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

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**EVIDENCE**

**Tuesday, April 13, 2010**

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**Chair**

**Mr. Merv Tweed**



## Standing Committee on Transport, Infrastructure and Communities

Tuesday, April 13, 2010

● (0905)

[English]

**The Chair (Mr. Merv Tweed (Brandon—Souris, CPC)):** Good morning, everyone. Welcome to the Standing Committee on Transport, Infrastructure and Communities, meeting number eight.

When we last adjourned we were in the middle of a question of privilege.

We do have guests who are joining us in a half hour. I've allotted that much time, and I was going to suggest—and again, it's the will of the committee—that we would hear the point of privilege and we would hear from one member of each party, and obviously then wrap it up. Then if there is a vote called, we'll do the vote. And then we'll move into committee business within the half hour.

Is that agreeable?

**Some hon. members:** Agreed.

**The Chair:** Okay, then we will open with Mr. Jean. You can either take up from where you left off, or I think you were just in the process of introducing your motion. Please go ahead.

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

**The Chair:** Sorry, if I may, I would like to try to stay in that half hour, so maybe five minutes a party and then we'll make a decision.

**Mr. Brian Jean:** Absolutely. Thank you, Mr. Chair.

I would like to again just outline this breach of privilege question in a clear and concise manner, if I can.

The meeting on Thursday, March 25, of this committee was an in camera meeting. Although the member for Parkdale—High Park is not a regular member of our committee, the member decided to attend our meeting on that day and put forward a motion on behalf of the regular member, who was present at the committee at that time.

On Tuesday, March 30, Mr. Kennedy sent an e-mail to all members of the Liberal caucus stating that our committee would “review the government's stated deadline of March 31, 2011 and its impact on municipalities, as proposed by Sukh Dhaliwal and myself”. They expected “the committee to schedule meetings for mid-April”.

He attached a template letter and a questionnaire and asked Liberal members to “send to your municipal contacts in your riding”. The attached letter stated that “Gerard Kennedy's motion” had passed on March 25, and received “all party support”.

The public minutes did not mention these transient facts that were contained within the letter, which I think everybody has received a copy of. They did not mention whose motion it was, nor that it received all-party support, a fact that could be seen as misleading without the context of the debate that occurred on March 25.

I might remind all colleagues that, indeed, Mr. Kennedy proposed a motion that would take the meeting from an in camera meeting to a public meeting, and the committee said no. I would suggest that is in fact an aggravating circumstance. The public meetings also did not mention when the committee would be hearing testimony or the statements that they expected committee to schedule meetings for mid-April. That could also be seen as intentionally misleading, taken out of context of the debate that occurred on March 25.

Mr. Chair, this is clearly a breach of privilege on the facts and pursuant to the rules of the House. It is a breach of privilege on the behalf of the member for Parkdale—High Park, and I believe the committee should report this matter to the House immediately as a result.

As you are aware, we cannot find a breach of privilege; only the Speaker can do that. But we are under obligation to report it to the House if we believe that it may have taken place.

To be clear, what use is an in camera meeting if we can't trust other members of Parliament to keep the information confidential? This House operates on the basis of rules and trust. In this case, I would submit that both of these have been breached by Mr. Kennedy.

I also have drafted a report that was utilized by the environment committee in relation to a similar breach that took place with Ms. Linda Duncan, and I would like to submit that for distribution.

That is my submission.

● (0910)

**The Chair:** Thank you.

Mr. Kennedy.

**Mr. Gerard Kennedy (Parkdale—High Park, Lib.):** Thank you, Mr. Chair, and thank you to the member opposite for raising this point.

First off, I'd like to apologize to the committee. There was an error on my part. I had inquired, very specifically to respect the committee, whether or not the motion had been brought forward to the open committee and then passed. I was given the information, and I accept responsibility for the way I inquired and the way I received information, which indeed had been done. What I should have done was availed myself of minutes to see expressly whether anything was different from what I understood. Let me offer that to the committee. There was no intent on my part whatsoever to divulge anything from an in camera committee meeting.

Let me further explain that to the big city mayors caucus, to municipal officials individually, and to members of the Liberal caucus, I had stated publicly, in different contexts, my intention to raise a motion of this intent. Properly worded, this should have said, "a similar motion". It should not have attributed authorship, because when I read the minutes, that was not expressly clear. I would say, though, that the existence of the motion itself had previously been made public in many other forums to people who would be concerned with this particular resolution.

Further, I do note that the motion, without authorship, was passed in the public minutes. That constitutes support of the committee, and that's all I ascribe to it. I did not, Mr. Chair and members of the committee, ascribe any opinions. I did not divulge any arguments. I did not divulge any aspects of what members of this committee said in camera. I would further say that while it's my hope—and again I will not divulge the content of the in camera meeting publicly—that the meetings would take place as quickly as possible, there have been 47 sessions of the committee without consideration of infrastructure. This is a decision the committee made, I think, and there is a particular inherent timeliness to municipalities learning whether or not there would be any flexibility, whether or not our considerations would be listened to by others, and so forth.

There was a reference to timing. There was nothing in the discussion that I recall—and I would happily be corrected by members of the committee—that actually spoke to timing. I don't think it's divulging anything to say that the schedule and so on were actually outside of the actual committee deliberations and were in the hands of the chair in that respect, in terms of timing and schedules. So it would be as though any other member of committee were speculating.

So again, to go to the express points, the idea of my bringing forward a motion or a similar one was already public. Second, the actual motion was agreed to by the committee. There were no objections. There was no request for a vote. There was no deliberation. Therefore, I think it's fair to say there was all-party support. All members who were here agreed to the motion as it came forward.

Third, the speculation around date was certainly in no way meant to undermine the privileges of the committee as a whole or of members to set their date. I was simply expressing my opinion and motivating people who I think are interested in this. Ultimately, it is a public subject, and I think it was intended to be, and the motion does read as an invitation to people to come forward. The motion following also asked people to submit the names of people who they thought would be useful witnesses. In effect, I was seeking useful witnesses for the purposes of furthering the committee business.

Again, I apologize for the error of not confirming the exact wording of the minutes, which did not include an attribution of this motion. That is my fault, and I apologize without reservation to the committee for that. I did not, though, knowingly or willingly undermine any of the.... I agree with the foundation Mr. Jean brings forward, which is that there needs to be privilege for members' comments made in camera. There is nothing, I think, in my remarks, in the documents brought forward, or in any others that takes what any member of this committee said and characterizes it to anyone outside of those deliberations. I was careful to preserve that confidence. And I hope the committee will understand that I had to give my seat back to the regular committee member, that I followed up, and that it was my mistake of not knowing that the motion was brought forward without its authorship into the public forum.

• (0915)

That is the explanation I give. I'm not going to embellish it, and I hope the members can see that there was no intent and no effort made to go against the in camera nature of the discussion.

Merci.

[Translation]

**The Chair:** Mr. Laframboise, go ahead, please.

**Mr. Mario Laframboise (Argenteuil—Papineau—Mirabel, BQ):** Mr. Chairman, first of all, I understood what Mr. Kennedy just said. It is a serious matter when a motion constituting a breach of privilege is introduced in committee. The only explanation that must be given by a member and the only conclusion a member must reach is that an error was made. That member must also apologize.

The more I hear Mr. Kennedy's explanation, the less I'm satisfied he understood the error he made, which is dangerous. I remember very clearly what Mr. Kennedy wanted to do, he wanted that motion to be made public, whereas we had previously discussed the motions of other colleagues in camera. It is not that we had anything against Mr. Kennedy's motion; it's that we were at a stage in the meeting where we were sitting in camera.

Mr. Kennedy should have had a debate at the start of the discussion on all members' motions. In that way, we could have had a debate. The committee is master of its own agenda. The meeting was held in camera and we decided to continue sitting in camera. This is not a matter of infrastructure or subject; it was an in camera discussion.

You made a mistake, Mr. Kennedy, and you should apologize for it. It was a strategy on your part, and you had planned your entire speech. At least that's what this leads me to believe. Your strategy was ultimately simple: you wanted this to be made public because you intended to send it to all the cities. It was a strategy on your part. You're engaging in politics, and you're entitled to do so.

When you interfere with member privilege in committee, you must apologize. Obviously, if you think there was no breach of member privilege, you say so. At that point, we will support the Conservative Party motion and we will see that the Speaker of the House of Commons decides.

One thing is certain: if you make a mistake, the only thing to do is to apologize to the committee. I will accept that apology. Any other explanation is merely politics on your part. If you want to apologize to the committee, you will have the opportunity to do so. You made a mistake, that's all, and we'll stop talking about it.

However, if you try to explain to me that that was not what you wanted to do, there's a problem. You had a strategy and today it's clear. You wanted this to be made public because you intended to send it to all the cities. I'm sorry, but I hadn't seen that. You spoke to no one about it and that's your political choice. In doing so, however, you committed a breach of the rights and privileges of the members sitting on this committee. The meeting was being held in camera. No discussion was to be made public, but you did so. You made a mistake. If you apologize for that, this is not a problem for me, but don't try to give me an explanation; otherwise that looks like a political strategy and I'm not going along with that.

[English]

**The Chair:** Mr. Bevington, do you have a comment?

**Mr. Dennis Bevington (Western Arctic, NDP):** I want to thank Mr. Kennedy for his apology. I want to confirm that I agree with Mr. Laframboise that all we need is a simple apology here, and then we can continue with our business.

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

**Mr. Gerard Kennedy:** I wish to agree with Mr. Laframboise in the sense that I am not trying in any way to exculpate myself. Responsibility is accepted. I was hoping that I would explain intent, that's all. There is nothing else. I think I'm in the hands of the committee in terms of whether the apology is acceptable. There's nothing that takes away from the fact that I made a mistake. It's my responsibility and not anyone else's. I respect the privileges of Parliament. I served 12 years in the legislature and Parliament combined, ten of them as chair of a committee, so I have great respect for the function of the committee. While I engaged this committee actively, that is my position. And I would certainly uphold that, by all means, in future participation in this committee and others.

**The Chair:** Do you have a final comment, Mr. Jean?

• (0920)

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

I think this is the point. Mr. Kennedy has served for more than a decade in houses of Parliament, and he should know better, quite frankly.

I want to be clear—I did bring this forward last time, Mr. Bevington—that according to the rules, only the House can decide that a breach of privilege or contempt has been committed. I know that Mr. Kennedy already agrees that there has been a breach. But certainly it's the role of the chair to determine whether the matter touches on a breach. It's our job to refer it to the House so that the Speaker can then rule on it. It's not our job to determine the breach and accept an apology; it's our job, and we're under mandate, to report it to the House and to the president.

**The Chair:** Okay. The motion is on the floor. The debate is over and I will call for the vote.

(Motion agreed to) [See *Minutes of Proceedings*]

**Mr. Brian Jean:** I'm not sure we heard from all the Liberals, because there are four.

**The Chair:** The vote is carried. I would ask the committee that if the report you have in your hand is adequate, it will be the report I will present to the Speaker. Is there any comment on that? If there is agreement, then we'll move on.

Mr. Kennedy.

**Mr. Gerard Kennedy:** When it says “a report”, what is the nature of the report?

**The Chair:** Basically it's the report that you have in your hands that has been circulated.

**Mr. Gerard Kennedy:** Mr. Chair, I just ask for a moment then.

**The Chair:** Yes, sure.

**Mr. Gerard Kennedy:** Thank you for that, Mr. Chair.

**The Chair:** Seeing no objections, this is the report that I will present to the Speaker.

Okay, moving into our next order of business, I'll invite our guests to please come forward. It will just take a second to get organized. Maybe we'll even take a one-minute recess, if anybody wants to freshen their water glass.

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\_\_\_\_\_ (Pause) \_\_\_\_\_

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• (0925)

**The Chair:** Welcome back.

Joining us today from the Transportation Safety Board of Canada we have Wendy Tadros, chairman; Mark Clitsome, director of investigations, air; and Jean Laporte, chief operating officer.

Thank you for joining us today. I know you have a presentation and then we'll go to questions. Please begin.

**Mrs. Wendy Tadros (Chair, Transportation Safety Board of Canada):** Mr. Chair and honourable members, I want to thank you for inviting the Transportation Safety Board of Canada to appear before your committee. I bring with me today solid experience: Mr. Jean Laporte, the TSB's chief operating officer; and Mr. Mark Clitsome, who is in charge of all the aviation investigations that we do at the Transportation Safety Board.

Twenty years ago Parliament created the Transportation Safety Board of Canada to conduct independent investigations, no matter whether the accident was on our waterways, pipelines, railways, or in our skies. The creation of the TSB was an investment in Canada's future; it was an investment in the infrastructure that is critical to our country's economic and social health.

This investment has paid dividends to Canadians by making us safer as we move ourselves and our goods across this country and around the world. For twenty years we have reported to Canadians and made it clear what needs to be done to make the system safer. And Canada now enjoys one of the safest transportation systems in the world.

Even so, Canadians expect that we at the Transportation Safety Board work to make it even safer. That is why we will continue to conduct independent, expert investigations. We will inform Canadians about what happened, why it happened, and we will suggest solutions to industry and government. When the board feels that not enough has been done to address the safety issues we have uncovered, we will speak up, as we did last month with our watchlist.

On March 16, the Transportation Safety Board of Canada launched its watchlist, and I'm going to take you on a very brief tour. On it are nine critical safety issues that must be tackled to make Canada's transportation system safer.

In Marine, there are two issues. The first is fishing vessel safety. Almost half of the marine accidents reported to the TSB are fishing vessel accidents. On average, one Canadian a month dies in a fishing vessel accident. The challenges we face are pervasive in the fishing industry; they range from vessel stability to safety culture.

The second marine issue involves Canada's ferries. Our ferries enjoy a good safety record, but we all need to be mindful that tens of millions of passengers rely on them each year. There are over 100 large passenger ferries, and roughly half of these can, and do, carry over 400 people on a regular basis.

At the board we've learned the hard way that these vessels need to be better prepared for an emergency. If there is an accident, ferry operators need to know how many people are on board. Everyone is more likely to get off safely if crews have practised realistic exercises.

In rail, the watchlist speaks to a collision every two weeks between a passenger train and a vehicle at one of Canada's 20,000 railway crossings. The board is calling on the railways and Transport Canada to take the time to figure out which level crossings pose the greatest risk and then do what is necessary to bring the number of collisions down.

The second rail issue is the operation of longer, heavier trains. In the last 15 years the weight and length of trains has increased by 25%. Marshalling is the order in which trains are put together. If you liken a long train to an accordion, pulling forces tend to separate the cars and pushing forces will compress them together. When lighter, more empty, cars are placed in the train without regard to these forces, the result can be a derailment.

Longer, heavier trains have to be marshalled and operated with safety as the imperative. We think that the rail industry understands the importance of this, but on the ground our investigators find that vigilance sometimes flags. While it is very early days, I can tell you that in our investigation of the recent derailment in Pickering, Ontario, we will be looking very carefully at marshalling and its impact on in-train forces.

● (0930)

Moving on to aviation, there are two watchlist issues related to safety at Canada's airports. The first issue concerns conflicts on the ground. While the likelihood of these conflicts is quite low, by focusing on improved procedures and enhanced collision warning systems, we think the risk at Canada's busy airports can and should be lowered even further. We are also concerned about the millions of

aircraft that land at Canada's airports. Accidents can happen on the runway, or aircraft can run off the end. We learn hard lessons from all our safety investigations.

When an Air France aircraft ran off runway 24L in Toronto, we learned we had a problem, and this problem has continued. In a recent publication of the Flight Safety Foundation's *AeroSafety World*, Canada was shown to have more than twice the rate of runway overruns in wet conditions than the rest of the world. Building sufficient runway end safety areas, or the alternative, engineered material arresting systems, will be difficult and it will take political resolve to make the ends of Canada's runways safer.

Another aviation issue the TSB focused on is called controlled flight into terrain. In Canada between 2000 and 2009 an unsuspecting crew flew a perfectly good aircraft into the ground 129 times. Let me try to put that figure in perspective for you. This represents just 5% of aviation accidents, but nearly 25% of all fatalities. The answer to this problem is technology; it's to fit smaller aircraft with terrain awareness warning systems, and we must get on with it.

The last two watchlist issues are common to marine, rail, and aviation. The first one I want to talk about is data. Recently the TSB participated in an International Civil Aviation Organization safety meeting in Montreal, where the world grappled with the challenge of recovering the recorders from Air France flight 447. To do our job, the Transportation Safety Board of Canada needs objective data from onboard recorders—an airplane's black box, a locomotive's event recorder, or a ship's voyage data recorder. The patchwork of requirements we have in Canada is no longer acceptable. We need to ensure that when there is an accident the safety board will always have secure, retrievable data.

The last issue on the watchlist that I want to discuss with you is safety management systems. This is an issue in marine, rail, and aviation, but because I know you are now studying aviation safety, I will focus on SMS in the aviation world. I also want to talk about business aircraft and the lessons learned from our Fox Harbour investigation.

The Transportation Safety Board has consistently emphasized the advantages of safety management systems. I want to be really clear about that. These systems are a powerful, internationally recognized management tool to help organizations find trouble before trouble finds them. At the board we think SMS is the right way to go, but to make these systems work there needs to be a firm and consistent commitment from companies, and oversight from the regulator is critical.

Safety management systems have been fully implemented by Canada's 35 large carriers—those are the CAR 705 carriers, which transport most passengers in Canada. It should be noted that our large carriers have a very good safety record. The challenge to come, in our view, will be with the rest of the aviation industry—Canada's air taxis, helicopter operations, commuter airlines, and flight training schools. For smaller companies, whether they operate commercial or business aircraft, Transport Canada will need to closely monitor the industry to ensure all are on board and there is a smooth transition to SMS. This is something we will be paying special attention to in our investigation.

● (0935)

Then there is the unique case of business aircraft. Let me stress that it is a unique case. Let me put the issue in context and tell you about our Fox Harbour investigation.

About a decade ago, Transport Canada and the Canadian Business Aviation Association began to transfer responsibility for certification and auditing to the CBAA. This transfer of responsibilities was premised on the CBAA maintaining a number of conditions. I won't go into all of those conditions, but I specifically want to talk about the condition on safety management systems.

The intent was for the CBAA to require each business aircraft operator to have a functioning safety management system. When a Global Express aircraft touched down short of the runway in Fox Harbour, Nova Scotia, the TSB's investigation took an in-depth look at the transfer of responsibilities and at the implementation and functioning of the SMS in the business aviation community. What we found was that while commercial operators were required to implement SMS in stages, on a fixed timeline, business operators were free to implement SMS on their own terms with no fixed timeline.

This meant many, including the operator in Fox Harbour, did not have a fully functioning SMS. This operator, for instance, did not properly assess the risk of introducing a larger aircraft to its fleet, in accordance with sound safety management principles. That is why the board recommended that the CBAA set SMS implementation milestones for its certificate holders and that Transport Canada ensure that the CBAA put in place an effective quality assurance program to audit certificate holders.

On March 16 of this year, Transport Canada went one step further and decided to take back the certification and oversight of business aviation. This change will come into effect on April 1, 2011. I must say, the TSB is pleased with this outcome.

As is our practice, we will continue to monitor the response to this and all board recommendations and we will be reporting on whether progress has been made. When efforts come up short, as they did with the nine issues on our watchlist, the TSB will report to Canadians and challenge industry and government to step up and make transportation safer.

The early reactions by the regulator and industry to the watchlist have been positive. On the vast majority of issues we are in agreement about the safety issue, but they are on the watchlist because progress has been far too slow and the problems we identified over and over in our investigations have not been fixed.

Sometimes I think this is because industry consultations drag on and that is part of the regulatory process, and sometimes it's because the regulatory process itself is not nimble enough to deal with critical safety issues.

Let me leave you with this thought. Perhaps we should have a faster, more streamlined way of dealing with regulatory changes that are necessary for the safety of Canadians.

Thank you. *Merci de votre attention.*

Now we would be pleased to answer your questions.

**The Chair:** Thank you very much.

Mr. Volpe.

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

● (0940)

[*Translation*]

Ms. Tadros, Mr. Clitsome and Mr. Laporte, thank you for your address.

[*English*]

Madam Tadros, you seem to be positive about the first reaction of regulators and industry, but the fact of the matter is that you keep reporting the same thing over and over again—not in the same details, but the issues are still there. What does government not have in its quiver of arrows that's required in order to resolve the problems that you identify?

**Mrs. Wendy Tadros:** I think government has all the tools they need to make the changes to address these important safety issues, but I think sometimes it's a question of priorities. It's our hope that these nine critical safety issues will rise to the top of the priority list.

**Hon. Joseph Volpe:** Ms. Tadros, that shocks me, because in all of the cases you talked about accidents. That's injury and fatality. If there's another priority that's higher for this government, would you please point it out for us?

**Mrs. Wendy Tadros:** It's not my role to point out the priorities of the government. My role is to tell you and to tell the Canadian people what are the nine critical safety issues that we need to have addressed right away, and that's what we've done with the watchlist. So from the perspective of the Transportation Safety Board, these are the priorities in the transportation world in Canada today.

**Hon. Joseph Volpe:** On your watchlist, you indicate the priorities of the issues that require urgencies, and reaction or response is fine, but action is better. Your watchlist tells us that there has been no action. Yet one of the things you ask for is more complete data. Is that data requirement going to improve your reporting? Or is it going to improve the government's political will to do anything about what you report?

**Mrs. Wendy Tadros:** I think it's a combination of things. When we see an investigation where we have all of the data recorders and the cockpit voice recorders, then I can tell you that's a more thorough and a more scientific investigation. We are able to go further with that investigation than in one where we don't have the recorders. Too often the recorders are not on—not on the vessel, for instance—or on trains they are burned in a fire, or on aircraft sometimes they are lost.

I think if we have the data we need to demonstrate that there is a safety issue and then we're able to make a more compelling argument for change. So that's why we are calling for better recorders.

**Hon. Joseph Volpe:** What I hear when you tell me those things, Madam Tadros, is that you are unconvinced that government—this government, because that's the one we're talking about now—is capable of listening to the evidence.

For example, when a plane gets off the runway—you said there were 129 incidents—when there are fatalities from planes that come down, when you talk about train derailments that happen excessively, with greater frequency, and there are injuries and fatalities associated with them, when you talk about the number of marine accidents with vessels on a monthly basis, I don't know how much more evidence one would require than seeing a corpse or a mangled body as an indication that there is a problem. And pardon me for being so blunt. I'm hearing you tell me that government is always responding, that this government is always responding with the issue that perhaps it is a human error, i.e., the fault of the operator. Otherwise, what purpose will the other evidence provide you?

**Mrs. Wendy Tadros:** I don't think that's what I said, with respect.

**Hon. Joseph Volpe:** I'm not accusing you. I'm saying that this is what I'm hearing when you're telling me these things.

**Mrs. Wendy Tadros:** I'll just make a quick correction, because we at the Transportation Safety Board do not talk about the fault of the operator.

When there's an interface between man and machine, we try to figure out why an individual did what they did so that we can understand the whole context of the accident. But I don't really think that's the point. I think the point is action in terms of the lessons that we've learned from our investigations.

If you look at the uptake on the recommendations, we rate the response to 67% of our recommendations as fully satisfactory. For most of the remainder, there's agreement with the regulator that this is a safety issue and that this needs to be done. What happens is, from there to implementation it takes far too long.

● (0945)

**Hon. Joseph Volpe:** So what I'm hearing, then, again, is if the Minister of Transport is unwilling or unable to satisfy the gap between your recommendation and the satisfaction that would eliminate the need for your recommendation, somebody is being negligent, and when there's injury or fatality, that negligence borders on the criminal. That's what I'm hearing, and that has to be what the purpose of your recommendations to the public would be. Somebody has to do something.

I'm looking for a recommendation that tells me what the next step is. I've been in government, so this isn't a partisan issue. Safety and security shouldn't be partisan issues. If your recommendations on an ongoing basis tell us that people are at risk as a result of what's in the air, on a track, on a road, or in the water, then surely somebody has to assume the responsibility. What I'm hearing you tell me is that the minister's not assuming his responsibility.

**Mrs. Wendy Tadros:** The initial feedback we have from Transport Canada has been very positive, so it is my hope that there will be a positive reaction to each and every one of the issues on the watchlist.

I think part of the problem is the regulatory system. When we go out and do an investigation, it can take up to a year. It's incredibly detailed, scientific, expert work. That work is then given to the regulator and to industry. In aviation, for instance, if there is agreement, and Transport Canada has done a risk assessment following our investigation, it goes to an industry-government committee called CARAC. That can take years and years. When there is an agreement coming out at the end of that, you have the regulatory process, which can also take years and years. For instance, in rail, there have been proposals to create new grade-crossing regulations. They have been in the works for more than 20 years. We have the issue in aviation of CFIT accidents, for which the answer is technology. We first identified this issue in 1995, and work started on regulatory changes in 2003. We're now in 2010.

It really is my belief that there needs to be a streamlined process for those regulatory changes that the government has agreed need to be made. If they affect safety, there needs to be a streamlined process.

**The Chair:** Thank you.

We'll go to Monsieur Laframboise.

[Translation]

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

I'm trying to get a clear understanding of how to proceed because this is a real maze of regulations. You think it's taking too much time. Let's take pilot fatigue as an example. There was a story on the subject on the CBC. Today you're making a report and suggesting priorities for all transport sectors. The pilot fatigue issue isn't in your report today. Why?

[English]

**Mrs. Wendy Tadros:** There are a number of issues in transportation safety. There are many issues. We took all the issues we had looked at over the last 20 years and decided which were the most pervasive and which presented the highest risk. While we watch and always look at the issue of pilot fatigue in each of our investigations, it didn't arise as the central cause in any of our investigations.

Do you want to add anything?

**Mr. Mark Clitsome (Director of Investigations, Air, Transportation Safety Board of Canada):** We've conducted a number of investigations over the years in cases in which pilot fatigue has been a contributing factor. We've made no recommendations on that fact, because up to this point it's not the regulations that have been a problem. When we identify an investigation of pilot fatigue, we look at whether the pilot was fatigued inside of the regulations or outside of the regulations.

As of now, the regulations are sufficient for pilot fatigue.



• (0950)

[Translation]

**Mr. Mario Laframboise:** According to the CBC, 12 aircraft accidents have occurred in the past 10 years for which the Transportation Safety Board of Canada, your office, has determined that fatigue was one of the causes. Is that true?

[English]

**Mr. Mark Clitsome:** It contributed.

[Translation]

**Mr. Mario Laframboise:** Fatigue contributed to it.

I think there's a problem. Perhaps you didn't read it, but when Mr. Grégoire appeared before our committee and we discussed fatigue, he told us that had never been a recommendation by the Transportation Safety Board of Canada. He said that, even though a report had been submitted to Transport Canada in 2001 requesting that it examine the matter of pilots' biological clocks and fatigue and stating that this was important, the Transportation Safety Board of Canada never made an actual recommendation. Was Mr. Grégoire right in saying that?

[English]

**Mr. Mark Clitsome:** That was correct.

[Translation]

**Mr. Mario Laframboise:** I sit on this committee to try to protect the lives and health of citizens when they use a means of transportation. You say that fatigue contributed to a dozen accidents over the past 10 years, but that isn't important enough for you to make a recommendation to Transport Canada.

[English]

**Mr. Mark Clitsome:** The result of the investigations on pilot fatigue has to do with pilots who are fatigued outside of the regulations. For example, there is a maximum number of hours a pilot can fly in a day, in a month, and a year. There is a minimum requirement for pilots to have a certain amount of rest in a day between flights. The investigations that we've conducted indicated that these pilots were exceeding those maximums and that's why they were fatigued.

**Mrs. Wendy Tadros:** Let me just add something, if you don't mind, sir.

One of the things we look at every day at the board is whether to make a recommendation on a particular issue. The threshold or the test that we use is whether it's been found in a number of investigations as causal and it is a pervasive problem, a pervasive risk in the industry. So we look at work rest. We look at crews in all modes: air, rail, aviation, and pipeline. We have found it as a contributing factor, but we have not found in our investigations.... The data, the evidence we have does not suggest—from the information we have—that it's a pervasive problem in Canada.

[Translation]

**Mr. Mario Laframboise:** Ms. Tadros, following the CBC report, some pilots said they were aware of pressures by business owners in the industry to extend schedules, to alter logbooks and to be able to face the competition.

It was journalists who told me that, whereas it should have been the Transportation Safety Board of Canada and Transport Canada. Why do we need journalists to do your job? That's my problem. If people alter logbooks simply to please the boss, we have a problem in the industry. You're telling me that wasn't important and that you didn't go any further? That's what you're telling me?

[English]

**Mrs. Wendy Tadros:** No, that's not what I'm saying.

We have to look at the evidence that we have before us. I would very much welcome that Transport Canada is going to do a study on work duty times of pilots, on fatigue, on circadian rhythms, because I think they need to do that. It's an important safety issue. However, what I'm telling you is that if you look over the last 20 years at all of the aviation investigations, we don't have evidence that it was a causal factor in a number of investigations. It's not popping out in our investigations. Our job is to investigate from a scientific perspective, and we have to be mindful of the evidence that we uncover, sir.

• (0955)

[Translation]

**Mr. Mario Laframboise:** However, Ms. Tadros, an analysis will be done by the Transport Canada people. There will be a meeting in June, and that won't be because of the recommendations you'll have made. The Transport Canada people have told us it will probably be because of the CBC report.

As a member of Parliament, I wonder what's being done, and that leads me to safety management systems. I was on the committee when it was said that it was senseless for private businesses to be able to control safety management systems through an organization.

It's been said, and it's been repeated, and today you see it, because there has been an accident, that the procedure should probably be changed. Transport Canada will resume control over inspections. This makes no sense, Ms. Tadros. And yet, a few years ago, we members on the committee questioned this entire system and no one listened to us. We members aren't important. What do you think of the role of this committee?

[English]

**Mrs. Wendy Tadros:** I think your role is very important. You may well have safety issues in the system that Transport Canada needs to monitor that don't pop up in individual accidents. They still need to keep a strong hand on them.

**The Chair:** Mr. Bevington.

**Mr. Dennis Bevington:** Thank you, Mr. Chair.

Thank you, witnesses, for appearing here today.

I just want to continue on that briefly. If what you say is correct, that you have good regulations that are not being followed, then why haven't you identified this to Transport Canada as an oversight issue? Why haven't you identified it as something for which Transport Canada is responsible to ensure compliance? Where are your reports saying that the oversight is not adequate from Transport Canada to deal with operators who are not following regulations?

**Mrs. Wendy Tadros:** You're speaking specifically about fatigue.

**Mr. Dennis Bevington:** Yes.

**Mrs. Wendy Tadros:** Mark.

**Mr. Mark Clitsome:** In our reports, when we identify fatigue as a contributing factor, it is identified. It is in the factual section. We identify what the regulations are, what the pilot exceeded, and what caused him to be fatigued. Whether it was a loss of sleep or whether it was a circadian rhythm issue, we identify that in the report. We analyze it and make some findings, and those findings go to Transport Canada. We would identify that the pilot was fatigued, and they—

**Mr. Dennis Bevington:** Well, where are your recommendations to ensure that Transport Canada is doing proper oversight to ensure that these regulations are being followed? We've seen evidence that they aren't, and you've just said yourself that the regulations are adequate but they're not being followed. What does that suggest to you, that oversight is required to ensure that regulations are being followed?

We had evidence presented to us on some of the policies. Do you actually work with Transport Canada on their policy development? Is that something the Transportation Safety Board would be engaged in?

**Mrs. Wendy Tadros:** No, sir. We're an independent body. We're not part of Transport Canada. I would suggest to you that we would be in a conflict of interest if we worked with them on their policy. What we do is tell them—

**Mr. Dennis Bevington:** But you don't recommend on their policies. You don't look at the policies that they create and say those policies fit with your nine watchlist items. You don't examine that.

I'm reading a policy document that we got at the last meeting, showing quite clearly the problems that come from surveillance. Transport Canada has now identified that it wants more surveillance within the safety management system. Were you aware of that? Were you aware that this is moving forward?

**Mrs. Wendy Tadros:** We keep a general scan on what's going on in the transportation industry, including in government. In every investigation we do, we will look at the role of the regulator. If we find that it played a role in the accident, we report on that to the Canadian public.

**Mr. Dennis Bevington:** Within the policy document, they don't give particulars about how they do random audits. This is a concern I have. If you're going to do oversight, I don't think ten weeks' notice for an audit of a company, to go on the ground and look at the company, is adequate. That just doesn't work. I'd like your comments on that. That's what appears to be in the policy document, that we're going to do surveillance with ten weeks' prior notice.

• (1000)

**Mrs. Wendy Tadros:** I'm not going to comment on a policy document out of Transport Canada, because I don't think that is the role of the Transportation Safety Board. But what I would tell you is that if that policy were germane to a particular safety issue that came up in an investigation, we would look at that policy and at the practices of the regulator and we would comment on whether the oversight was adequate.

**Mr. Dennis Bevington:** Now I'd like to go on to another issue.

With the crash of Sikorsky S-92 off the coast of Newfoundland, there was prior understanding of the nature of the mechanical problem that led to that crash. That's my understanding of it.

Transport Canada now has voluntary compliance on actions taken, rather than simply shutting the aircraft down until the problem that is clearly identified is fixed. Do you agree with that policy?

**Mrs. Wendy Tadros:** Do you want to speak to what we learned in the....

**Mr. Mark Clitsome:** I'm not exactly sure I understand your question about voluntary compliance.

**Mr. Dennis Bevington:** That was the evidence presented to us at the last meeting, that Transport Canada now has a policy where, if they identify clearly what is a mechanical problem and the company identifies that to Transport Canada, they don't have an enforcement action; they simply allow voluntary work be done to correct the problem. Is that your understanding of what the situation is?

**Mr. Mark Clitsome:** In the Sikorsky S-92 accident of Cougar Helicopters, we determined there were some studs on the oil filter housing that had cracked and fatigued and caused the oil pressure loss. We were informed of a similar situation in Australia prior to that. We work with the FAA and Sikorsky. They came out with a service bulletin that would allow the companies a certain period of time to go in and correct that problem. That's the service bulletin policy that Transport Canada has with—

**Mr. Dennis Bevington:** That service bulletin policy, though, was not adequate in this case, because the Sikorsky crashed.

**Mr. Mark Clitsome:** As it turns out, the service bulletin was given an extension of one year or 1,200 hours of flying time for the helicopter. In this particular case, the bolts were not changed on the Cougar helicopter.

**Mr. Dennis Bevington:** Do you see this particular policy of Transport Canada as a wise one?

**Mrs. Wendy Tadros:** You know, this is an ongoing investigation. When we report on the Sikorsky S-92—

**Mr. Dennis Bevington:** I'm not talking about the investigation; I'm talking about the policy, the voluntary compliance policy with an extension of a year when a particular mechanical situation has already indicated problems in other areas. Do you think it's a wise policy that allows that to happen?

**Mrs. Wendy Tadros:** The issue of the policy is something that is supposed to be—

**Mr. Dennis Bevington:** Policy is what we do. We do policy. We're into policy. That's what this committee is about. We're trying to find from you answers that will guide us in instructing Transport Canada on how their policy should reflect safety concerns.

**The Chair:** Mr. Bevington's time is up, but I'll ask you to respond to the question.

**Mrs. Wendy Tadros:** What I can tell you, Mr. Chairman, and for the whole committee, is that when we discovered the broken studs in Cougar 491, we reported that to the world's regulatory authorities and to the people who could make a change, and there was swift action. Whenever we discover a safety issue in an ongoing investigation, we report it immediately.

**The Chair:** Thank you.

Mr. Mayes.

**Mr. Colin Mayes (Okanagan—Shuswap, CPC):** Thank you, Mr. Chair.

Even though we're discussing the aviation sector primarily, I'd like to talk a little bit about rail safety, simply because I live on the main line of the CPR. Your statement here says the weight and length of trains has increased by 25% in the last 15 years. We know in our community of Salmon Arm that has affected the wait times or the meet times. I believe there are some safety issues connected to that, because people get impatient, and they know they're going to be waiting for a significant length of time.

When the rail industry applies to increase the length of these trains, do you have an opportunity to have input on what some of the safety implications of lengthening these trains would be and to ensure that those initiatives will enhance safety rather than making the crossings less safe?

• (1005)

**Mrs. Wendy Tadros:** No, sir. We're an investigative body, so we investigate following an accident. I'm not sure there's an application to increase the length of trains. This really is a matter for a safety management system. When you change your operations, it is crucial in a safety management system that you do a risk assessment and assess the risk of the change in operating practice. I think the increase in the length and weight of trains would be something that should be going into an analysis under the railway safety management system on a regular basis.

**Mr. Colin Mayes:** So basically you're a regulatory body, and—

**Mrs. Wendy Tadros:** We're not a regulatory body; we're an independent expert investigative body.

**Mr. Colin Mayes:** Okay.

You talked about the fact that Canada was shown to have more than twice as many runway overruns in wet conditions as the rest of the world has. You didn't give any reason for our having twice the rate. Is it the material that's being used on the runway? Is it weather-related? Do we get more weather conditions that make it more challenging to land on the runways? What is the reasoning for that?

**Mr. Mark Clitsome:** The majority of those are due to the weather conditions in Canada: snow, slush, ice, and rain on the runway.

**Mr. Colin Mayes:** So really, you can't do anything about that. You made a statement here, and it's almost like you jumped up and said something's wrong here, but then it's just the weather. We get more of those types of weather conditions on the runway. You're comparing us to the rest of the world, and I really think your standard is not necessarily fair to the—

**Mrs. Wendy Tadros:** It's really a question of how you assure the safety of the passengers when those aircraft do overrun. As we know, year after year, in Canada and worldwide, you have a certain number of overruns. You can put measures in place that have to do with crew training and various measures to help cut down the number of overruns, but there will always be a certain number of overruns. That's why we have this issue on our watchlist. That's why we're recommending that Canada move to the international standard in terms of runway and safety areas, and when we don't have the geography to allow for this, that we have an engineered material arresting system.

So it's a question of having another layer or another defence in the system for when these aircraft do overrun.

**Mr. Colin Mayes:** Thank you.

Our minister has supported your efforts to make Canadians safer, I feel, and the announcements around monitoring corporate and business operators are just one. Do you have any other examples of some initiatives we've taken in the last two or three years that have helped to improve safety for Canadians, especially in the aviation sector?

**Mrs. Wendy Tadros:** I'll start out, and then maybe Mr. Clitsome wants to contribute as well.

We're very pleased with the initial response to the watchlist, and time will tell. Because this was an initiative that we made public, in due time we will be reporting back on the progress on that watchlist. We have had very good initial meetings with officials at Transport Canada, and I'm optimistic.

Is there anything you want to add?

**Mr. Mark Clitsome:** We've made a number of recommendations over the years to Transport Canada on various issues, issues involving crew resource management training, training for crews on bounced landings, training for crews on vertical guidance slope information, and Transport Canada, in the majority of those cases, has agreed there is a safety issue there and is taking action.

• (1010)

**Mr. Colin Mayes:** Another area.... The reason I bring this up is because I did have a meeting with the B.C. Trucking Association, and their number one concern as far as safety goes is the monitoring of long-haul truck drivers and the number of hours they drive. Is that a concern that you've had or have looked at as far as the trucking sector is concerned?

**Mrs. Wendy Tadros:** We don't have a legislative mandate to investigate trucking accidents. That was ceded to the provinces a number of years ago. So anything to do with road accidents, whether they be automobiles or trucks, is a matter for the provinces.

**Mr. Colin Mayes:** Okay. Thank you.

**The Chair:** Thank you.

Can I just ask for clarification? When we talk about fatigue, pilot fatigue, your role is to determine if pilot fatigue played a part in it, but not really to regulate it. You can't follow that person around every day to find out whether he's resting properly or not. It's based on probably their good judgment. Is that...?

**Mrs. Wendy Tadros:** We would look at a particular crew, in a particular accident, to see if fatigue played a role. The monitoring and any kind of enforcement is not our role.

**The Chair:** That's not your role.

I think that's maybe a bit of the challenge that we're having there. I think the perception might be that you make the rules as well. You just actually investigate the rules that exist and make suggestions.

**Mrs. Wendy Tadros:** That's correct. This is the model that's followed in a number of developed countries in the world, where you have a separation between the regulator who does that kind of thing and the independent accident investigation body, because in most of our investigations we need to look at the role of the regulator.

**The Chair:** Okay.

Mr. Dhaliwal.

**Mr. Sukh Dhaliwal (Newton—North Delta, Lib.):** Thank you, Mr. Chair.

I will stay on this pilot fatigue issue. You look at the regulations and whether the regulations are followed closely. When we look at the pilot hours reporting, it's really done once a month. Is that frequent enough?

**Mrs. Wendy Tadros:** I'll start out, and then you can hear from the real expert.

We would look at these issues in a particular investigation, and if we found it played a role, we would comment on whether the rules were sufficient or whether there was a safety deficiency that needed to be addressed. But in terms of the particulars of pilot practices, I'll leave it to Mark.

**Mr. Mark Clitsome:** Transport Canada regulations require that pilots keep track of their hours and the times they fly and report them to the companies. It's up to Transport Canada to do the oversight on the companies and the pilots to ensure they're doing their job in keeping track of those hours.

**Mr. Sukh Dhaliwal:** But from your investigations, do you think that reporting once a month is sufficient?

**Mr. Mark Clitsome:** It's not the actual reporting time that's sufficient; it's whether or not the pilots or the companies are following the rules.

**Mr. Sukh Dhaliwal:** So in your opinion, are they following the rules?

**Mr. Mark Clitsome:** We have found in some investigations that some pilots and some companies did not follow the rules.

**Mr. Sukh Dhaliwal:** Does Transport Canada have sufficient resources to monitor safety programs?

**Mrs. Wendy Tadros:** I don't think we are the best witnesses to answer that question, sir. We would look at oversight in a number of investigations—and we have. We would comment on whether the oversight was sufficient, as we did in a couple of investigations that have been made public in the last year or so. But to generally look at the resources of Transport Canada, I will leave that to others.

**Mr. Sukh Dhaliwal:** If not the resources, what about your training? When it comes to Transport Canada inspectors, do you believe they are sufficiently trained?

**Mrs. Wendy Tadros:** We have not found any evidence, in any of our investigations, of insufficient training of Transport Canada inspectors.

• (1015)

**Mr. Sukh Dhaliwal:** In the last couple of meetings we talked about whistle-blower legislation. In your opinion, would it improve safety in the transport sector?

**Mrs. Wendy Tadros:** I'm going to let Mr. Laporte answer. He's feeling lonely over here, so we'll let him address that, because he's well versed in it.

**Mr. Jean Laporte (Chief Operating Officer, Transportation Safety Board of Canada):** There are already two mechanisms in place. Within SMS programs there is a requirement for each and every operator to implement a non-punitive reporting mechanism, whereby employees can identify safety issues so they can be addressed on a proactive basis by the company. That's one mechanism.

Totally separate from that and totally unrelated to SMS, the Transportation Safety Board has a confidential reporting program called SECURITAS. That program has been in place since the inception of our organization 20 years ago. It is up and running, and we address all the reports filed to us through that program. So there are already mechanisms in place to deal with whistle-blowing.

**Mr. Sukh Dhaliwal:** Thank you.

On the flight fatigue issue, if we look at the New Zealand model, they will cancel a flight if the pilots are fatigued or overbooked. Do you see that happening here locally in Canada as well?

**Mr. Mark Clitsome:** Yes.

**Mr. Sukh Dhaliwal:** Thank you, Mr. Chair.

**The Chair:** Monsieur Laframboise.

[Translation]

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

Mr. Laporte, have you examined the evidence heard in committee in recent weeks given, by union representatives, among others?

**Mr. Jean Laporte:** Yes.

**Mr. Mario Laframboise:** Mr. Dhaliwal told us about whistle-blowers. As you read, you understood that, from the way in which the regulations and the directives are written and the way all the safety management systems are designed, there is no protection for whistle-blowers. They clearly tell us that they're making recommendations and this is not being taken into account. Whistle-blowers are afraid of reprisals. Can we see this in the investigations?

Otherwise, once you have examined it, will you pay more attention in future investigations to see whether there might have been some whistle-blowing on an issue? Can you follow up all that? From the way the system is designed, can you see whether there has been any whistle-blowing or is that practically impossible to determine?

**Mr. Jean Laporte:** In the context of our investigations, we examine the implementation of the safety management system. We ask the questions and we request the appropriate documentation from the companies in question in order to obtain all available information and to assess whether the system works as it should. That's something we are currently examining and that we will continue to examine in our investigations as the industry implements the SMS system.

**Mr. Mario Laframboise:** As you know, it's much more structured in the United States. There is a lot more protection for whistle-blowers. You didn't analyze what is going on elsewhere in the world and you aren't yet at the stage where you can make recommendations and say that the entire system is based on voluntary statements. These are voluntary statements, but if the boss doesn't take them into account or, even worse, if he uses reprisals against an employee who dared make a statement about something that wasn't right with the equipment, there's a problem.

You haven't yet got to the point where you're recommending that the government draw on the U.S. regulations and protect the employee.

**Mr. Jean Laporte:** For the moment, we haven't identified any systemic problems of that kind that would provide a sufficient basis for specific recommendations. However, as I mentioned earlier, we have a completely distinct system in place, our SECURITAS program, as a result of which people can make confidential disclosures. We are conducting appropriate follow-up through this mechanism. An alternative is available for employees who work in the industry.

• (1020)

**Mr. Mario Laframboise:** You're making major statements. Today you said: "And it should be noted that our large carriers have a good safety record." Did you compare what is going on at the other major carriers in the world?

You're saying we're virtually the best. You're saying we have a good safety record, and yet airlines are shutting down or experiencing financial difficulties. I'm not a connoisseur, but I know that, when there is a problem in the industry, it's often maintenance that suffers the consequences. When things are not going so well, we can afford to have doubts about safety. But you seem to be saying that everything is going well in the best of all possible worlds.

**Mr. Jean Laporte:** Canadian statistics on accident rates by operator category show that the level of safety in Canada is generally

better than in other countries. Perhaps my colleague can give you some more details on that subject, if you wish.

If we compare the statistics provided by each of the countries, statistics that are shared throughout the ICAO, we realize that Canada has a better accident rate than the others.

**Mr. Mario Laframboise:** Let's take Transport Canada as an example. They say that there were fewer accidents in 2008 than in 2007, but we don't know whether there were fewer flights. That statistic wasn't mentioned. I understand that you can take what's good from the statistics, but when the people were asked whether there had been a decline in air traffic, they didn't know. They provided us with documents, but I find that a bit strange. They told us there were fewer accidents, but they did not tell us whether there had been fewer flights that year than in previous years.

**Mr. Jean Laporte:** We can provide those statistics to committee members since we have them.

**Mr. Mario Laframboise:** That would be very much appreciated. You only have to hand them over to the Chair.

[English]

**The Chair:** Ms. Brown.

**Ms. Lois Brown (Newmarket—Aurora, CPC):** Thank you, Chair.

Thank you very much to our witnesses for being here.

I'd first like to compliment you on the DVD that you provided to my office. I was very impressed with the work that went into that, and most impressed with the expertise that was demonstrated in the accident investigations. You gave a very thorough report on how you go about your work, and I'd like to thank you for providing that. So compliments to whoever put that together. I would recommend that DVD to all of my colleagues. It certainly would be very helpful in understanding the processes you go through.

Perhaps most of our discussion today has focused on aviation safety, and it may be because of this most recent incident in Europe. Our hearts go out to the Polish people who have lost so many of their leaders. I think perhaps we need to take a look at our safety here and re-evaluate the process you go through on a regular basis.

Mr. Laporte was speaking earlier about comparisons to other countries. I wonder if you can give us a general overview of all of the areas you investigate—land, air, and sea. I don't know how we do this in comparison with countries in Europe that are perhaps landlocked and don't have the same kinds of naval investigations that need to go on, but can you give us some sense of how Canada compares with other jurisdictions?

Maybe I can just preface all of that by saying that you said earlier in your report, Ms. Tadros, that the Transportation Safety Board started bringing things forward in 1995 and again in 2003. How are we doing now in 2010 with our investigations, and changing safety for Canadians? Obviously, that is a priority for our government. We want to ensure that any transportation method is safe for Canadians.

Can you comment on that?

•(1025)

**Mrs. Wendy Tadros:** I'll start by saying thank you for your positive comments on the video. This was a video that was produced in-house by our experts with no outside help, so we're very, very proud of it.

In terms of the investigations we do, we investigate in aviation, rail, marine, and pipeline. In terms of how we compare with other countries, we are part of an organization called the International Transportation Safety Association, which is a body comprised of all of the independent investigative bodies. I would say that there are different models used around the world. We are probably closest to the Australian model.

Some investigative bodies, like the NTSB in the States, do road accidents. In Britain, for instance, they have three different models. So they have a different branch that does aviation, a different branch that does marine, and a different branch that does rail. Some in Europe and in the Far East are only aviation. So you have a mixture of different models across the world, but all of those bodies use the same methods and they follow the international protocols set down by ICAO in annex 13, which is what we follow at the TSB for all our aviation investigations.

I'm not sure if I've totally answered your questions, but...

**Ms. Lois Brown:** Can you give us some sense of how Canada compares with other jurisdictions on our safety? Are we making improvements? How do we measure against other countries?

**Mrs. Wendy Tadros:** We would be pleased to provide you with those statistics if you want a comparison between Canadian accident rates and accident rates worldwide. There may be some of those comparisons that are difficult to draw because the statistics are compiled in a different way, or the industries are substantially different. For instance, the rail industry in Japan is going to be very, very different from the rail industry in Canada. But we'd be pleased to provide you with those statistics.

**Ms. Lois Brown:** Thank you.

In your remarks you made a couple of comments about March 16. You said that on March 16 the Transportation Safety Board of Canada launched its watchlist. I understand that you're very pleased with that. Then you talk further on about how Transport Canada went one step further and decided to take back the certification and oversight of business aviation. So can you talk about your response to this? Why are you pleased? What do you think this is going to do for safety in Canada? How is this going to impact what you do?

**Mrs. Wendy Tadros:** We're pleased, because these recommendations were made public in November of last year, and I would characterize the response as fairly swift. The early indications are that this is going to address the safety issues we raised in the Fox Harbour report and in those recommendations.

As with all our recommendations, the proof is in the pudding, so we will be tracking the response. And the timeline is for about a year from now in terms of business aviation. So we'll be keeping on top of that, talking to Transport Canada about their efforts. We will be rating the response to those recommendations, and those ratings are posted on our website.

But the initial feeling is that it was a very positive uptake.

**The Chair:** Thank you. And I would ask that for anything you submit, do it through the chair or through the clerk's office and we'll distribute it.

Ms. Crombie.

**Mrs. Bonnie Crombie (Mississauga—Streetsville, Lib.):** Thank you.

There are a couple of things I just want to pursue on the line of questioning on the watchlist. Have you adequately identified all the potential risks to transport safety on the watchlist?

**Mrs. Wendy Tadros:** No. There are hundreds and hundreds of risks, and they are identified in all of our reports—thousands and thousands of reports—in the last 20 years. These are the nine most critical issues that we think need to be tackled to make the system safer.

**Mrs. Bonnie Crombie:** I have the sense—and I'm new to the committee, of course—that this is somewhat reactionary rather than proactive and preventative. Why wait for a problem to address an issue? Do you do anything that's investigative to be more forthright and more proactive in identifying risks?

**Mrs. Wendy Tadros:** We investigate when there is an accident. When we look at the facts of a particular accident and determine what we have the most to learn, then we will do a full investigation. And all of the facts we find in that investigation are made public. I think it's proactive in the sense that if you've learned these lessons and you've made a recommendation, what we are saying is that this is what needs to be fixed so you don't have another accident.

•(1030)

**Mrs. Bonnie Crombie:** One of the items on the watchlist you identified of course was the controlled flight into terrain, and over nine years that happened 129 times and it accounts for 25% of all fatalities. So why wasn't something done about this sooner, and what has been done?

**Mr. Mark Clitsome:** Yes, we made a recommendation to Transport Canada.

**Mrs. Bonnie Crombie:** Did Transport Canada follow the recommendation?

**Mr. Mark Clitsome:** Transport Canada did follow the recommendation and it's taken a long time to get it through the legislative process.

**Mrs. Bonnie Crombie:** Where are we at?

**Mr. Mark Clitsome:** It's just recently been approved by the Department of Justice and CARAC and they're now taking an impact analysis study at Transport Canada.

**Mrs. Bonnie Crombie:** So how many years has it taken?

**Mr. Mark Clitsome:** Fifteen years.

**Mrs. Bonnie Crombie:** Fifteen years. And how many fatalities have there been?

**Mr. Mark Clitsome:** I don't have that number handy.

**Mrs. Bonnie Crombie:** You also mentioned in your report that it takes political resolve to fix problems. Do you feel we have that political resolve to protect aviation safety and other transport safety issues in Canada?

**Mrs. Wendy Tadros:** I was speaking specifically about runway end safety areas.

In terms of the issues generally, we've seen a very strong response from Transport Canada on the watchlist, and I'm hopeful about that. For almost all of these issues, we are in agreement about the safety issue, but it's taken too long.

But I was speaking specifically about runway end safety areas. I think this is a difficult issue to tackle. One of the things we are open to is a risk assessment to determine which runways pose the greatest risk in Canada and then you put the resources towards the runways that pose the greatest risk.

**Mrs. Bonnie Crombie:** You also say that we must get on with it, so I ask you, why aren't we? What's preventing us from getting on with it?

**Mrs. Wendy Tadros:** In general, I think what's preventing it is what Mr. Clitsome just spoke about, and you heard the response in terms of 15 years. That process is just way too slow. It just goes into too many black holes.

**Mrs. Bonnie Crombie:** There do seem to be a lot of black holes.

You talk about the need for objective data from the on-board recorders, and you've described it as being a patchwork of requirements and you've said that it's no longer acceptable. So what recommendation would you make to fix that? I know you need hard data from the recorders, but often this isn't recoverable and isn't available. So how do you compensate for that? How can this be changed?

**Mrs. Wendy Tadros:** If we look at the watchlist, we have it set up in a problem and solution format, and you'll see the solutions we are suggesting in terms of the data.

Just to show you this briefly, in the marine sector, voyage data recorders are required for international voyages. They are not legally required for domestic voyages, although some ferry operators have fitted their ships with SVDRs, simplified voyage data recorders

In the rail sector, we see a move to have crashworthy and fire-resistant recorders, but not for existing locomotives. They're only going to be fitted on new locomotives. As you probably know, locomotives last an awfully long time, so we're looking at 15 to 20 years out before the fleet is fitted with something that was recommended some time ago.

What happens in this area is that it's technology-driven, and by the time the industry takes up these measures and incorporates something they would call a "new measure", there's already second-, third-, fourth-generation technology available that's much better. So there's this lag, and we don't always have the best data. In rail, for instance, we don't have voice recorders.

**The Chair:** Thank you.

Mr. Jean.

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

Thank you for coming today.

First of all, you were set up 20 years ago, in 1990. Is that correct?

• (1035)

**Mrs. Wendy Tadros:** That's correct.

**Mr. Brian Jean:** By a Conservative government, no less.

I noticed that in that period of time you had 23 recommendations in 1991; 23 in 1993; 29 in 1994; 21 in 1995; 19 in 2000; and only seven in 2006; six in 2007; and three in 2008.

I also noticed quite a difference in trend in governments in that time, but notwithstanding that.... I just said that for my colleagues across the way.

**Hon. Joseph Volpe:** I want to applaud the member opposite, the parliamentary secretary, for recognizing that when those recommendations came in, the previous governments obviously operated on their basis, so the numbers were reduced. I thank him for recognizing that previous Liberal governments actually did something, contrary to what his government is currently doing. For example, one of the items that could easily be resolved now is the extension of runways.

**The Chair:** Point of order, Monsieur Laframboise?

[Translation]

**Mr. Mario Laframboise:** I have to say that accidents still occur because there have been Conservative and Liberal governments, Mr. Chairman.

**Some hon. members:** Oh, oh!

[English]

**The Chair:** That's not a point of order, but a good point.

Mr. Jean.

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

I hope that doesn't come out of my time. However, I do appreciate Mr. Volpe actually pointing out that the Liberals did something while in power.

Over the last few years we have had a very good committee that looks at Canadian safety as a non-partisan issue, to be honest. We work very well together, and I think you've seen some of the changes that have taken place over the last few years.

I want to deal with one particular change in categorization by the Transportation Safety Board, which I think happened in 2009. It was a recent change by the board in 2009 as a result of consultations with this government, in particular me and the minister, as well as the department. Is that correct?

**Mrs. Wendy Tadros:** Mr. Jean, those were changes in the way we track the response to our recommendations. There were a number of recommendations put into the dormant category, but not because the safety issue had been addressed. The safety issue being addressed relates to how we rate the response, and right now 67% of the responses to all of our recommendations in the past 20 years have been fully satisfactory.

**Mr. Brian Jean:** I understand and appreciate that, but you made a change in categorization and had some interaction with this government in recent years to change the categorization to be more reflective of the actual state of things.

For instance, I would draw your attention towards one in particular. I think it was recommendation A03-01, dealing with thermal acoustic insulation materials. I bring that to your attention because in my study of this particular issue at the Transportation Safety Board I discovered there were a lot of issues identified by TSB that can't be changed by Transport Canada, even though these relate to safety. In particular, they deal with something from an international perspective, either other manufacturers of aircraft or, indeed, other aviation, other countries. Is that fair to say?

**Mrs. Wendy Tadros:** Sometimes the requirements need to be harmonized internationally. You're speaking specifically about one of the recommendations that came out of the Swissair investigation.

Sometimes transport can lead the way.

**Mr. Brian Jean:** Indeed. There has been a recategorization. From your perspective, would you suggest there has been a renewed interest by this particular government to make sure Canadians are safe but also addresses some of the issues the TSB has brought forward in recent years?

There is a lot of correspondence, and in my opinion some dissatisfaction with previous governments—whatever stripe they may have been—in addressing issues and having an interaction with the TSB.

**Mrs. Wendy Tadros:** I think there has been a renewed interest since the issuance of the watchlist.

**Mr. Brian Jean:** When was that?

**Mrs. Wendy Tadros:** It was March 16, 2010.

**Mr. Brian Jean:** By this government.

Thank you very much. Those are all my questions.

**The Chair:** You say 15 years is too long, and I think the committee would agree. Do you have a number that might be reasonable to you?

**Mrs. Wendy Tadros:** I think if you streamline the process you can bring that number down considerably. I wouldn't want to hazard a guess at an exact number of what's reasonable and what's not reasonable, because I think that's an incredibly subjective thing.

The other thing that regulators can do is put in interim measures, as they did with fishing vessel stability. You put in interim measures that are not necessarily legal requirements until you can get the legal requirements in place.

In aviation, there are similar tools in airworthiness directives and such.

● (1040)

**The Chair:** Thank you.

We're on the final round. Mr. Volpe.

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

Madam Tadros, I hope you'll forgive the slight levity of the last couple of interventions by government members. They take a great delight in trying to colour everything according to partisanship, but sometimes they succeed in injecting humour.

We're on a serious plane here, and since you gave an indication that governments have given you a sense they will act on about 60%

of your recommendations, those recommendations keep coming up over and over again, so there must be some recommendations that are palatable and some that are not.

I said in a light moment that the issue about the runways surely is an easy one to fix. If something is falling off the runway at Pearson airport, get a few hundred cement trucks and extend the runway. That can't be all that difficult. What regulation is impeding that easy solution? After all, all kinds of infrastructure money is looking for a home.

**Mrs. Wendy Tadros:** I don't think it's all that easy. When you come to TSB recommendations, they're never the easy issues. If they were the easy issues, they would have been fixed a long time ago. These are the vexing problems that need to be grappled with.

In terms of our recommendations, 67% are rated as fully satisfactory, the response. About 6% are unsatisfactory. But it's that middle ground, about 27%, I believe, where we have agreement with regulators but the action has been far too slow.

**Hon. Joseph Volpe:** I'd like to draw your attention to three of those issues. Please allow me to highlight them for you, and then you can respond.

The first one is on the foreign-flag vessels, the ones that purport to provide both the tourist experience and the training experience for Canadians but fly under flags of convenience. We find that Canadians are lost at sea and end up in port whenever or wherever, and some even result in fatalities. I'm wondering about your perception in that regard.

The second one is on seaplanes and float planes. It's an issue that keeps coming up with greater and greater frequency, especially on the west coast. I noticed that in one of the investigations back in January, the issue about an escape portal on some of these seaplanes for civil use was unavailable. Yet military planes of a similar nature must have an escape portal. I wonder if you can address the reason why we would permit a different type of equipment for civil purposes.

Finally, I mentioned earlier the issue of fishing vessels and the frequency with which they are engaged in accidents, in part not because of the weather but because the equipment is incapable of handling the weather conditions in which they operate.

I'm wondering if you could address those three issues for me, please.

**Mrs. Wendy Tadros:** The first issue you raised has to do with sail training vessels. We did a full investigation of the *Picton Castle* and reported our findings to the Canadian public on that investigation. There's another ongoing one on the *SV Concordia*. We will do a full investigation of that accident, which involved young Canadians, and we will be reporting on that.

In terms of float planes, we have an ongoing investigation, as you're probably aware, in Lyall Harbour, Saturna Island, and that investigation is going to be looking at all of the survival issues relating to float planes, including the issue that you raised.



In terms of fishing vessels, we have many investigations—probably far too many each year—into fishing vessels. This is a vexing problem. Recently we decided as an organization that we were going to do what we call a special issues investigation that isn't focused on one particular accident but is going to look at all of the issues in fishing vessel safety, because despite efforts, the number of deaths just is not coming down.

● (1045)

**The Chair:** Thank you.

You're right on time, Mr. Volpe.

Monsieur Lévesque.

[Translation]

**Mr. Yvon Lévesque (Abitibi—Baie-James—Nunavik—Eeyou, BQ):** Thank you, Mr. Chairman.

Ms. Tadros, you mentioned in your report that there were twice as many incidents in which aircraft went off the end of a runway in Canada than elsewhere in the world. During your study, did you verify whether there are air traffic controllers on most runways at airports in other countries? That's not the case in Canada, for example, because, for a number of runways, there are no controllers. The controlling is done remotely. For the various cases in which aircraft run off the end of runways, did you study the possibility that the lack of air traffic controllers was a factor?

[English]

**Mr. Mark Clitsome:** When we conduct an investigation, we look at all the standards that are in place, such as the international standards, the regulations, and the number of factors involved in an overrun.

A number of factors are involved in a runway overrun. Some of them have to do with the aircraft travelling too fast on landing. Some have to do with mechanical problems with the aircraft, some with weather problems, tail winds, for example. Some of them have to do with runway surface conditions, ice and snow, unstabilized approaches, air traffic controllers. Every accident is different, and we look at all those symptoms.

[Translation]

**Mr. Mario Laframboise:** Allow me to interrupt you, please.

On that subject, the NAVCanada people are restructuring everything and some control towers will be closed. Control will be done more remotely. There is an extensive operation in that regard.

Are you involved in the discussions? When the NAVCanada people decide to do that, do they talk to you about it, or is your role limited to reacting when accidents occur? Are you currently in discussions with NAVCanada?

[English]

**Mr. Mark Clitsome:** We participate in some meetings but we don't sit on their panels. We just look at the accident afterwards.

[Translation]

**Mr. Mario Laframboise:** The control tower at Mirabel is closed, for example. When there were air traffic controllers, a CF-18 just missed colliding with a small aircraft.

Are these near-accidents reported to you or do you know nothing about them? You intervene only once an accident has happened. However, are people required to report this kind of situation to you?

[English]

**Mr. Mark Clitsome:** We have regulations that require aircraft operators, air traffic controllers, and pilots to report incidents as well as accidents. We investigate serious incidents as well as accidents. So if we feel there is a threat to safety, we will investigate that accident.

**Mrs. Wendy Tadros:** We track them as well.

[Translation]

**Mr. Mario Laframboise:** So, since the control tower at Mirabel was closed, if there is a problem or an accident, do people turn to the Transportation Safety Board?

You know a lot of discontent is arising among the businesses there, in particular Bombardier, Pratt & Whitney and L-3 Communications, which does maintenance on the CF-18s. If anything happens, will they turn to you or is there a procedure?

[English]

**Mr. Mark Clitsome:** That's a level-of-service issue. There are rules and regulations in place for aircraft all over Canada to land at airports without air traffic control towers. If NavCanada decides a level of service is not required, they would do a study in-house to determine that. Our role is to investigate after an incident or an accident to determine if that was an issue.

**The Chair:** You have 30 seconds, if you would like.

[Translation]

**Mr. Yvon Lévesque:** I mainly travel in the north. Most of the runways, the one in Chibougamau, for example, are controlled from Quebec City. Not very long ago, a King Air plane crashed in Chibougamau. We don't know whether it was because of a lack of experience on the part of the pilots or because of weather conditions that frequently change in the north. In addition, there was no controller on site.

Could the fact that no one can see the usable length of runway for the aircraft that is preparing to land be a factor? When control is done from Quebec City, they see what's going on in the air, but not on the runway.

● (1050)

[English]

**Mr. Mark Clitsome:** That investigation is ongoing. Until we have determined the actual facts and come up with some causes and some findings, I can't report on that.

**The Chair:** Mr. Bevington.

**Mr. Dennis Bevington:** Thanks, Mr. Chair.

I want to go to the challenge you see with the rest of the aviation industry in achieving SMS. Of course, the government has delayed the implementation of these systems for the small carriers. As a person who travels in many remote locations with small carriers, I have great concerns about this as well.

I've talked to a variety of aviation businesses, and they tell me the problems they have with training people to be their SMS managers. With very limited resources, many times they train these people and then they move on. So the continuity of SMS as a culture is very important to the whole idea of SMS, and yet really, with these small operators, I don't know how that culture's going to be maintained in the present aviation industry in Canada. In the small carriers industry in remote locations people are moving constantly; transient employees are the mode, not the exception. I think this is a real issue.

You've certainly said that you're going to pay special attention to this and that you've dealt with aviation safety issues in the small carriers. What do you think about this? What do you think about how we're going to implement SMS with these small carriers? Whether we delay it for 18 months or not, are we going to get what we want in 18 months?

**Mrs. Wendy Tadros:** Do you want me to take that?

I think the board has been clear that safety management systems are the way to go, but I think it's going to require a very careful hand from the regulator in terms of the implementation of those systems to the smaller carriers for all of the reasons that you outlined, but also because SMS is a cultural change. It doesn't require that you go and make this bolt a little bit bigger or a little bit smaller; it's a cultural change within a company. Those kinds of cultural changes are always difficult.

**Mr. Dennis Bevington:** Are you examining the government's decision to postpone for 18 months? Do you sense this is something that should be made permanent, that we should look at SMS in a different fashion for small operators? You're not going to put these people out on their own. You're going to have to create a culture for small operators. Small operators are not going to create an aviation safety culture on their own. There's going to have to be some kind of continuity within the small operators industry to provide that, don't you agree?

**Mrs. Wendy Tadros:** I think the small operators, just as in the marine world, are going to have to have the tools they need, and a number of tools have been developed, for instance, by ICAO for the implementation of safety management systems in the smaller operators.

**Mr. Dennis Bevington:** Oversight, then, by Transport Canada becomes even more important to ensure there's compliance within the small operators. Wouldn't you agree that the responsibility still remains with Transport Canada for that oversight, regardless of the SMS systems that are put in place for the small operators?

**Mrs. Wendy Tadros:** Yes, safety management systems are premised on oversight. I would agree with you that oversight of small operators when they are transitioning to safety management systems is crucial.

• (1055)

**Mr. Dennis Bevington:** I have a point of order, by the way.

**The Chair:** We'll have Mr. Bevington on a point of order.

**Mr. Dennis Bevington:** Mr. Chair, in the last meeting, when we talked about the point of privilege, I brought up the point that we had to be very careful about what we discussed in terms of in camera meetings. What I heard today suggests that there were some details of that in camera meeting that were revealed in the conversation we

had today. I'd like you to review the records to determine whether, when we talked in camera about a motion to move out of camera and identified who brought forward that motion, it was somewhat similar to the problems we've had with this whole question of confidentiality.

I would say, and it's the point I want to make here, that these issues are difficult. We have to be cognizant of the difficulties of maintaining confidentiality when we have minutes that come forward and we have things that happen around that. That's why I accepted the apology of Mr. Kennedy. I could see quite clearly that we were having trouble ourselves dealing with the confidentiality issues coming out of in camera sessions. I would point directly to the conversation that took place in this meeting today.

**The Chair:** I will review the Hansard and get back to the committee.

Go ahead, Mr. Jean.

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

I just want to get back to the issue Mr. Volpe brought forward, which is the runway end safety area. I see here, and I want to be clear on this, that a runway safety area is defined as "the surface surrounding the runway prepared or suitable for reducing the risk of damage to airplanes in the event of an undershoot, overshoot, or excursion from the runway". Is that correct terminology? Is that what it is?

**Mrs. Wendy Tadros:** That is correct.

**Mr. Brian Jean:** We have code 4 runways in Canada, and they are required to be at least 240 metres in length. Is that also correct?

**Mrs. Wendy Tadros:** Do you mean a code 4 runway or the runway end safety area of the code 4 runway?

**Mr. Brian Jean:** My understanding is that it's the runway end safety area, the entire runway. Is that correct, that it is 240 metres long? You recommended to Transport Canada that it actually add an additional 60 metres, I believe.

Currently there are 60 airports operating in Canada, with some 102 code 4 runways operating at the current length of 240 metres. And I think they've been running with these 240 metre runways since early 1993 or even earlier.

**Mrs. Wendy Tadros:** The runway end safety areas.

**Mr. Brian Jean:** Yes.

**Mrs. Wendy Tadros:** What we're recommending, following the Air France accident, is that Canada move to the recommended international standard of 300 metres.

**Mr. Brian Jean:** The ICAO standard I think was upgraded in 2006. It was recommended at that time that an additional 90 metres be added, actually, not 60. You've recommended 60. That is my understanding. The United States currently is at 300 metres, approximately, or 1,000 feet, so it is 330 metres, probably, or somewhere around there.

**Mrs. Wendy Tadros:** The United States has moved to the recommended international standard. That's correct.

**Mr. Brian Jean:** My question is in relation to this. My understanding, as a new pilot, is that what often happens in an overshoot is that the touchdown point is far past the point where they're supposed to touch down. In fact, as a new pilot, I know that I have to do overshoots sometimes, and I land in the middle of a runway, and obviously I can't do that, because I don't have enough time to stop. Isn't it true that most overshoots, in fact all overshoots, are a result of the touchdown point being too far down the runway for a plane to brake safely or stop safely?

**Mrs. Wendy Tadros:** I'll let Mark answer that.

**Mr. Mark Clitsome:** It is not all cases, but in the majority of cases that would make sense.

**Mr. Brian Jean:** Has the TSB done a risk analysis on the runway itself being 240 metres compared to 300 metres? I'm just curious as to whether TSB has hired any experts to do a risk analysis. I know that ICAO has a working group that is doing a risk analysis. That was going to be my next question. I was just wondering whether the TSB has done an analysis or a risk assessment or whether it has hired an expert to do it and provide that data to you.

**Mr. Mark Clitsome:** No, but there have been dozens of studies done around the world by a number of organizations, a number of governments, and a number of investigative agencies. They have made recommendations to ICAO on the length of runway end safety areas.

**Mr. Brian Jean:** Can you provide that to the committee?

**The Chair:** Through me.

**Mr. Brian Jean:** Also, has the ICAO study been done yet? Has the working group come to any conclusions on their study they've

been working on in relation to the runway length? My understanding is that it's not finished yet.

● (1100)

**Mr. Mark Clitsome:** That's correct.

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

**The Chair:** With that, I will thank our guests for being here today. If there are follow-up questions, I'm sure we'll invite you back.

For the interest of the committee, on Thursday we have aviation safety and security and we have another group that hasn't confirmed yet, but they're going to be with us.

Also for the interest of the committee, I'm going to send out an e-mail.... There was discussion at one time with regard to a visit to the Bombardier plant. One of the recommended dates would be the Tuesday when we come back from the May break. I'll send it out in an e-mail, you can look at it, and comment back.

Mr. Volpe.

**Hon. Joseph Volpe:** Mr. Chairman, I realize that this might be for a steering committee, but prior to our break we had at one time discussed having Purolator back here along with Canada Post to discuss the contract for air cargo material. I'm just wondering whether you'll put that back on the agenda for discussion in our next steering committee.

**The Chair:** I'm happy to do that.

**Hon. Joseph Volpe:** Thank you, sir.

**The Chair:** The meeting is adjourned.

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