carriers and on the risk—of our surveillance activities will always be validation inspections down to the operational level.

I don't think it should be too random, though. I think we should use the tools we have acquired through risk management within SMS to better focus our activities.

**Mr. Dennis Bevington:** To speak to the question of the inspectors, my understanding is that the number of inspectors has stayed fairly static over the past 20 years. Is that correct?

• (1600)

**Mr. Marc Grégoire:** The number of positions has in fact increased significantly over the last 20 years. I think we debated that here in committee a few years ago; I may have some figures that go back. But for a number of reasons it has increased significantly. For

the last few years it has been hovering around 871 and now 878 positions, of which 98 are vacant today.

**Mr. Dennis Bevington:** What's the level of increase in operations in the last 20 years, with the 704 operators and the 705 operators? How much has air traffic increased in this country?

**Mr. Marc Grégoire:** I don't know by heart, but we could find that for you.

**Mr. Dennis Bevington:** Is it on the order of 50%?

**Mr. Marc Grégoire:** I can't answer that now.

**Mr. Dennis Bevington:** Well, it's a very important question, because if your air operations have increased by a very large extent —

**Mr. Marc Grégoire:** That's because you take the assumption or believe in the assumption that more traffic equals more inspectors. In fact, as I've said before here, we've asked risk experts whether the system would be safer if we increased the number of inspectors so much that we had enough to put one on every plane, at every airport, at every port on every ship—

**Mr. Dennis Bevington:** No one is suggesting that here. We're just suggesting that there's probably a relationship between inspectors.... We had a very safe system with the inspectors and we had a great international reputation with the system we had before. Will that carry through, when you have a larger operations base and the same number of inspectors? This doesn't mean you're putting an inspector on each plane; I don't think anybody is suggesting that.

Concerning ICAO safety commitments, are you meeting the requirements or the recommendations that ICAO has, with the implementation of SMS and the lack of regulatory enforcement and oversight?

**Mr. Marc Grégoire:** We believe we are meeting them, but we believe there is room for improvement; this is what we're doing now. But we do believe we're meeting them.

**Mr. Dennis Bevington:** Then wouldn't you suggest a review of the SMS operations for large carriers in order to clarify this, after a number of years of operating in the fashion that you have, to ensure that the system is operating in a fashion that meets the requirements of the travelling public?

**Mr. Marc Grégoire:** We don't think a review such as you mentioned is needed at this point in time; it's a continuous process. We are now completing the assessment. By the end of March, we will have completed all of the carriers under 705, and, with the comments that we will have from our managers and from our inspectors, we will be able to further improve our staff instructions to our inspectors and then determine the cycle for the next three years for those carriers.

**Mr. Dennis Bevington:** Let's talk about whistle-blowers. How many cases have you had so far, under SMS, in which you've had employees of airline companies coming forward with information? Can you give me any idea of that and of the reaction through the department towards them?

**Mr. Marc Grégoire:** No, I cannot give it to you just like that, but we have various systems to collect information or to listen to comments from industry. We have an internal system, which is called CAIRS, that can be used by external parties. But more importantly, among all of those carriers whom we are looking at now, we are interviewing in total probably hundreds and hundreds of people. These are very detailed interviews, in some cases lasting hours, with two inspectors. Say you are a manager or an employee choosing to be interviewed in that company; you're free to speak for a long time.

The purpose of those interviews is to measure the culture of safety in the enterprise, so of course we are collecting information, and of course in some cases it's not good and we're requesting that action be taken, but in other cases it's very good.

**Mr. Dennis Bevington:** Well, the managers of the system are probably not the ones you want to—

**The Chair:** Thank you.

I'm going to now have to go Mr. Jean.

• (1605)

**Mr. Brian Jean (Fort McMurray—Athabasca, CPC):** Thank you, Mr. Chair.

Welcome, and thank you for coming today.

History has proven, I would suggest, that Canada has the safest airline regulatory system in the world, and indeed, that's the evidence you're giving today. Is that correct, Mr. Grégoire?

**Mr. Marc Grégoire:** Yes, that is correct.

**Mr. Brian Jean:** Our regulations over the years have focused on accident prevention—a sort of proactive approach, rather than a results-oriented one. Is that correct?

**Mr. Marc Grégoire:** That is correct, sir. In fact, one of the most important benefits of SMS is to be proactive. Rather than waiting for an incident or an accident to occur, SMS forces companies to analyze everything, to receive reports from all employees, and to be more proactive in the management of any kind of safety issues and thereby prevent incidents or accidents from happening.

**Mr. Brian Jean:** Indeed, ICAO, the International Civil Aviation Organization, recommends that SMS be implemented worldwide. Is that correct?

**Mr. Marc Grégoire:** That is correct, and we're probably the most advanced country at this point.

**Mr. Brian Jean:** We've heard a lot of evidence here about SMS over a period of many weeks—in fact, months. SMS actually provides an additional layer of safety requirements over and above what we in Canada have utilized for years to make us the safest in the world. Is that correct?

**Mr. Marc Grégoire:** That is correct, sir. All the regulations and everything that applied before continues to apply today. SMS is an additional layer of regulations.

**Mr. Brian Jean:** So it has nothing to do with deregulation, nothing to do with self-regulation; it actually adds more monitoring, over and above what existed prior to SMS coming into play?

**Mr. Marc Grégoire:** That is correct, sir.

**Mr. Brian Jean:** Now, I have a letter from you dated March 14, 2007, that indicates that the number of inspectors in 2001-02 was 866; the next year 871; the next year, 881; then 876 in 2004-05, 873 for 2005-06, and for 2007, 873. We've actually gone up to 87, and in fact we are trying to fill more positions than ever before in the history of Canada's aviation sector. Is that correct?

**Mr. Marc Grégoire:** That is correct, but we are not trying to fill above 878; the number we want to reach is 878.

**Mr. Brian Jean:** Okay.

The 5% of traffic not covered by SMS, as Mr. Volpe suggested, that those people are going around Canada worried about their safety, should not be worried about their safety, should they, sir? They're still covered by the existing system that has been in place for years. Is that correct?

**Mr. Marc Grégoire:** That is correct, sir. Nothing has changed for them.

**Mr. Brian Jean:** I'd like to read a paragraph to you from something we haven't received as evidence yet, but we have received the written document. This is from Christine Collins, the national president of the Union of Canadian Transportation Employees. I quote:

One of the reasons we have such significant shortages is because Transport Canada has been using its aviation safety management system as a means to reduce safety budgets. In fact, over the past few years and in estimates going forward, Transport Canada is capturing most of its 5% program review cutbacks from aviation safety budgets.

Is that true?

**Mr. Marc Grégoire:** Certainly not. And I would know, I presume.

**Mr. Brian Jean:** You would know, you presume?

**Mr. Marc Grégoire:** Yes.

**Mr. Brian Jean:** You are responsible for that, indeed?

**Mr. Marc Grégoire:** Yes, sir.

**Mr. Brian Jean:** So if it were true, you would know.

**Mr. Marc Grégoire:** Yes.

**Mr. Brian Jean:** And is it true?

**Mr. Marc Grégoire:** No.

We have made some agency savings in civil aviation. We have reduced a few director positions, but that's about the extent of the reduction. And as far as I know—and I hope so—there are no reductions ahead.

**Mr. Brian Jean:** I would like to be clear, though, that the union does not oppose SMS. In fact, they do believe in SMS, according to their particular statement here. They are simply worried about the way it is being implemented, but they do believe in safety management systems.

**Mr. Marc Grégoire:** That is what they told me face to face as well.

**Mr. Brian Jean:** Thank you.

SMS was first proposed by the Liberals in Bill C-62 in 2005. Is that correct?

**Mr. Marc Grégoire:** Well, actually, for aviation it was mentioned through the discussions around the Aeronautics Act. But we have been talking about SMS for many, many years at Transport Canada, since the mid-nineties, actually. We started consulting in aviation in the year 2000, and we implemented the first regulation on the rail sector in rail safety in March 2001, I believe.

•(1610)

**Mr. Brian Jean:** All right.

And the inspectors for rail and marine are quite a bit fewer than that. In fact, rail safety has about 100 inspectors and marine safety has about 300 inspectors. Is that fair to say? There are a lot more inspectors for aviation safety in Canada.

**Mr. Marc Grégoire:** Yes, in civil aviation the total group is about 1,400 employees, of which 878 are inspectors. A few hundred are certification engineers and other kinds of engineers. So those 1,400 people make civil aviation the biggest group, to a large extent, than any other group within Transport Canada.

**Mr. Brian Jean:** I don't know if you remember Justice Moshansky coming before this committee. Were you here for his testimony, Mr. Grégoire?

**Mr. Marc Grégoire:** No, but I think I came before and after.

**Mr. Brian Jean:** Okay. Did you have a chance to review the testimony when Judge Moshansky was asked if safety management systems had been in place at the time of the crash he investigated in Dryden?

Where was the crash? Was it in Dryden?

**Mr. Marc Grégoire:** Yes.

**Mr. Brian Jean:** If it had been in place at that time, it would be likely the crash never would have taken place because of the SMS requirements for de-icing and also the review. Do you remember reading that?

**Mr. Marc Grégoire:** I believe that is what he said, yes.

**Mr. Brian Jean:** Thank you, sir.

Those are all my questions. If I have any extra time, I will give it to Ms. Hoepfner.

**The Chair:** You don't.

I'm going to go to one round of one minute each, to finish up, so I would ask you to be brief.

**Hon. Joseph Volpe:** Okay.

Mr. Grégoire, I guess we're not going to go into a conversation, but I'd like to perhaps give you an opportunity to respond to the following, because SMS was supposed to be an additional layer. Read the word "additional". It was supposed to be accompanied by whistle-blower legislation that would give greater authenticity to the proactive measures to which you attribute reporting by companies.

It was supposed to be attached to a stable number of inspectors, if not an increasing number of inspectors. And today you tell us there are 98 fewer inspectors. That's probably in excess of \$10 million cut

from a budget. It was supposed to be accompanied by additional activity by the regulator, that the regulator—meaning Transport Canada—would be very much in place with regulations to ensure that there would be remedial actions if they in fact found that the audits were not being respected. Remember that your department was going to be looking at a paper trail and trying to establish a culture of self-regulation. It's clear that the culture of self-regulation is not yet a part of the aviation industry, notwithstanding anyone's efforts.

In the absence of those four measures, do you still stand by the fact that the SMS system is working?

**Mr. Marc Grégoire:** Absolutely, sir, more than ever. I have read some of the documents that were produced following the assessments of the big airlines. With the old system, there is no way we would have been able to go so deep or so far in the assessment of the culture of a company. Sure, the tools you pretend we have abolished have not been used a lot in the last year, we will admit, but that's because we were assessing all the carriers at once. We will use those tools as we did before in the coming years.

To comment on the vacancies and the 98 inspectors, we often hear it's because of budget cuts. But it's not because of budget cuts, and we are staffing those positions at this point in time.

[Translation]

**The Chair:** Go ahead, Mr. Laframboise.

**Mr. Mario Laframboise:** Nevertheless, there continues to be some problems. As I said earlier, an article was published in this morning's edition of *La Presse*. I'd like to read part of it to you:

Captain Daniel Slunder, the union's national chairman, stated in a press release that "Transport Canada is to be commended for recognizing there are serious problems with its aviation SMS program."

"This postponement is absolutely the right thing to do. However, the problems this decision acknowledges are undermining the safety of the big airlines. As a result, we no longer are confident the major carriers are compliant with safety regulations."

The representative of the federal pilots union works with these carriers every day. What are your thoughts on his statement?

**Mr. Marc Grégoire:** I don't quite understand how the decision to postpone the SMS roll-out to small carriers can be linked to the situation of large carriers.

I don't see any direct connection between the two. We met with Mr. Slunder on two or three occasions. We said we wanted to work with the union to improve the Safety Management System and in particular, Transport Canada's oversight role. I don't see this as an admission of the system's failings, but rather as proof of the parties willingness to work together to improve the system.

•(1615)

**Mr. Mario Laframboise:** You have not issued—

[English]

**The Chair:** Mr. Bevington.

**Mr. Dennis Bevington:** I just want to go back to the whistle-blower. You talked about large interviews with personnel within the different aviation companies. Wouldn't that be with the managers and people engaged in the SMS programs within those?

**Mr. Marc Grégoire:** No, it includes people everywhere in the company. For instance, in an airline it will include pilots, flight attendants, and mechanics. Of course, it will also include interviews with the management of the companies, starting with the CEO and the vice-presidents.

**Mr. Dennis Bevington:** Outside of the interviews you conduct, are they done in a random fashion with employees throughout the company, or are they done on a prescriptive basis, on an appointment basis?

**Mr. Marc Grégoire:** That's a good question.

Martin may know the answer.

**Mr. Martin Eley (Director General, Civil Aviation, Department of Transport):** They're done on a sampling basis, depending on what it is you want to look at. They've decided they need to do so many at a certain level, and then the way they choose people is on a random basis, quite often. It's not picking particular people. The idea is that it's not biased either way.

**The Chair:** Thank you.

Ms. Hoepfner.

**Ms. Candice Hoepfner (Portage—Lisgar, CPC):** Thank you, Mr. Chair.

At the end of the day, Canadians want to know that when they fly, they're safe. That's what they're looking for. As we have already recognized, we have a strong record in Canada of aviation safety, and moving forward, we want to continue with that.

I think the people who do know very well how safe an aircraft is, and the procedures, are pilots. The Airline Pilots Association International issued a press release in February 2007 that said pilots support the bill to enhance the safety culture at Canadian airlines. Captain Brian Boucher, senior director of flight safety for the Air Canada Pilots Association, was here and he said,

We understand that the rationale for the bill is to enhance the safety of Canada's aviation system and we believe that SMS is an important advance in this area.

Can you very briefly tell Canadians why this is a measure that will make them safer, and that fear-mongering is not productive in promoting safety in aviation?

**Mr. Martin Eley:** The thing we haven't mentioned here is that quality assurance is common in a lot of companies. We're trying to rely more on the companies having effective quality assurance systems to make all of their systems effective, but particularly with respect to safety. If they're doing the job in the right manner, there's much more confidence that they will comply every day. We still need to go and verify that, and we will continue to do that. It's really building that confidence into their systems.

**Mr. Marc Grégoire:** But the system is safe. We all fly regularly, and I feel we're far safer in an airplane than in a car, I guarantee you.

**The Chair:** With that, I'll thank you for your input today.

We're going to take a brief two-minute break and then we'll be back with our second set of guests.

Thank you very much.

• \_\_\_\_\_ (Pause) \_\_\_\_\_

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• (1620)

**The Chair:** Welcome back to part two.

Joining us now from the Canadian Federal Pilots Association is Mr. Daniel Slunder, national chair. From the Union of Canadian Transportation Employees, we have Christine Collins, national president, and Kerry Williams. From the International Association of Machinists and Aerospace Workers in Canada, we have Carlos DaCosta, airline coordinator.

You know the routine, so I'll open with 10 minutes of presentation and then we'll go to questions.

Thank you.

• (1625)

**Mr. Daniel Slunder (National Chair, Canadian Federal Pilots Association):** Good afternoon, and thank you for the invitation to address you.

My name is Daniel Slunder and I'm the national chair of the Canadian Federal Pilots Association.

The association represents licensed pilots who are civil aviation inspectors at Transport Canada, the Transportation Safety Board, and Nav Canada.

Before you there should be a book of slides, and you should probably also have a book with tabs. I'll be talking to those.

Do you have them? I guess they didn't get distributed.

**The Chair:** Go ahead. We'll get that distributed. We are a little tight for time, so I'm going to have to keep you on schedule.

**Mr. Daniel Slunder:** All right.

I regret to inform you that TC aviation inspectors now spend more time pushing paper than inspecting airplanes. With the introduction of aviation SMS, Transport Canada has systematically dismantled the key components of its prudent surveillance program in contravention of ICAO requirements to evaluate and inspect an operator's procedures and practices at least once a year, augmented by periodic random inspections. Transport Canada cancelled enforcement action in 2006. There has not been a single enforcement action against a large commercial air carrier in two years, despite Transport Canada's being aware of serious violations of safety regulations. You can find those at tab 3.

The national audit program was cancelled in March 2006, and Transport Canada quit conducting pilot proficiency checks in 2007. As a result, there are now unqualified pilots and pilots with expired licences operating aircraft in Canada. I'll refer you to correspondence at tab 6 for one example, and there are more. In addition, TC has delegated licensing and oversight of entire segments of the aviation industry to lobby groups like the Canadian Business Aviation Association, and that is in direct defiance of our international aviation safety obligations.

Most recently, the requirement for operational inspections on a mandatory frequency was cancelled in January of this year. Instead of regular and comprehensive inspections, Transport Canada inspectors simply conduct paper reviews of company safety management systems and follow up with superficial on-site validation of the paperwork. With SMS, we are simply not watching.

Because of the shortness of time, I will relate only three examples of airlines that have broken safety rules while we were not watching. These examples point to systematic problems with SMS. Under normal circumstances, a reliance on assessing and evaluating management systems, rather than actual aviation operations, means that Transport Canada aviation inspectors do not see these incidents. Each of these examples documents incidents that would put lives at risk.

The first example relates to an application for a flight permit. I refer you to tab 8 of the "Book of Documents". This is an application to modify a passenger-carrying airplane. In this case they had fuel capacity in order to travel distances far exceeding its normal maximum range. This was to include a temporary installation of a high-frequency radio. The operators applied to TC, promising that the installation met all requirements and regulations. Under SMS, an inspector's job is to review this application and sign off that the paperwork is in order, nothing else. As you can see on the next slide, the installation fell far short of the paper promises. The electrical installation is held together with masking tape. Under SMS, this clearly dangerous installation slips under Transport Canada's radar because we're not watching. Slide 5 shows that the power feed had been improperly hot-wired through the instrument panel, and that's a potential for an electric short. Slide 6 is an example of the use of illegal parts.

Under the SMS, TC inspectors no longer conduct pilot proficiency checks. Companies check their own pilots. For inspectors this has closed an important window on flight operations, especially since TC's policy is to replace audits and inspections with paper reviews. This image was taken by an inspector who stumbled upon this plane. Through a combination of extraordinary circumstances this inspector conducted a pilot check ride. When he saw the condition of the airplane, he refused to fly in it. As you can see, the bolts used to attach the wing to the fuselage are clearly not intended for this purpose and could potentially fail as a result of the stress they are not designed to withstand. The inspector also found parts anyone can buy at Canadian Tire improperly installed in this airplane's electrical system. This airplane is not safe to fly, yet it has carried passengers in this condition, all because its state of disrepair was not visible through an assessment of this company's SMS.

Shouldn't TC's oversight be adequate enough to ensure planes in this condition are not allowed to fly?

The next example I will describe is chilling in its similarity to the crash of the Air Ontario jet that killed 24 people 20 years ago at Dryden, Ontario, a seminal event in Canadian aviation that led to a full inquiry and the rewriting of Canadian aviation regulations. On October 9, 2009, Air Canada flight 271, with passengers and crew, diverted to Grand Forks, North Dakota, due to the closure of the Winnipeg airport. This led to a series of life-threatening decisions that could easily have resulted in tragedy. The first breach of the regulations occurred when the aircraft was refueled with engines

running while the passengers were still on board. Why would the captain allow such a dangerous procedure that contravenes the CARs? It turns out the airplane was dispatched without having the equipment necessary to restart the engines in working order. These were the same circumstances that caused the captain of the ill-fated Air Ontario airplane to take off from Dryden airport without de-icing. Second, even after being advised by a passenger, who was also an airline captain, that the jet's wings were contaminated by ice, the Air Canada pilot decided to take off anyway. In effect, he was acting as a test pilot, with crew and passengers on board.

• (1630)

We know about this nearly disastrous incident because of the passenger report that came to me personally. In the words of the pilot passenger, "Is this how Canadian operators are allowed to operate? Where's the regulatory enforcement required to keep the travelling public safe? Why were my fellow passengers and I subject to such illegal and unnecessary risk?"

Transport Canada's response was to let Air Canada's SMS handle it. This was in spite of the fact that the corrective action Air Canada put in place two years ago following a de-icing incident obviously failed. We have steadily lost track of aviation safety as a result of TC's SMS. These examples show an industry that is taking decisions and adopting practices that are endangering the public while we're not watching. Isn't it time someone stepped in to safeguard the public? Wouldn't it be better to have the next full-scale inquiry into the state of aviation safety before a major accident, not afterwards?

Some members of this committee regularly travel to Winnipeg, so this is personal. We travel the same skies. I want to assure you that I personally brought details of these examples to the attention of the senior management of Transport Canada. The decision to freeze the rollout of the safety management system for 703 and 704 operators is good news, but it highlights concerns about the safety of all air carriers for which SMS is a requirement. The problem this decision acknowledges undermines the safety of the big airlines, which carry the vast majority of travellers. We no longer are confident that the major carriers are compliant with safety regulations. To address the current situation, we recommend a number of critical measures that I would be pleased to address. They are in the document I handed out.

Thank you.

**The Chair:** Thank you.

We'll go to Ms. Collins.

**Ms. Christine Collins (National President, Union of Canadian Transportation Employees):** Thank you.

The Union of Canadian Transportation Employees, UCTE, is the national union for most government transportation employees. We represent transportation workers at Transport Canada, Canadian Coast Guard, Transportation Safety Board, Canadian Transportation Agency, airport workers, Nav Canada, and others.

At Transport Canada, UCTE represents the majority of unionized workers: 3,116 of 4,698. We represent approximately 1,000 inspectors in the aviation, rail, marine, and road safety divisions. In aviation safety, UCTE represents 50% of the inspectorate. Our members are the technical inspectors and aircraft mechanical engineers responsible for maintenance and engineering inspection.

Our members are classified as technical inspectors, TIs, a broad classification in multiple government departments and agencies. When applied to most transport inspection functions, this broad classification is inappropriate and completely out of date. This outdated and irrelevant classification results in situations in which inspectors who are doing the same job are paid vastly different wages, as well as situations in which our members are supervising people who make a lot more money than our technical inspector supervisors.

Today there are approximately 115 vacancies in the aviation inspectorate at Transport Canada—and that figure comes from senior management attending a civil aviation meeting just 10 days ago. One of the reasons we have such significant shortages is that Transport Canada has been preying on its aviation safety management systems to reduce safety budgets. In fact, over the past few years and in estimates going forward, Transport Canada has been capturing most of its 5% program review cutbacks from aviation safety budgets. We will send this committee part III of the Transport Canada estimates following this meeting. Another reason we have significant shortages is that most inspectors are recruited from the aviation industry, and the wages paid by government are up to 25% less than those in the private sector.

We urge you to consider Transport Canada's SMS in the context of the listeriosis crisis. The Canadian Food Inspection Agency introduced a similar self-regulation model into the meat industry prior to the crisis. It's also important to recognize that Transport Canada's aviation safety management system is unique in the world. Canada's implementation of SMS is far ahead of any other nation's, and some of the processes and systems in place in Canada are not being replicated elsewhere, nor are they recommended by the International Civil Aviation Organization, ICAO.

UCTE and our members do not oppose SMS. However, we believe there are aspects of Transport Canada's SMS that are wrong and need to be changed. UCTE is not suggesting reform in a vacuum. In fact, we are working with Transport Canada at the most senior levels to promote our perspective and to communicate openly with Transport Canada on these matters of deep interest to all travelling Canadians.

Our discussion paper, "Implementation of the Transport Canada Aviation Safety Management System: What's Not Right and Why Change is Necessary", has been distributed widely at Transport

Canada and to many other stakeholders, including members of Parliament.

UCTE's recommendations for change originate from the inspectors themselves. The people in the field doing the inspections, working for Transport Canada, are the people who are driving our campaign for change.

This is a critically important fact that parliamentarians need to keep in mind: inspectors no longer inspect aircraft. We hear this from all inspection regions. All inspectors do now is check off airline reports. Many inspectors do not even leave the Transport Canada office. They spend their time verifying the airline safety management reports. Don't get me wrong: SMS check-off is an important feature of SMS program verification and it needs to be done. However, airline reports may not be sufficient to protect the travelling public. Airline reports may not contain a sufficient amount of oversight, or may not contain the full facts with respect to internal accident corrective actions.

This leads us to a first important recommendation. Inspectors need to return to the practice of direct and sometimes random audits and inspections, without prior notification to the airlines. The intensity and prevalence of these random inspections should relate to risk, including whether or not a carrier is SMS-licensed or not. At the end of the day, the inspector must have the discretion and the authority to inspect randomly and without notification. This is the only way the Minister of Transport can be assured that his statutory obligations are met.

•(1635)

Second, we do need whistle-blower protections. You will hear about some of the serious problems in airline employee reporting and lack of protections from management reprisal, and lack of oversight and oversight definition from Transport Canada. Similar problems arise with the inspectorate. When inspectors have a complaint or a safety concern that they cannot address due to management or systemic constraints, they write up this concern and post it to the civil aviation issues reporting system, CAIRS, which was referred to by the previous group.

I have seen many of these reports and I've seen the Transport Canada responses. Nothing comes of them. It is simply an exercise of "I said, you said". It is similar to an employee telling their boss they are not doing a good job. Well, you can imagine the response from the boss. And you can imagine the response from Transport Canada management.

The U.S. has not even implemented SMS, but on September 23, 2009, the Obama administration announced that the Federal Aviation Administration was clearly working for the public, not the airlines. The administration created an independent office out of a separate central agency to oversee aviation whistle-blower protections. This office will oversee the FAA Administrator's Hotline, Aviation Safety Hotline, Public Inquiry Hotline, Whistleblower Protection Program Hotline, and the safety reporting system, which is similar to our CAIRS. UCTE believes that Canada needs to follow the U.S. lead and establish an independent aviation safety whistle-blower office, attached to an independent agency such as the Transportation Safety Board or even Treasury Board.

UCTE does not believe Canada should delegate aviation safety to trade associations. There is a clear conflict in doing so. Canada is the only jurisdiction in the world to delegate aviation safety to trade associations. Transport Canada calls these delegations "safety partnerships", but the name is a misnomer. Canada is delegating oversight and inspection to the very trade associations that depend on the airlines for their existence. Trade associations collect membership dues from commercial operators. The chief executives of the airlines sit on the boards of directors of the trade associations and run and manage the affairs of the association. It is a clear conflict of interest for an association run by the airlines to be responsible to the travelling public for aviation safety.

It is important to differentiate between professional associations and trade associations. Professional associations for pilots and engineers have a legitimate interest and responsibility in ensuring certifications and standards are applied to the professions. There is no conflict of interest when the professions are empowered to ensure the highest level of professional competence. Transport Canada has delegated SMS oversight to the Canadian Business Aircraft Association, known as CBAA. This association represents private commercial aircraft operators. An application from the Helicopter Association of Canada is also being considered. It is only a matter of time before an application from the association for Canada's largest airlines is also considered and accepted.

Last month the Transportation Safety Board published an aviation inspection report for an accident involving a CBAA-certified operator in Fox Harbour, Nova Scotia. The TSB report contained

a lengthy discussion of the CBAA program and Transport Canada oversight. It contained the following facts: CBAA directors were concerned about liability and constructed a system whereby independent consultants were exclusively responsible for implementing the SMS oversight program; CBAA operators were free to choose their own consultants and frequently used the same consultants over and over, leading to the strong possibility of regulatory capture; UCTE members report that CBAA operators sometimes retained the same consultant responsible for CBAA oversight to develop the protocols for the operator SMS; Transport Canada audited the CBAA program and recommended significant changes to that program, but Transport did not follow the recommendations of the audit.

Our view is that a system that gives inspectors the authority to inspect will ensure redress of systemic problems such as lack of action in addressing the CBAA audit. Our view is that trade associations are in a conflict of interest when they are responsible to the public for aviation safety while accountable to airline management for their existence.

•(1640)

To summarize, UCT does not oppose SMS. We oppose the way Transport Canada is implementing SMS. We recommend a policy of direct and unscheduled audits and inspections by Transport Canada inspectors. We recommend an independent office for whistle-blower protection. We oppose SMS delegations to trade associations—it's a clear conflict. We welcome the motion of the committee and are interested in any opportunity to privately and publicly share our views on this matter of national importance.

We look forward to further discussions.

Thank you.

**The Chair:** Thank you.

Mr. DaCosta.

**Mr. Carlos DaCosta (Airline Coordinator, International Association of Machinists and Aerospace Workers in Canada):**

Good afternoon. My name is Carlos DaCosta. I'm an airline coordinator for the IAMAW for Canada. We represent aviation workers, as many as 17,000, in all areas of aviation, of whom 8,000 are mechanics involved in maintenance of various airlines going from Air Canada, Air Transat, Bearskin, and Air Labrador. One-third of the licensed technicians in Canada are represented by the IAM, and they're contained within the 8,000, so it's probably about one-third of that as well.

In my previous career I was a mechanic for Air Canada for 20 years before going on to the union path career. I have worked on the floor on various wide-body aircraft as a mechanic.

As an airline coordinator, I and other people in the IAM have written articles on SMS based on research conducted in the United States and Canada and by personally attending Transport Canada SMS sessions held across the country to inform the public of the details of the SMS process. The IAM believes, based on this research, that the SMS system is flawed, and have recently started collecting data to see if it supports our theories of the flaws that we have discovered in doing the research.

The main problem we have with SMS is that there appears to be a conflict of interest in having a company that has the best interest of operating a company and operating a budget be also responsible for safety. Again, it's a hunch, and unless we have the data to support it, it becomes a theory. That's why we have some data to support the fact that some of these incidents are starting to appear, which is alarming.

We are specifically also concerned about the lack of Transport Canada oversight on what's going on at the SMS-level process, and especially below that process—in other words, on the floor while the aircraft are being repaired.

Transport Canada, in its claims, states that it's another layer on top of regulations, which is basically a quote lifted from the ICAO document. In reality, we are not seeing it as a second layer but an alleged process that is not working. It's an alleged process that does not contemplate checking below this SMS process level.

It was interesting to hear the previous speaker saying that the inspectors are only inspecting the paperwork, but that is what our mechanics are starting to tell us. That is all they see. They don't see anybody on the floor any more doing spot checks. Obviously, by not going below this SMS process level, Transport Canada cannot begin to understand what is actually happening on the floor.

As I stated earlier, we have a few incidents to report. Unfortunately, they've only come from one airline, one of the larger ones in this country, but as our process is put into place over the next several months, we will be collecting data from other companies that we represent.

Clearly, the concerns I'm about to raise support some of our fears. I'm not going to get into names or specific situations, but I'll give

you a flavour so that you understand what is happening and why the Transport Canada SMS process is not capturing these.

What we've seen recently at the one airline is the practice of the airline disciplining employees when their names are uncovered as a result of an action through an SMS process. Clearly, this is a violation of the SMS process as put forward by Transport Canada. If it becomes a punitive process, then where is the incentive for someone to come forward in the future and volunteer information that they made a mistake and it should be corrected so that others don't make the same mistake?

We had a situation in Vancouver where a lead licensed mechanic was disciplined. He followed procedures correctly as per the manual. The manual indicated that this is how you do the job and this is how you install the tool. He proceeded to install a tool that was not approved by Transport Canada. He questioned that. He was more or less led down the path where he was told that it was fine and just follow the procedures. He went on to do that.

The next shift comes along and a new group of mechanics take over the job. They follow the procedures in the manual. They don't recognize the tool because it is not labelled and it's not painted differently from the standard tools that are used. As a result of a mistake in the maintenance manual put out by Airbus—and it has been confirmed by Airbus that it was a mistake—they did not remove it because they didn't know that it was a tool that was already installed. When the SMS process and the investigation kicked in to find out what was going on, the employees who did not remove the tool were disciplined.

• (1645)

Where is the incentive for SMS to work? Where is the example to show other mechanics in the future, "You know, I've made an honest mistake, I'd like to come forward and I'd like you to tell me where I've erred, because I think there's something wrong"? It's not there. And that's only one incident.

We had another incident in Winnipeg where a mechanic was trying to repair a seat in the cockpit. Something went wrong in the system. The seat got sidetracked somewhere else. The employee was then asked to grab a seat and improperly fill out a tag so that it could be properly used on that airplane. He was instructed to do so by his manager. He was told that he'd better follow instructions or he would be disciplined. He refused. He was disciplined. An investigation is taking place, as I was advised this morning, and we'll see what comes of that. But this is the atmosphere in which an airline, who is supposed to be a partner in the SMS process, is practising.

We have two incidents in Toronto. One is where workers were asked to do repairs on an aircraft during the midnight shift, in dark weather, with improper lighting, improper tooling, improper equipment, and stands so that they could access it. They asked that the airplane be routed to the hangar for proper repairs, something I have done in my previous career. Sometimes you can be accommodated, sometimes you can't. If it is serious enough, they will postpone their repairs and the aircraft gets delayed, or they switch it with another aircraft.

The employees were told there was no such ability and they'd better do the job or else. Because they were put in that hostile situation, they refused to perform the job under the Labour Code. Labour Canada came in, and within their capability and their knowledge and training, they deemed the situation was not a dangerous one. The employees were then threatened by being told by the company, "You'd better not do this again. Learn your lesson and tell others that you cannot refuse to work. When we tell you to do something in a certain location, you'd better do it and do what's best for the airline to get the airplane out on time."

We had another situation in Montreal, where an employee who works in a shop where they overhaul individual parts for an aircraft noticed a trend whereby shortcuts were being taken and the maintenance manuals were not followed. You have to understand that when you work on an aircraft, it's not quite the same as working on a car. You can't simply do what you think is right; you have to basically follow the manual and then apply your knowledge and experience in doing the repairs.

As a result of these shortcuts that were being taken, rightfully or wrongfully, he believed there was something wrong. He filed an SMS report. The SMS report has buried his incident. He has gone to Transport Canada, to no avail. They would not speak to him unless they spoke one on one.

At the end of the day, what we have is an atmosphere.... And I've been talking to employees. What they're saying is, what is the purpose of coming forward and saying there's an incident, that they've found a mistake, that they found an error, or found somebody who did something wrong, though he probably doesn't realize what he did? Where is the advantage in doing so when you know your friend is going to get disciplined? What they will do, in turn, is hide and deal with the issues themselves. As a mechanic, I know they will not take shortcuts on maintenance, I can tell you that much. But if left to your own measures, where does that lead the whole aviation industry in the future?

We're talking about a reputable airline. If you look at what happened with Southwest, they are no less nor more reputable than all the airlines in Canada; neither is American Airlines and neither is Continental. Yet the Americans have a rigorous system whereby they do spot audits and so on. As a result of the whistle-blower protection, employees came forward and some of these airlines were grounded and fined.

What makes you think it won't happen in Canada? We're all human beings. We all have a vested interest in where we work. As a manager, I might be looking at operations and budgets over safety. As a worker, I might be looking at how to get home on time, how to do the job safely, cover my butt, and make sure that when that

airplane takes off, it takes off and lands safely, because it could be my cousin up there or it could be my brother.

At the end of the day, the system is definitely flawed. Some of these examples are starting to come forward. Over the next few months, as I get more and more data, I will definitely be directing these at Transport Canada and anybody else who will listen.

● (1650)

**The Chair:** Thank you.

Mr. Volpe.

**Hon. Joseph Volpe:** Thank you very much, Mr. Chairman.

Thank you to the witnesses for coming and sharing your views and your experiences with us.

I take, collectively, what you say as a great condemnation and a complete rebuttal of what Transport officials said not an hour ago. I'm not sure whether my impression is an accurate one. Is that what you tried to convey to me?

**Mr. Daniel Slunder:** Personally, I just wanted to bring examples of where SMS is not working for us and why we don't have faith in SMS, the way it's being presented to us as a replacement for the types of inspections and audits we've conducted in the past.

**Ms. Christine Collins:** I certainly would say that some of the comments made by Transport Canada representatives were inaccurate at best.

**Mr. Carlos DaCosta:** I'm trying to understand your question, but what I believe is they're not involved enough to understand what's going on, so in their belief and in the involvement they have, everything seems to be working fine. Until they realize what's happening below the wing, below the process—

**Hon. Joseph Volpe:** I'm trying to understand what it is that they understand works.

I read through your briefs, Madam Collins and Captain Slunder, and I listened to what you were saying, Mr. DaCosta. It seems to me all of you have, to quote a phrase generated by Transport Canada, "common concerns", and those common concerns are that, one, people are not recognizing there is a conflict of interest between those who are looking for the business model and those who have to make a decision on the public's safety. They should be one and the same. I can't imagine that a company providing a service to people 20,000 or 30,000 feet above ground is not concerned about safety. There's only one way down if there's an error. Second, you're concerned that there are no longer the kinds of spot checks you'd anticipated earlier on. Third, you're concerned that the regulator should be the inspector—otherwise what's the purpose of making regulations—but that the regulations are actually enforced by a party that is making the regulations necessary.

What is it about this that tells you Transport Canada believes it's doing the right thing?

•(1655)

**Mr. Carlos DaCosta:** If you were to ask me whether or not I believe SMS is a good process, I'd have to say yes and no. If you take out the human element, it's probably a good process. If you introduce a human element, we're all going to take shortcuts. We all have vested interests.

If I'm a manager under pressure and I'm looking to perform and look good, I'm going to take what I think is a reasonable shortcut in order to get the airplane out on time, not understanding what someone's going through as a mechanic in doing his job and what someone else is going through as the other person who's supporting him. At the end of the day, there is a conflict of interest, yes, and that's why I believe SMS is flawed. You have to put strict measures in place and have a proper whistle-blower protection system in place, which is run by an independent company, not by Transport Canada, not by the airline, and not by CBAA. It has to be neutral and it has to instill confidence in me so that when I report something, I know it's going to be looked at seriously and I know I'm protected.

**Hon. Joseph Volpe:** When I hear you say that, I hear a really severe rebuke of the system and of the regulator, Transport Canada. You're telling me in no uncertain terms that you don't believe the thing can possibly work because the information cannot be gathered accurately. That's what I hear you telling me.

**Mr. Carlos DaCosta:** There are too many conflicting and competing interests, and there are too many humans involved in the process. It is therefore bound to fail.

I've seen some of the examples already, such as the ones I have listed, and I'm sure there are more. I've gathered these in just the last two or three weeks, and there are more out there. It's just a matter of getting people to be comfortable enough to come forward and tell me.

They're telling me that the system is failing, just as it has in the States. I know the Americans don't have SMS in place, but they have a rigorous system in place under which they do spot checks, and yet Southwest was caught with its pants down. What does that tell you—if they put in SMS it's going to get better? I mean, they were purposely hiding from the FAA the fact that they weren't doing these inspections, so why would SMS make it any better? They're already telling you that they're not professionals, that they're not acting in the best interests of their passengers and safety, so why would SMS make it any better? It just gives you another tool to therefore continue to operate in the way you have been so that nobody will find out what's going on.

The difference between the Americans and us is that they have a much better whistle-blower protection system in place. They've done a lot of research into it; we have not. I believe ours is still sitting in the bill somewhere on one of the shelves in Parliament. Bill C-7 hasn't come forward yet.

**Hon. Joseph Volpe:** That's right, the bill was abandoned as a result of a hoist motion before the last election, and the government never saw fit to reintroduce it.

**Ms. Christine Collins:** I just want to add that Transport Canada doesn't even have it right with its internal SMS, and one example is training. In his presentation, Mr. Grégoire talked about getting ready

to train inspectors on SMS. Surely if it's been implemented for this long....

There are some serious flaws. Do the math. Where do resources come from with respect to the total number of inspector positions, the vacancies, the focus on safety management systems, and the whole process of box ticking and checking? These resources come from the inspectorate community. They can't be doing the SMS and the inspections and oversight at the same time.

In terms of the vacancies, at a time when there is increased air travel, they haven't made it back to the level they should be from 10 years ago.

There are serious problems. Despite what Mr. Grégoire said, it is not physically possible to put your concentration on SMS and the audits of SMS, while at the same time doing inspections and oversight.

I also want to address CAIRS, which Mr. Grégoire talked about. I'll give you an example. An inspector put in a question concerning CAIRS, only to not have it answered. A week later he put the question in again, saying he needed an answer. This is the system to be used now to raise concerns and questions. It is the system. A week later he got a work order to respond to the question that was put in CAIRS by him.

•(1700)

**The Chair:** Thank you.

Monsieur Laframboise.

[*Translation*]

**Mr. Mario Laframboise:** Thank you, Mr. Chair.

Thank you, ladies and gentlemen, for joining us today.

I'd like to say something. Let's set aside all partisan politics for the moment. It was probably an interesting proposition to go with the Safety Management System recommended by the ICAO. I can understand why the Liberals, the minister and the Conservatives who were in office at the time endorsed this idea, because it was presented to them by the ICAO as an additional measure. As long as voluntary disclosure was still possible and that inspection services were maintained, as the ICAO recommended, then everything was fine. The problem is not a political one. Rather, it rests with Transport Canada. That's where I really have a problem.

Mr. DaCosta, what you're telling us is very important. Some of your employees blew the whistle and now face disciplinary action. I'd like to know the name of the air carrier involved. Why do I want to know? Because we're going to do it a favour. To date, no incidents have occurred, but the carrier will now have to be careful because the objective was to allow voluntary disclosure. That's why I'm going to ask you for the name of the airline involved in these incidents.

[*English*]

**Mr. Carlos DaCosta:** I think you missed the point in my bringing up these examples. I continue to fly. Is there a danger of an airliner falling out of the skies, such as the one I'm talking about? No, there isn't. These incidents weren't big enough to cause anything to happen in mid-air.

What they show is a symptom of a problem, and it is starting to grow. It's a symptom that's starting to spread like a virus. Other employees are watching what's going on and saying, "Wait a minute, that guy got a discipline letter, so why would I follow that process? Why would I not take matters into my own hands?"

Mechanics are professionals. If they can get the same result where it is extremely safe and properly repaired, they will do that and spare that person from being disciplined. That is what I'm trying to say. SMS was never meant to do that. It was always meant to have everybody be a happy family. Unfortunately, the company is instilling a culture where it's working in the opposite way.

[Translation]

**Mr. Mario Laframboise:** I won't put the question to you again. I will respect your position.

Ms. Colins, you stated that inspectors should go back to conducting occasional random equipment checks and inspections, without notifying the airlines. One of our concerns was that Transport Canada would stop performing random or surprise inspections.

If I understand correctly, that has already happened. Correct?

[English]

**Ms. Christine Collins:** It is not happening. It has already happened. Yes, that is what I'm saying.

[Translation]

**Mr. Mario Laframboise:** Would you care to add to that, Mr. Williams?

[English]

**Mr. Kerry Williams (National Vice-President, Union of Canadian Transportation Employees):** We hear the constant refrain from the department that SMS is an additional layer. It is not. When you listen to what they say, you understand that this is an absolute replacement of the inspectorate system. They say it brings Canada to a place of pride in its safety record. But you have to ask why Canada would replace a system that is considered one of the best in the world with something that is not yet tested.

[Translation]

**Mr. Mario Laframboise:** Mr. Slunder, you provided proof in your documents that there are fewer inspectors. There are very few federal inspectors at the present time.

How has your work changed? What was your work like prior to, and after, the implementation of SMS?

I'd like my colleagues to get an idea of how your work has changed.

• (1705)

**Mr. Daniel Slunder:** In the past, our inspectors travelled on site and did pilot assessments. They assessed the training given to pilots and verified that the number of hours on duty did not exceed the accepted standard. They verified the carriers' certification. When a problem was noted during a site visit, it was discussed with the pilots. Certain things were noted and the act was enforced.

This is not how things are done anymore. Instead, inspectors work in an office and check to see if documents are in order.

An inspector in Quebec once told me, for example, that he had been asked to check out an air show. Following up on a complaint from a citizen, he went out to the air show and found a situation that was far from normal. Unauthorized helicopters were taking people up on sightseeing tours.

That's what happens when checks are not done. Because people know that no surprise inspections will be conducted, they do whatever they want.

**Mr. Mario Laframboise:** You stated to *La Presse* that also at issue were the new directives issued by Transport Canada and the large air carriers. Can you tell us more about that?

**Mr. Daniel Slunder:** I'm not sure I understood your question.

**Mr. Mario Laframboise:** According to a story published in this morning's edition of *La Presse*, Transport Canada acknowledged that there was a problem affecting small and large carriers.

**Mr. Daniel Slunder:** As Mr. Grégoire told you, they listened to our concerns. We met with Mr. Eley for two hours and provided him with 14 pages of information on SMS and roll-out problems. We had observed the problems that were occurring. However, the big airlines are encountering the same problems as the small carriers.

We are not going to audit the large carriers because they supposedly comply with SMS standards, but that isn't to say that the problems mentioned affect only the small carriers. Everyone is affected.

**Mr. Mario Laframboise:** So then, he misunderstood what you were trying to... All air carriers are affected.

**A voice:** Yes.

[English]

**The Chair:** Mr. Bevington.

**Mr. Dennis Bevington:** Thanks, Mr. Chair, and my thanks to all the witnesses here. I appreciate your testimony.

There is a difference between what happened in the past and what is happening today. Transport Canada has made a decision to go in a certain direction. Airline companies have supported it. Can you tell me how you feel? What caused these decisions to be made? Was it that Transport Canada wanted to cut costs? Was it that airline companies wanted to cut costs or get other kinds of benefits from taking on the SMS role and reducing inspections?

**Ms. Christine Collins:** I would say the biggest answer would be liability. It's an issue of liability. There are costs as well, but the single most important reason for going this way is liability.

**Mr. Dennis Bevington:** Do you mean on the part of Transport Canada?

**Ms. Christine Collins:** That's right.

**Mr. Dennis Bevington:** Why would the airline companies want to take this on?

**Mr. Carlos DaCosta:** In the incidents I brought forward, clearly the operations mode took over. You can only assume by what took place that the manager was more interested in getting the airplane out on time and in trying to reduce the headaches associated with it: the cost of putting up passengers in hotels, giving them meals and whatever, and having to face additional paperwork. It was easier for him to squeeze the mechanic than it was to try to explain to superiors that it just wasn't going to make it on time. That's the only thing that makes sense.

**Mr. Dennis Bevington:** We've seen that most major carriers are losing money every year. The industry is in trouble all over the place. It's not working out at all. What we have is a situation in which certainly everybody is under the gun these days to cut costs. On the other hand, we have Transport Canada cutting costs on inspectors, random inspections, and keeping up the number of inspectors for the quantity of flights. Is this situation escalating out of control?

• (1710)

**Mr. Carlos DaCosta:** I'm not so sure it's escalating out of control, but what I see is that it's starting to grow. What the mechanics are telling me is that it's getting worse by the day, by the week. There's no longer that atmosphere that was present in the past. It is a new way of doing business, and it's strictly about business. Less importance is being placed on safety. It is to the point where something may happen in the future. I know mechanics will do whatever they can to prevent something from happening, but if I make a little mistake and he doesn't pick it up, and he takes over, and another takes over, then the next thing you know it escalates into a big accident. That's what we don't want.

**Ms. Christine Collins:** The first group given SMS full responsibility was the Canadian Business Aviation Association. Even in the Transportation Safety Board investigation report they raised concerns about why they delegated and contracted out. The number one concern within the Transportation Safety Board report was liability.

**Mr. Dennis Bevington:** If I could just redirect you, I want to talk about pilots. When you talk about mechanics, at least you're on the ground, and you have somebody who's doing things according to procedure. With pilots, you're talking about very sophisticated pieces of humankind who fly these planes. If they're not up to snuff, the situation can escalate much more quickly. Is that not the case? That's where we're seeing many more issues, and certainly throughout North America we're seeing, these days, issues with pilots.

**Mr. Daniel Slunder:** I'm concerned, in that respect, that once you start taking boardroom decisions and financial considerations into the cockpit, you're going to get improper decisions that are not based on safety anymore. If you're starting to pressure the individual about the fact that if you're stuck in this place it's going to be \$20,000 worth of additional fees for the overnight passengers, then it becomes a little difficult, especially when the individual knows that the bottom line of the company is pretty tight.

You asked earlier why SMS would appeal to the industry. In 2001, the former director of commercial and business aviation told industry that if it adopted SMS, Transport Canada would be out of its face. They wouldn't be in their offices as often. That was said then in the industry, and it was fairly extensive.

**Mr. Dennis Bevington:** You know, in my conversations with mechanics and engineers when I travel around the north, people there say that they like Transport Canada inspectors. They come in and they're friends. They're people who ensure that they're doing their jobs right on the ground and in the hangar. Isn't that the case? Isn't there a relationship between the workers who are there to take care of the planes, the pilots who are flying the planes, and the people you represent?

**Mr. Daniel Slunder:** There's a lot to be said for someone on the ground when he's talking to his boss and saying that Transport could come any time here and we'll be caught. But if we're not there anymore to look, then there's no more safety belt for that individual. There is no fallback for that person.

**Mr. Carlos DaCosta:** That's what's taking place. The inspectors are no longer there, and when you have a situation take place and you come forward to identify it, you're told to file a report with the SMS process. And there it disappears, because it is investigated by a manager of quality control—a manager.

**The Chair:** Thank you.

We're in our last set of questions, so I'm just going to advise everybody that at the end, I'm going to ask that we clear the room. We have an in camera meeting, and we're on a bit of a time clock here.

We'll go to Mr. Watson.

**Mr. Jeff Watson (Essex, CPC):** Thank you, Mr. Chair.

And thank you to our witnesses for appearing.

I would note, Mr. Chair, that if I have any time left over, I will be sharing that time with Mr. Jean.

I have to say, I don't know if any of you are avid movie watchers, but it feels a little bit like *Groundhog Day*, starring Bill Murray. Every day he gets up and he goes through the same series of events. Today seems a little reminiscent. I've been at this committee for several years. We had a debate on Bill C-6 to make improvements to the Aeronautics Act, to implement safety management systems and to implement whistle-blower-type protections, among other things. I remember spending literally hours at the amendment stage in this committee, with the support of the Liberal Party and with our members in the Bloc, trying to come up with language that would make this a good system that could work together. And then it got to the House and a hoist motion from the New Democrats, of course, sidetracked what had been a process years in the making. In fact, I believe Bill C-6 started with about five years' worth of consultations in previous incarnations as a bill. So it's not as though this debate has suddenly materialized today.

First of all, let me state for the record, we would have had some protections and other things in place if Bill C-6 had succeeded in getting passed. So I think we have a serious problem here as a result of that hoist motion that was introduced.

Second, let me go a little further. You'll have to forgive me if I'm a little skeptical here, but I recall the testimony that every single union that was here before this committee said they were opposed in principle to SMS, safety management systems. Every single one of them said the same thing, on the record, time and again.

Now it's interesting that today, when the cameras are here...you'll forgive me if I feel some of you got a little bit of SMS religion today. You all accept SMS, I'm hearing, and if I'm looking at the requirements you're proposing, you're essentially prepared to accept SMS if it looks like exactly the same things you were asking for under Bill C-6. So I'm feeling a little skeptical about this.

Mr. DaCosta, I have a question for you. You said you recently began collecting data to test your hypothesis about how SMS systems are working. I think you went on to say you've been doing this for two to three weeks. You've obviously not completed that process, but you have no qualms about creating potential panic with the flying public. You've already come to a conclusion—it sounds like—at this committee on two weeks' worth of data collecting. Is that responsible?

• (1715)

**Mr. Carlos DaCosta:** I think I clarified the answer when I was asked a question by Mr. Laframboise. There isn't anything within these incidents that would cause something to fall out of the sky. But it is a problem within the system.

If I had a choice between SMS and the old system, I would take the old system any day. I worked as a mechanic. I liked the fact that the inspectors were there and that they made sure the companies were accountable and followed the rules. SMS does not put that into place. It allows the companies to hide behind the process, and Transport Canada will never know about it because they're doing spot checks once in a while. The chances are, if you spin the wheel, you might get caught or you might not.

**Mr. Jeff Watson:** Well, Mr. DaCosta, I think it's disingenuous to suggest you're out there testing a hypothesis, but you're sitting in front of the committee and in front of cameras and the media here and you're making some very authoritative and definitive statements about the system of airline safety in this country that would cause people to think twice about getting on a flight. I think that's irresponsible, first of all.

I think what we've heard here is that we have a safe system in Canada. If I recall the discussion around Bill C-6 as well, the main concern of three of the parties, at least—the lingering concern—was around the number of inspectors and whether we would live up to historic levels. It's clear today, from Mr. Grégoire, that we're still trying to get back to historic levels, but there's a commitment there to ensure we get back to the number of 878 inspectors.

So you'll have to forgive me, but you make it sound as though the system is falling apart, that it's not safe to fly here, and you're doing it on two weeks' worth of data collected.

**Mr. Carlos DaCosta:** If you play back the tapes, you will never hear me saying it was never safe to fly. I'll repeat my answer again. The incidents weren't big enough to cause an incident in the middle of the sky. But they are symptomatic problems of a process that's failing. And you could have a situation—if you understand human factors—when one mistake is made and another person takes over

the job and he makes another mistake. It carries on and on and on until a major incident happens. And it could be the failure of the unit being installed, or it could go, yes, as far as having something not work in the sky. If a generator fails in the sky, you have two or three others as a backup. Again, back to my premise, it's not enough to cause an incident in the sky, but it's rather a problem of the SMS process.

The regulations are still in place. SMS just makes sure that more responsibility is put on the company and more onus is on them to make it work themselves. Therein lies the inherent problem with SMS. I cannot trust airlines. because they are in a conflict of interest. Time and time again, the evidence has shown that they will take other matters before safety. Southwest Airlines has proved it, American Airlines has proved it, and so have Delta and Continental.

**Mr. Jeff Watson:** You're going to stop flying commercial airlines, is what you're telling us.

**Mr. Carlos DaCosta:** No, I fly all these airlines. But I trust that the system they have will catch it.

What I'm trying to do here is alert the committee. I tell you what, I don't want to be on this committee, because you have a tough decision to make.

• (1720)

**Mr. Jeff Watson:** Mr. DaCosta, you're arguing on the one hand that you don't trust airline companies, and then on the other hand you're saying you're going to continue to fly those same air carriers. It doesn't add up to me, Mr. DaCosta. If things are so bad, then you should be informing us of your plans to stop flying commercial airliners.

What I'm trying to hit home to the public—because they're watching this debate, Mr. DaCosta—is that they need to know that when they get on their airplane, things are still safe there. You're trying to draw general rules from select evidence that you carried out in two weeks, rather than having an overall look at what the system actually looks like and working down from the system. I think that's a dangerous way to look at the system, Mr. DaCosta.

I don't know if I have any more time, but—

**Mr. Carlos DaCosta:** I understand the system as a former mechanic. Obviously you don't see it the way I do.

**The Chair:** With that I will...

Mr. Volpe, on a point of order.

**Hon. Joseph Volpe:** I always like us to finish off a meeting on a positive note. I think that what all of us want to do is have enough respect for our witnesses who have come here to share their experiences with us. I hope that all other members of the committee took that as the principle that guided all those before us as witnesses. Certainly that's how I interpreted Mr. DaCosta's view. I didn't see anything alarmist there, and I think it's irresponsible for anybody to suggest otherwise.

**The Chair:** That's not a point of order. Your point has been made.

I will ask everyone to clear the room as quickly as you can get out of here.

Thank you to our guests. We appreciate your time and input.  
Thank you very much.

I'll ask the committee to stay behind for a brief in camera meeting.

*[Proceedings continue in camera]*

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