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Chair

Mr. Merv Tweed

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• (1910)

[English]

The Chair (Mr. Merv Tweed (Brandon—Souris, CPC)): Good evening, everyone. Welcome to meeting 42 of the Standing Committee on Transport, Infrastructure and Communities.

Pursuant to Standing Order 108(2), we are studying the consequences of noise caused by airport operations in urban areas.

Joining us tonight from the Department of Transport is Mr. Martin Eley, director general of civil aviation.

At our last meeting we got to the end of the presentations, but we didn't get to questions. I apologize to the committee for being late. Circumstances prolonged the meeting I was in. But we're here, and we're going to open with questions.

I'll go to Ms. Jennings.

Hon. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.): Thank you, Mr. Chair, and thank you for the presentation that was made last week. The session was cut short.

The issue of airport noise is one that I've been engaged in since early 2008. As a result of significant complaints from residents in my riding of Notre-Dame-de-Grâce—Lachine—which is on the Island of Montreal and includes the Pierre Elliott Trudeau International Airport, located in the city of Dorval—any attempts to get a reasonable hearing from the Aéroport de Montréal, ADM, on the part of citizens and on the part of elected officials, was basically brushed aside by ADM. ADM refused the invitations to come to public meetings, which were organized in at least one borough of the city of Montreal. The citizens organized, with my assistance and with the assistance of other elected officials, in order to attend the ADM's annual general meeting in ICAO's headquarters in Montreal in order to question the officials of ADM directly, given that they weren't getting any answers.

I see from your presentation that Transport Canada—the minister and through governor in council orders—has the actual authority to establish noise abatement levels and procedures and to implement them.

My question is, why isn't this being done in Quebec? Why isn't it being done in other areas of the country, where citizens and municipal officials, and in some cases regional officials, are complaining about the noise and the impact on the health of their citizens and other impacts as well?

Mr. Martin Eley (Director General, Civil Aviation, Department of Transport): I'd like to explain a little bit the general process.

The airports have a responsibility to have a consultative approach to establishing the noise reduction procedures in an airport. They're obliged to do that. Once those procedures are established, through a consultative process, they come to Transport Canada, we review them, we approve them, and then they get published by Nav Canada. The airlines are obliged to follow those procedures.

With regard to any issues that get addressed and are raised in the community, the airports have a responsibility to hear those complaints. They do not have a responsibility, specifically, to have committee hearings in response to those comments. They have a moral obligation to listen to the comments.

Their main obligation is to consult on procedures. If they change them, they have to go through a similar process. But if there's no change, they have no specific obligation to have a consultative process. It rests with them, as a responsibility to consult.

Hon. Marlene Jennings: When you say they have an obligation to undertake a consultation prior to submitting a plan with regard to noise abatement to Transport Canada, I can tell you that in Montreal, on the Island of Montreal, the so-called consultation involves a committee, for which it's very difficult to find out who are the members.

There are some elected municipal officials. I believe there's a member of Transport Canada, but I don't know the name. This committee meets in private. There are no notices that are given of the committee's meetings. We do not know how many times it meets a year. We don't know when it meets during the year. We don't know what's on the agenda. The decision that this committee.... There is no consultation that takes place with the citizens via this committee at all. There is no publication of whatever report and recommendations coming from the committee, which would then be sent to Transport Canada.

Basically, you're telling me that an airport authority has complete authority to do what it wishes, and there's no obligation for any real open, transparent, and accountable consultative process with the citizens.

●(1915)

Mr. Martin Eley: I'm not sure I have the information here in terms of the constitution of that, but that's certainly the membership of that committee. I believe that's information that we should be able to get and supply to you specifically, because once that is submitted to us, I believe it is part of the public record. If you don't have that information, then we should be able to get that information for you.

Hon. Marlene Jennings: I have the information as a result of knowing someone who sat on the committee, but had it not been for that, it would have been difficult to find the names of everyone who was on the committee, the process by which those individuals were actually appointed to the committee, when the committee met, what the committee was considering, and any report that came out from the committee.

On the issue of noise abatement on the Island of Montreal coming from noise from the PET International Airport, there is no public consultation that takes place.

Mr. Martin Eley: The obligation is to consult when they're changing procedures. Those procedures may not have changed substantially in recent times, so they may not have had an obligation to consult in recent times.

Hon. Marlene Jennings: In that case, in my view, there's a weakness or a hole in the law and the regulations where they're only required to consult if they wish to make a change to the existing rules and procedures, because if there are a significant number of complaints coming from residents who are directly affected by the flight paths and the hours of the flights, there should be a requirement for further consultation to determine whether or not those procedures and rules and regulations regarding noise abatement for that particular airport are still effective.

Mr. Martin Eley: I think it's fair to say that the general practice that we have has been established over time, and, generally speaking, it has worked reasonably well. It may be that with increases in traffic there is time to review that. Nothing is planned at the moment. I take the comment.

The Chair: I have to stop it there.

Ms. Mourani, I understand you're going to share your time with Ms. Lavallée.

[Translation]

Mrs. Maria Mourani (Ahuntsic, BQ): Thank you, Mr. Chairman.

Thank you for being here today, Mr. Eley.

I have a number of questions to ask you about Montreal airport. This is an issue that concerns my constituency. This question was put to me a few months after I was elected in 2006.

Aircraft noise is a problem in my constituency, depending on where people are in the riding. Some places are noisier than others. Generally speaking, most of the population is fed up. That's the situation.

Has Transport Canada studied the impact of ADM aircraft noise on health and quality of life and the overall impact on people's lives? I'm speaking to you specifically about ADM.

Mr. Martin Eley: With respect to health, Health Canada is responsible for that question.

Mrs. Maria Mourani: Have you commissioned a study?

Mr. Martin Eley: No. Health Canada is responsible for health. Their representatives sit on our national review committee. It isn't our responsibility to consider health directly. It's their responsibility, not that of Transport Canada.

Mrs. Maria Mourani: However, ADM is one of your responsibilities at Transport Canada. Am I mistaken or not?

Mr. Martin Eley: Yes, but not for people's health.

Mrs. Maria Mourani: People's health doesn't concern you at Transport Canada. The aircraft that fly above people don't concern you.

Mr. Martin Eley: The aircraft and the noise level are our responsibility, but health is Health Canada's responsibility.

Mrs. Maria Mourani: So you don't see the connection between people's health and aircraft noise.

Mr. Martin Eley: Yes, there is a connection with the social or community aspect. However, responsibility for determining the impact on health falls to Health Canada.

Mrs. Maria Mourani: Have you asked Health Canada to conduct an impact study on aircraft noise—

●(1920)

Mr. Martin Eley: No.

Mrs. Maria Mourani: —with respect to health?

Mr. Martin Eley: No.

Mrs. Maria Mourani: Are you going to do so?

Mr. Martin Eley: Health Canada representatives take part in our national discussions when we consider changes at Dorval, for example. They take part in that discussion to assess the impact of changes.

However, it is not up to us to ask Health Canada that.

Mrs. Maria Mourani: Who is it up to to do that? Who has to request that?

Mr. Martin Eley: It's an issue for Health Canada, I believe.

Mrs. Maria Mourani: Who has to put the question to Health Canada?

Mr. Martin Eley: It isn't me.

Mrs. Maria Mourani: It isn't Transport Canada.

Mr. Martin Eley: No.

Mrs. Maria Mourani: We've seen that the management of complaints concerning ADM is done by ADM. You agree that we can reasonably have questions in our minds when an organization receives complaints concerning it and manages them itself.

On the other hand, citizens were saying that ADM didn't listen to them, that they were not being treated appropriately. That may be true or false. However, from what I've seen, it's the treatment of the complaints that raised questions.

Don't you think that complaints to ADM should be managed by an independent agency? If so, which one?

Mr. Martin Eley: This responsibility for ADM's airports belongs to it. ADM agrees with our processes. We believe this is more ADM's responsibility to the community since it agrees with all our processes and control measures.

A lot of parties are involved. We have responsibilities. In our view, ADM is meeting all its responsibilities.

Mrs. Maria Mourani: I'm going to hand over to my colleague.

Mrs. Carole Lavallée (Saint-Bruno—Saint-Hubert, BQ): Thank you.

Since I'm only allotted three and a half minutes to speak to you, I'll be going quickly. I'll outline all my problems to you, and then you'll take the time you need to answer.

First, I'm very critical of the noise abatement regulations. They require a consensus in our region because they give every one of the major players a veto: the flight schools, the city, DASH-L and the citizens' committees. Now there are two committees, one in Saint-Bruno and the other in Saint-Hubert. That's my constituency, Saint-Bruno—Saint-Hubert.

These groups have to agree, and that's very difficult. I believe the Department of Transport should get more involved and play more of a leadership role in this situation that we are experiencing in Saint-Hubert.

I would like to tell you about three solutions that I want to submit to the Department of Transport.

First, I note the urgent need to expedite the accreditation process for changing parts, such as less noisy rotors and mufflers. These parts are extremely expensive and the process takes a lot of time. It should absolutely be expedited in order to provide financial support to the airlines wishing to make those changes because it's very costly.

Second, approvals for more recent aircraft that produce less sound and environmental pollution should be accelerated. This is also an urgent matter. With regard to more recent aircraft, I'm thinking of Cessnas.

Third, I would like to know whether the Department of Transport has studied the various issues of airports in European urban areas and the solutions they have found and implemented. If so, I would like to have a copy of it.

Lastly, in the Library of Parliament document that was submitted to us, we're told that a noise management plan by the airport authority will eventually be approved by the Department of Transport. In short, it appears that there has been a noise management plan from DASH-L. Could I get a copy of it?

Mr. Martin Eley: There are a lot of points there. First, I'm going to focus on the second point.

As regards aircraft, we are complying with ICAO's global regulations. The standards requested for all aircraft are consistent with ICAO's requests. ICAO's requirements will change, but we will comply with them. Getting equipment that meets standards is still a problem. That will change over time, but for the moment all aircraft in Canada meet ICAO requirements. There are certain exceptions in

the north, but the aircraft that fly commercial routes in the south comply with ICAO requirements.

As regards the process, I understand the urgency. It's our responsibility to enforce existing rules. Departure profiles, for example, are established by the airport, approved by us and published by NAV Canada.

However, if there are any complaints, it is our role to determine whether there has been a violation and to act accordingly at that time. We have no other initiatives to change the process for the moment. We are here to enforce the rules established and published by NAV Canada.

•(1925)

The Chair: Thank you.

[English]

Ms. Chow.

Ms. Olivia Chow (Trinity—Spadina, NDP): I also have three questions. I'm going to ask them all, and you can feel free to answer them.

I'm going to switch to downtown Toronto. We have an island airport. It's a regular source of complaints to my office. With the expansion that's going on these days, these complaints are getting louder and more frantic, to the point where some people are moving out of the Bathurst Quay neighbourhood. So really, what is Transport Canada proposing to address those legitimate complaints? What additional limits should be placed upon airports, such as the island airport, that operate in such close proximity to huge numbers of residential and recreational areas?

I also note that all airports are supposed to have noise abatement procedures as a term of their leases, but in this case, the downtown Toronto Island Airport has no such requirement as there is no lease. I note from other questions that there seems to be no effective community input into policy development for noise abatement regulations. So the question is, what measures will Transport Canada take to obtain effective input into noise abatement policies for neighbourhoods and communities affected, and not just from the airports or the airlines?

My last area of questioning follows from my colleague's question. I notice that the European Union, through the World Health Organization, has adopted a charter on transports. It includes targets to reduce noise. They have guidelines, they talk about decreasing the noise pollution, and they have nighttime sound levels in residential areas within WHO-recommended nighttime values. The European Union also published its noise directive in 2002 requiring member states to draw up noise maps, an action plan. It's just very extensive, whereas in Canada, the Transport Canada website hardly has anything. What kind of active role do you want to take to address airport noise, especially in big urban centres?

Mr. Martin Eley: During the opening remarks, when we started the discussion, I think I explained that one of the challenges in an airport is to consider many differing aspects—there's a neighbourhood, people want to fly, they want airports to be convenient. Certainly the success of Toronto Island Airport is because of its location close to the centre of town. So understanding that there's an impact on the people in the local community, there are a lot of different vested interests. That's why we would require the consultation approach, involving all stakeholders, certainly for the national airport system's airports. The national airport system across the country is intended to address exactly that, to come up with the best solutions that meet everybody's needs.

I'm not sure if that particular requirement is part of Toronto Island's requirement or not. It is different. The same issues do exist, obviously, at a community level—there are people who want to use the airport; they want the convenience. I also understand that that particular airport has some very specific limits on the types of aircraft that can operate there. We know that Porter Airlines is operating some of the quietest prop aircraft that we have. So there are special circumstances there, I understand, but there are also some special considerations. In the development of Toronto Island Airport I believe they've gone some way to address that. So you are correct. I don't believe it is part of their lease.

With respect to the EU, I think we've seen a number of areas that the European Union is quite aggressive on—some areas environmentally, not just noise. Although it's always of interest to see what they're doing, we have to make sure we look at that in a Canadian context. That particular piece is really a policy piece, which is not my area of responsibility in terms of where we're going as a country. My specific responsibility is the safety aspect, and that does include the day-to-day noise operation, but noise policy on a more general level is not part of my responsibility.

• (1930)

Ms. Olivia Chow: So you're saying that Transport Canada really would not be able to play any role in making sure that the noise bylaws or noise abatement policies would be enforced, that it's completely up to the airport, it's completely up to Porter Airlines. For the local residents—there are 20,000 within walking distance, and actually there are more than that—tough for them; it's too bad, because they have an airport and there's nothing Transport Canada can do. That's what I'm hearing.

Mr. Martin Eley: When there are published noise abatement procedures for any airport, the enforcement of those is our responsibility.

Ms. Olivia Chow: So because there are no published noise abatement procedures.... I thought that ultimately the minister and the ministry have the power to enact regulations affecting noise from aircraft and airports. You do have the power. The question is, why won't the ministry use that power to make the lives of tens of thousands of residents a bit easier, so that they can sleep better?

Mr. Martin Eley: The regulations for the aircraft are in place, and the regulations adopt very directly the ICAO standards. So at an aircraft level we have very specific regulations. Aircraft don't operate in Canada unless they meet those regulations, with very few minor exceptions, and those are unusual circumstances. Aircraft do not get to operate unless they meet the noise standards.

Ms. Olivia Chow: What about frequency of the flights? If there are so many flights, there's just non-stop noise early in the morning and late at night. Could you not establish some kind of curfew or frequency, so that if you measure through the entire day there would be a limit of noise, so that it could be contained to a certain level? Do you not have the power to do so?

Mr. Martin Eley: Wherever we have noise abatement procedures, they include time-of-day use. Many airports have curfews, and they would also be enforced, if they're abused. There are exceptions for emergency circumstances, for example, and things like that.

Ms. Olivia Chow: But at this airport you can't or you won't.

You do have the power to have a noise abatement policy, don't you?

Mr. Martin Eley: It's a complicated story, but when we require it, it's basically as part of their lease. As part of operating the airport, they're required to consult. So it depends on which airport it is. Wherever the requirements exist, it's part of their responsibility to operate that airport. When an airport has been totally privatized, that is not the case.

The Chair: Thank you.

I'm going to invite our guests from the Department of Transport to join us now. At the last meeting, we had them both present, and I think they should be at the table as well, in case there are other questions for them.

Mr. Mayes.

Mr. Colin Mayes (Okanagan—Shuswap, CPC): Thank you to the witnesses for being here this evening.

There are obviously standards in the operations of airports in other countries. I lived on the flight path at Narita airport for awhile. There were 52 million passengers coming through that airport every year, so there were a number of airplanes.

How do the regulations that we have in Canada stack up against those at some of the international airports in other countries?

Mr. Martin Eley: I don't think I'm qualified to speak on the other airports. We don't have regulations that require the noise abatement procedures; it's up to policy.

Mr. Colin Mayes: I don't like to interrupt you, but what I'm asking is, you don't look to see what their rules and regulations are and compare them to see whether they're doing something that's better than what we're doing, or whether what we are doing is satisfactory—just to make that comparison?

Mr. Martin Eley: I think we have a lot of knowledge of what's going on—not necessarily me, but within the department. Anything we do by way of regulation, obviously we have to be able to justify. Generally speaking, I still believe the process we've had for some years in general works well. We haven't felt the need to take it to a higher standard across the board. That may come at some point.

Mr. Colin Mayes: In my former life, I was mayor of a municipality, and we used to have what I call a bylaw of the senses, whether it was for sight lines or the smells or the noises. They are actually “sense-less” bylaws, in that they want less noise, less smell, and they don't want anything in the way of the sight lines.

Do you work with municipalities when they're going to develop an airport to help them with the planning? For instance, between agricultural operations and subdivisions we had a buffer of trees that was mandatory for the developer to put in, to get a break between the two conflicting land uses. Is there anything you have, or any influence you have on the municipalities as they develop the airports?

● (1935)

Mr. Martin Eley: I don't believe we have anything directly with the municipalities. We require the airports to consult, and they would normally involve all the stakeholders, which includes the municipalities. That might branch into what sort of mitigation measures you use. Whether it's an airport responsibility or a municipality responsibility, it's part of the discussion they have. It doesn't come directly from us.

Mr. Colin Mayes: So you don't think it's important that there be some stipulation, as far as working with the partners at the airport and the municipal level is concerned, to ensure that everything is done to mitigate the noise that might come from the operation of an airport?

Mr. Martin Eley: That is part of that consultation. As I mentioned in the opening remarks the other day, each area is unique, depending on the airport, the locale, whether there is industry or there are residents, and that's why we believe it's best resolved by consultation at a local level. If we tried to establish rules, we would have a lot of trouble coming out with rules that fit every single circumstance.

Mr. Colin Mayes: Do the rules that are applied apply to the different types of aircraft and to the noise levels they would produce? We monitor and regulate emissions from automobiles, for instance, to protect people. Is there anything the department does, or does it have an enforcement ability with regard to aircraft with certain noise levels that couldn't use airports in Canada?

Mr. Martin Eley: We have very specific regulations. They adopt almost directly the ICAO standards. The requirements with respect to noise and emissions depend on the category of aircraft. All aircraft, when they're certified to operate in Canada, when they're introduced into service, need to have already shown us that they meet those levels. In fact, that is part of the certification activity. Either we do it directly or, if it's a foreign aircraft, the foreign authority does it. We make sure they meet those levels before they go into service.

Mr. Colin Mayes: There are always challenges. I'm a member of Parliament from British Columbia and I land in Kelowna. Of course, it's in the Okanagan Valley, and the landing flight pattern has to go down the valley. It's a retirement area, and you're going through a residential area all the time. It's really difficult to build airports around residential use and places where people are going to be. Is that not correct?

Mr. Martin Eley: Yes. And again, there are always competing requirements. As you get into more remote areas, the lifeline becomes more important than the noise. So each particular situation

is very specific, which is why we feel that those things have to be resolved at a local level.

Mr. Colin Mayes: And would the airport authority set the time restrictions for the use of the airport, or would they be influenced by the municipality?

Mr. Martin Eley: It would depend on the consultation, and particularly on which airport we're talking about, as to what would be appropriate for the area. Some more remote airports do not necessarily have time limits; airports in built-up areas typically do, because of the high density of housing close to the airport.

Mr. Colin Mayes: Okay.

The Chair: Thank you.

Mr. Dhaliwal.

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

I would like ask you, Mr. Eley, do you have the answers for those questions that were given to you last week?

Mr. Martin Eley: We prepared the responses to all of the questions. They are in the approval process, and we expect they will be submitted to the committee fairly soon. We do not have them with us tonight.

Mr. Sukh Dhaliwal: Thank you.

On another note, Mr. Eley, I'm going to go to the health question first. I am very thankful that the honourable colleague and friend of mine, Madam Jennings, not only worked for the people of Quebec, but in fact she was in my riding in British Columbia helping the people in British Columbia to deal with noise factors.

The issue that came up is—we have a health issue—that modern studies have found that there are acute health impacts from aircraft noise. And contrary to what the Bloc said, it is Madam Jennings' and my understanding that Health Canada is only involved at the beginning, when the infrastructure is put in, and is not consulted at all in the process afterwards.

Why wouldn't you do that, when all studies show that there are health risks with the noise?

● (1940)

Mr. Martin Eley: I have two comments to make there.

There are a lot of studies. There are certainly studies that show there are health impacts; there are other studies that show there are not. From our perspective, the evidence is not conclusive. There are many studies, some that are convincing, others that are not.

In terms of Health Canada, any time there's a review of noise abatement procedures that are submitted to our national committee for approval, Health Canada is consulted on those changes and procedures and they look very specifically at the exposure levels of noise to see if there's an impact on health. They are involved in individual cases when they come through for change.

Mr. Sukh Dhaliwal: But when Nav Canada changes its flight paths, that affects the communities. Are they still being notified of the risk?

Mr. Martin Eley: I haven't quite got the question.

Mr. Sukh Dhaliwal: When Nav Canada changes the flight paths, is Health Canada part of that consultation process?

Mr. Martin Eley: The same process does not exist beyond the airports. The process we've been talking about extends 10 miles from an airport and it's part of the operation of the airport.

Nav Canada is certainly part of the consultation process at the airport. Beyond the airports, in terms of the air lanes more generally, there are no specific requirements for them to consult with respect to noise.

Mr. Sukh Dhaliwal: What regulations control noise abatement outside that 10 nautical mile zone, then?

Mr. Martin Eley: We still have the noise requirements for the aircraft. They apply to the aircraft all the time, making sure the aircraft are within certain noise levels. That's the general protection.

The biggest issues, clearly, are at the airports when the aircraft are taking off and landing.

Mr. Sukh Dhaliwal: You took responsibility for one issue, which is from your presentation; that is only when the violations occur and then you bring in your enforcement on the regulations.

How many violations of Transport Canada's noise regulations occurred and how many violators received sanctions? How many could have gone undetected?

Mr. Martin Eley: In 2010 there were 12 violations of noise abatement procedures. We imposed fines in the range of \$3,500 to \$5,000 in those particular cases.

Over the past 10 years, there have been 233 violations. We imposed monetary penalties in approximately 95% of those cases against individual aircraft owners and air operators. The fines range from \$10 up to \$20,000 for an infraction.

With the remaining 5%, other enforcement action was taken. There may have been extenuating circumstances. I don't have all of that detail.

Mr. Sukh Dhaliwal: Can you tell me about the coordination? You say you are not concerned, one, about the noise abatement or what the airport authorities do. But in fact we see that Transport Canada is the umbrella that should be looking into all of those eventually because you are the one who created those regulations, even though Nav Canada brings in the flight paths and the airport authorities are the ones that manage those noise abatement procedures.

Why is there no coordination? And why is there no public input into this?

Mr. Martin Eley: I believe, historically, the focus on noise has been where the biggest issues have been, which is typically the landing and take-off phases, which, clearly, is why the airports have the primary responsibility.

Beyond that, generally speaking, there are not noise requirements that have been established. So it is focused at this point.

The Chair: Thank you.

Ms. Mourani.

[Translation]

Mrs. Maria Mourani: Thank you, Mr. Chairman.

Mr. Eley, I'm going to ask you a question, but I want you to answer me in writing. You aren't required to answer me now.

The question is this: what regulatory measure or element could be adopted or amended to reduce the noise associated with airport activities in urban areas?

I would also like you to do this specifically for ADM. As ADM concerns me, I would like to have the specific characteristics for ADM.

• (1945)

Mr. Martin Eley: All right. Thank you.

Mrs. Maria Mourani: I would also like to go back to the noise issue. It was explained to me that large aircraft normally make more noise than small aircraft. Others have told me that's not true, that small aircraft can make as much noise as the big airliners, or more. What do you think? In your experience, is that true?

Mr. Martin Eley: I can say that all aircraft comply with the rules. It depends on the moment during the flight. Large aircraft have more efficient engines, particularly with regard to noise. These are high by-pass ratio engines. They are less noisy, but that depends on power levels. It changes in flight, depending on the flight profile. This is probably less variable in the case of small aircraft. There are fewer maximums and variables in total.

Mrs. Maria Mourani: For the average person, can we say that some small aircraft make as much noise as the big ones?

Mr. Martin Eley: Noise levels are more comparable, but not necessarily higher.

Mrs. Maria Mourani: You mean they make as much noise, but not more?

Mr. Martin Eley: Yes. For example, large aircraft are probably less noisy than small aircraft on arrival, but the reverse is true on departure.

Mrs. Maria Mourani: Thank you.

Furthermore, an environmental study states that, in the approach phase, if the aircraft were at an altitude of 1,200 metres, it would be less noisy. Are we talking about an altitude of 1,200 metres at Montreal airport?

Mr. Martin Eley: The approach profile is really determined by safety practices. Altitude varies from one aircraft to another. That depends on how it's designed. On arrival, we do not control the noise issue: it's a physical matter, in a way. However, we take that into account when we assess each aircraft as a part of the approval process.

Mrs. Maria Mourani: To a certain degree, do you consider what is being done outside Canada? I know that the airport in London, for example, has really implemented noise abatement measures.

Are you taking that into consideration in order to improve the situation, the best practices that prevail outside Canada, whether it be at Montreal's airports or other airports dealing with this problem?

Mr. Martin Eley: The challenge, in my view, comes mainly from the fact that most noise emissions are generated in flight. There are not a lot of physical means to alter that situation.

Mrs. Maria Mourani: They're managing to do so at certain airports. That's the case in London.

Mr. Martin Eley: Yes, that's the case around the airport and on the ground, but not in flight. I believe that a lot of changes concern ground operations.

Mrs. Maria Mourani: I'm going to hand over to my colleague.

Mrs. Carole Lavallée: Continuing in the same vein as my colleague, I would emphasize that the problem of urban airport noise was particularly serious in Germany. A study was conducted on the subject, and they managed to make it so that citizens and airports could live in harmony. In Saint-Hubert, the problem is very different than in Toronto or Dorval, and that's due to flight schools. As you know, trainee pilots take off and fly a kind of rectangular circuit before coming back and landing. On Sunday afternoons, for example, there may be 10, 15 or 20 aircraft within that rectangular circuit. Citizens whose houses are located below that circuit hear a new aircraft approximately every 30 seconds. It's as though your neighbour started up his lawn mower at regular intervals. It's enough to drive you crazy. It's really a big problem.

I'm not familiar with the other cases, but, in Saint-Hubert, the fact that you require the community to reach a consensus in order to change your regulations is virtually an impossible situation. To ask the flight schools, which have vested rights acknowledged by the airport's administrator DASH-L, to ask the city for its consent, to ask all the citizens committees to agree on the same changes, is to ask the impossible.

I've heard about your noise abatement regulations. I met with all your colleagues at a meeting. There were about 20 of them. Mr. Jacques Fauteux, who is director of policy and communications at the Prime Minister's Office, was there. They explained the situation to me from top to bottom.

How could the noise abatement regulations be amended so that they are no longer based on a regional consensus, which is at times impossible to achieve, but rather on the leadership of the minister and of the Department of Transport?

• (1950)

Mr. Martin Eley: I don't believe we're considering adopting new regulations for airports such as Saint-Hubert for the moment.

Mrs. Carole Lavallée: The problem is that there is no consensus. [English]

The Chair: I have to stop it there, I'm sorry. We're past our time.

Mr. Watson.

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

Thank you, of course, to our witnesses for your return to this committee for questions.

I must concede I'm not as familiar with this issue as most. It's not necessarily an issue that's been raised in our communities, so I'm trying to understand some of the debate and the concern around the table in terms of the line of questioning.

It seems me, and you can correct me if I'm wrong, or other members may correct me in their turn if I've understood this wrong, that most of the complaints I'm hearing seem to be with the

delegation of noise abatement management to the local airport authorities, which presumably includes this consultation process that they don't think is exactly right.

How long has that been the policy in this country, by the way? When was that established? Let's start with that.

Mr. Martin Eley: It's something that evolved when we devolved a lot of the airports. We're talking about 10 years ago, I think, for the most part. I'm not sure I have the exact date.

Mr. Jeff Watson: Ten years ago, okay. Then you wouldn't necessarily recall the enabling legislation, if I'm looking for a place to go back to, to see what's been enabled. Can you get that information for the committee? I wouldn't know where to start.

Mr. Martin Eley: Yes. We'll confirm the details of what was in place, but it really was through policy, as part of the lease, as opposed to through regulation. There isn't a specific regulation there about the way we do it.

Mr. Jeff Watson: So the decision to create that as a policy was taken some 10 years ago, you're saying?

Mr. Martin Eley: Yes.

Mr. Jeff Watson: If there is a weakness, as Madam Jennings said, we can go back and look at where that weakness started.

What is Transport Canada doing to reduce the level of aircraft noise in urban centres, say Montreal or Vancouver? Can you walk us through what that generally looks like?

Mr. Martin Eley: I mentioned the other day that we work on three things. One is to make sure we meet the highest possible standards in terms of aircraft noise, and we're part of the process. ICAO raises those standards periodically. We're certainly very much involved, and more changes are coming in the next few years. So it's making sure we have aircraft that clearly meet the latest standards—and those have always been applied consistently in Canada—and that applies not only to our aircraft but foreign aircraft coming in. That has an across-the-board impact when those standards get raised.

The noise abatement procedures—there are some standard solutions, if you like, in terms of noise abatement, depending on the circumstances. Those are used fairly consistently and they are meant to represent the best practices in terms of how you deal with noise abatement. They're subject to whether or not you're dealing with perhaps a residential community very close to the airport or further away. There are a couple of different profiles they'll typically use, but again—

Mr. Jeff Watson: Is there a requirement for ongoing consultation or periodic consultation that is part of this noise abatement procedure, or is it written into the leases that there is an ongoing responsibility for consultation, or is it a snapshot in time and it's not —

• (1955)

Mr. Martin Eley: The consultation is required when they're changed, if they want to change the procedures, either because it's a new airport and they put them in place or there are changes that need to be reworked for other reasons. It's not ongoing. It's—

Mr. Jeff Watson: There's a third area, you said. You've only mentioned two so far.

Mr. Martin Eley: Yes, sorry.

Mr. Jeff Watson: That's okay. I interrupted you, that's why.

Mr. Martin Eley: It has escaped me for a minute; I apologize.

Mr. Jeff Watson: The third one has escaped you.

Mr. Martin Eley: Yes.

Mr. Jeff Watson: What are the penalties for anyone who contravenes the noise standards? I'm talking about enforcement of—

Mr. Martin Eley: There are limits for individuals and there are limits for companies. There are limits for individuals of \$5,000—so anything up to \$5,000 for an individual and anything up to \$25,000 for a company. Depending on the frequency and the severity, if you like, there's some judgment from an enforcement point of view as to what particular penalty is applied in each case.

Mr. Jeff Watson: Those penalties don't escalate with subsequent violations. It's just a standard thing.

Mr. Martin Eley: That's all part of the enforcement action. When you see the same offenders, you will more likely be more severe on subsequent violations.

The Chair: Thank you.

We're just going to take a two-minute recess. I'm going to invite our guests from Nav Canada to join us.

I'd like you to stay at the table, if you would, and then we'll have their presentation and do another round of questioning.

If our guests from Nav Canada would step up and join us.... We'll take a two-minute recess.

- (1955) _____ (Pause) _____
- (2000)

The Chair: Thank you, and welcome back.

Before I introduce our guests, I have Madam Jennings on a point of order.

Hon. Marlene Jennings: Thank you, Chair.

In response to an answer Mr. Eley gave to Mr. Watson, I believe, stating that the situation of delegating authority for noise abatement to the airport authorities took place 10 years ago, I would like to read two short paragraphs from a letter signed by the Hon. Lawrence Cannon, when he was Minister of Transport, in response to a letter to me. His letter is dated April 20, 2008, and it reads:

[Translation]

Dear Ms. Jennings:

Thank you for your letter of April 4, 2008, in which you shared that residents in your riding were dissatisfied with an Aéroports de Montréal (ADM) pilot project on a possible new flight path for airlines flying out of Pierre-Elliott-Trudeau International Airport (Montreal-Trudeau), which would take them over the Lachine borough.

I read the content of your letter carefully. However, as you know, on July 31, 1992, Transport Canada and ADM signed a 60-year lease transferring the use, management and development of the Montreal-Trudeau and Mirabel airports to ADM. This means that all decisions that fall under these areas at the aforementioned airports, including noise management and complaints, are now the responsibility of ADM.

[English]

I am simply reading this. I'm prepared to hand a copy of the letter over.

So it was not 10 years ago; it was in 1992, with regard to the international airport in Montreal, the Montréal-Pierre Elliott Trudeau International Airport.

The Chair: Thank you.

I will ask you to table that.

I will rule it is not a point of order; it's a subject for debate.

Monsieur Gaudet.

[Translation]

Mr. Roger Gaudet (Montcalm, BQ): Mr. Chairman, there is a question to which we were unable to obtain an answer earlier. I would like to know whether Mr. Eley could send it to the clerk in writing.

[English]

The Chair: I will ask him to do that through the chair, and we'll distribute it.

[Translation]

Mr. Martin Eley: Absolutely.

[English]

The Chair: Thank you.

Now I'll welcome our guests from Nav Canada.

John, do you want to start? You've obviously been here enough times to know the process of opening comments. Then we'll move right to questions.

I have asked everybody to stay, because I know Monsieur Guimond is on his way and he has some questions for our other witnesses. I appreciate your staying.

Please begin.

- (2005)

Mr. John Crichton (President and Chief Executive Officer, Head Office, NAV CANADA): Mr. Chairman, members of Parliament, thank you for inviting me to appear before the committee as part of your study on aircraft noise in the urban environment.

Accompanying me is Trevor Johnson, assistant vice-president of service delivery; and Larry Lachance, assistant vice-president of operational support.

As many of you know, Nav Canada is Canada's civil air navigation service provider. Our core business is providing air traffic control services to domestic and international flights within Canadian airspace and in delegated international airspace, including half of the North Atlantic, the busiest oceanic airspace in the world.

We operate the air traffic control towers at major airports, and at many smaller airports we operate flight service stations or community aerodrome radio stations.

We ourselves don't actually make a lot of noise; air traffic control is a pretty quiet operation. But we are cognizant of our role in noise management. As Transport Canada explained, the primary responsibility for aircraft noise management is with airports themselves.

We provide air traffic control services to aircraft in compliance with airport noise abatement procedures. These procedures, once developed by airports, and published, are as binding on air traffic controllers as they are on pilots. Violations of noise abatement procedures can be subject to enforcement fines by Transport Canada.

Noise abatement procedures are unique to each airport, but they can and do include things such as specified departure and arrival procedures, preferential runway determination, altitude restrictions, and night restrictions.

Noise abatement rules are limited, in most cases, to the 10 nautical miles around an airport. That is appropriate, in our view, as it is within this zone that higher noise levels from aircraft operations occur. Outside of 10 nautical miles, which is approximately 19 kilometres, it is not that aircraft can't be seen and heard but that there is not generally a noise level that would impact residents' quality of life.

Most major airports have active community noise management committees on which our local management serve as members. Our primary role on these committees is a technical one, sharing data and advising on any potential safety or efficiency impacts of noise management options.

Much has been made of changes that Nav Canada implemented to aircraft routings in the Vancouver area three years ago, so I'd like to address that issue up front.

What we changed in the Vancouver area were terminal manoeuvring routes at higher altitudes. This was done to make the airspace function more efficiently and to address growth in air traffic that had occurred at numerous airports in the area.

Our changes are saving airlines \$20 million annually in fuel, and they are reducing greenhouse gas emissions by an associated 79,000 metric tonnes per year. They have reduced delays, the need for airborne holds during busy periods, and they have improved on what had been a complex and sometimes confusing terminal area with overlying routes into and out of area airports.

Quite frankly, I will admit that the noise complaints that followed the implementation of those changes took us by surprise. In the past when we have made these types of changes, we never got any complaints. However, once they began, we quickly initiated a review of the routes. We met with residents, municipalities, and members of Parliament as part of this review. We investigated complaints, examined the issues, conducted measurements to assess noise levels in the communities where the complaints were coming from, and, most importantly, we made adjustments to routes in response.

Recent noise measurements taken by the airport at various locations in Surrey show that aircraft noise is not a significant contributor to the overall noise environment in the community. In South Surrey, for example, over 49 days this spring, only 12 aircraft that were arriving or departing Vancouver exceeded an established threshold, which was set at 60 decibels for 10 seconds. During that

same period, there were over 3,000 non-aircraft community sources that exceeded that threshold.

● (2010)

There are things that can be done in some instances to design air routes that are sensitive to the community. There are sometimes options to place routes over more industrial areas, or over water, where the impact on a community is lessened. But in many cases, Nav Canada cannot make aircraft noise disappear; we can only relocate it.

The complexities of air traffic make it impossible to meet every neighbourhood's desire to be free of aircraft noise. While our employees are called controllers, there is much we don't control. This is a shared jurisdiction and a shared problem, with significant limitations and no easy solutions. So we must work with our partners to be good neighbours in the communities we serve.

It is now Nav Canada corporate policy that we will consult with communities when routing changes are proposed within terminal air space that would have a material impact on noise exposure in the community.

With that, Mr. Chairman, I would be pleased to take members' questions.

The Chair: Thank you very much.

We'll open the floor. As I said earlier, all three witnesses are here to answer questions, so please feel free.

Mr. Dhaliwal.

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

I would like to thank the Nav Canada officials, along with Transport Canada.

Contrary to what was said in the past hour, the noise is not only from the takeoffs or landings, the way we see it in Surrey, particularly the residents of South Surrey, Fleetwood—Port Kells, and Surrey North. Even though it's not an issue in my riding, I'm the only MP who was approached by the local people, and I'm certain they have talked to Nav Canada as well.

In fact, the changes in the past have created a lot more problems, a lot more noise, and residents have had to move out of the area, because the quiet communities became noisy when those noise paths were put in place.

My question to you is why was there no public consultation? You say there is now a public consultation process in place. Why was this process not in place before? You said you met with residents, but the residents still feel and say you have done basically nothing to reduce those noise levels.

Mr. John Crichton: In the past, we've made many changes in terminal manoeuvring areas in large cities. These generally take place a fair distance from the airport where the aircraft are at higher altitudes. In the past, we have made these changes and there have never been complaints. So, quite frankly, it didn't dawn on us that there would be any noise impacts in this case. We were, quite frankly, taken by surprise afterwards to find there were people with complaints.

We listened to the people and made the changes we could make, consistent with our other obligation to have safe approaches and departures in the Vancouver area, which is a quite complex area. It is probably the busiest terminal area in Canada, with all of the other airports there. We also instituted and paid for the noise monitoring.

Quite frankly, the only independent and objective standard I know of to gauge airport noise is to in fact retain engineering firms to do the noise monitoring and see exactly what happens over time. So that's what we've done. I think the results of that monitoring now show that certainly on the basis of those objective standards, aircraft noise is not really intrusive in those communities. I think that's the best we can do in trying to mitigate it.

Mr. Sukh Dhaliwal: My question to you, Mr. President, is on the health issues.

Health Canada was never consulted. I say this because Madam Jennings' staff have met with Health Canada officials, who said that a health assessment is never triggered when there is a change in path of the airplanes until there is physical infrastructure in place where federal funding has been granted. That is the only time a health review comes into place.

Would you like to see such a review, because there are health risks?

I can tell you that people like Hannah Newman in Surrey have brought forward these issues, and all of the task force studies, the Surrey task force, the Richmond advisory...they all suggest there are health risks involved from this noise.

Would you like to see legislation in place that Health Canada should be part of the process when these paths are determined?

• (2015)

Mr. John Crichton: At Nav Canada, we really have no role to play in the policy issues. Up until now, even our role with the airports has been a technical one. So when the airports are looking at this in their own noise consultative committees, they will come up with suggested ways of mitigating the noise. We will look at it strictly from the point of view of air traffic control to see whether or not it is feasible from a safety point of view. That is really the limit of our role, and we don't really have a policy role beyond that at all.

Mr. Sukh Dhaliwal: Mr. Eley, would you want to have this policy or some legislation in place so that we can have Health Canada's input into these changes?

Mr. Martin Eley: I think the points of Nav Canada relate back to some of my opening remarks at the start of this session. We deal with noise exposure forecasts, and I explained at the time that any level greater than 35 was an issue.

Mr. Sukh Dhaliwal: All I'm asking you about is the following. Right now, Health Canada is not part of any consultations or the policy implementations. Until there's new funding by the government in the infrastructure, the health and environmental studies are not triggered by any of the local changes.

I would like to see legislation in place that Health Canada be part of that process. Would you agree with that?

Mr. Martin Eley: I think that's something we would have to look at.

The point I wanted to make was that the noise levels at altitude are unlikely to cross any known limits. So obviously any involvement by Health Canada would be appropriate. But compared with the noise in the vicinity of an airport at altitude, you just do not achieve the same noise levels on the ground. So it is unlikely to pass that sort of threshold. I think that's what we've just heard from Nav Canada: it's never really been an issue at altitude.

From some of the changing routes, there may have been a change in noise levels because the areas were not on those flight paths before. But I think you would find they're a long way away from any threshold numbers that typically generate any sort of need to mitigate them.

The Chair: Thank you.

Madame Mourani.

[Translation]

Mrs. Maria Mourani: Thank you, Mr. Chairman.

Mr. Crichton, I have a number of questions to ask you, and I would like you to send me your answers in writing.

Is it true that it is possible to further optimize landing approaches and take-off parameters so as to minimize noise? If so, which ones? If not, why not? Can you submit your recommendations to us respecting the main urban airports, particularly Dorval? Should regulatory or legislative measures be adopted to assist you in that respect? If so, which ones? If not, please tell us why.

Mr. Eley, ADM is the only airport authority—and tell me if I'm wrong—that manages its own complaints. In the case of all other airports, it is the Department of Transport that receives and manages complaints. How is it that you agree to that? Furthermore, I met with Mr. Boivin, vice-president. He told me not to oppose the idea of complaints being managed by the department or by another organization. Why doesn't this situation seem to trouble you?

• (2020)

[English]

Mr. Martin Eley: It was my understanding that the process for ADM is the same.

[Translation]

The process isn't really the same in the case of ADM. It's not a direct delegation. We're asking ADM to have a consultation process.

Mrs. Maria Mourani: But this isn't done that way elsewhere in Canada. In the case of other airports, complaints are submitted to the Department of Transport. ADM, on the other hand, receives complaints and manages them. What is the reason for that particular characteristic? Why did you include that in the lease?

Mr. Martin Eley: All airports accept all complaints.

Mrs. Maria Mourani: Pardon me? You can speak in English. That won't trouble me.

[English]

Mr. Martin Eley: The airports are responsible for managing the noise procedures and they are the ones who are responsible for accepting the complaints within the context of the airport.

[Translation]

Mrs. Maria Mourani: That's not what I was told. I was told that ADM was the only one that managed complaints and that elsewhere it was the Department of Transport that managed them. You're telling me that's not the case.

[English]

Mr. Martin Eley: I need to check my facts on that. It seems as if we are at cross-purposes. I'd like to verify that point.

[Translation]

Mrs. Maria Mourani: I'd like a written response, please.

[English]

The Chair: Do you have a comment, John?

Mr. John Crichton: I just want to clarify something.

I'll offer you something in return for your question, but Nav Canada is not responsible for designing noise abatement procedures. We look at the ones that are developed by airports, and sometimes those of airports along with airlines together, to see if they are feasible from an air traffic control point of view.

But what I can send to the committee is a sample of various noise abatement procedures in place at various airports in Canada, and then you can see what they look like and how they are constructed. But we don't actually do that ourselves and we are not an expert on that, and I don't pretend to be an expert.

The Chair: Merci.

Madame Lavallée.

[Translation]

Mrs. Carole Lavallée: Mr. Crichton, first I congratulate you for accepting responsibility to manage noise at the airports where you have controllers.

I don't know what solution you introduced in Vancouver, but would you like to come to Saint-Hubert and look at our problem and solve it? I invite you to come to Saint-Hubert. Come and see what kind of solution you can provide because the Department of Transport doesn't want to do anything. What solution did you introduce in Vancouver that could apply to Saint-Hubert?

[English]

Mr. John Crichton: Well, I think you are looking at two completely different problems.

As I understand it, the issue at Saint Hubert is a high-density training operation, and perhaps the community has grown up around the airport. But I think that's just something that has to be worked out between the airport and the training schools, somehow or other.

[Translation]

Mrs. Carole Lavallée: Pardon me for interrupting you, but that's currently being settled in court. It's in the justice system. There will be a trial in mid-January, and the judge has six months to render his decision. In the meantime, of course, nothing will be done and citizens will suffer from the noise.

[English]

Mr. John Crichton: I believe we are a defendant in that lawsuit as well. So we're being sued along with them.

I guess the issue is that Nav Canada, as the air navigation service provider and the air traffic control provider, has a very narrow focus on safety and efficiency. We're there to serve the airlines and the airports. We get caught in the middle in some of these things, but we have to leave it to other people, who will make the policy decisions, and then we will conform to those. But it is very difficult for us to be the people who initiate these types of changes because quite frankly we don't have any jurisdiction to do it.

• (2025)

[Translation]

Mrs. Carole Lavallée: Thank you.

[English]

The Chair: Mr. Bevington.

Mr. Dennis Bevington (Western Arctic, NDP): Thank you, Mr. Chair. I am hiding back here.

I have to say welcome to all of you here. I'm pleased to have you here.

I can't say this has been the biggest issue in the Northwest Territories, but it strikes me that it must be for you in the urban areas, with these very large airports.

I'm curious about your procedures. In Vancouver, when you initiated changes, was there an environmental effects department within the Vancouver airport structure for you to work with in looking at route changes and at the impacts for the surrounding areas? Obviously, there is some authority that lies here.

You've indicated that you made these changes and then were surprised by the results, so the people who were in charge of noise management obviously didn't come into your decision-making.

Mr. John Crichton: As I think I indicated, you have to understand that the changes we made in Vancouver were not in the immediate area of the airport. They were quite a bit further back, and they were really in the transition zone from the en route airspace to the approach phase for Vancouver. So we're talking—

Mr. Dennis Bevington: Doesn't the airport management authority deal with airplanes that are coming into its airport over a certain distance away?

Mr. John Crichton: As we indicated, up to 10 nautical miles, or 19 kilometres, is usually the area where the airports will look into this. And the changes we've made, quite frankly, we've made in many locations over the years and they've never caused a problem. As I indicated, we were quite surprised about the feedback we got on that, and we've taken it under advisement. There is always a first time for something, so in the future we'll do a better job the next time it comes to that. We'll consult.

Mr. Dennis Bevington: Don't you think this is an airport authority issue, then? Don't you consider that they should be part of this process that you're going through?

If the Department of Transport is saying these issues lie with the airport, and you're saying that because you're obviously a little further away these issues don't lie with the airport authority, who actually then sets the standards? Do we have anybody in charge?

Mr. John Crichton: What we're indicating is that because this was the first time we ran into this type of situation in that category of airspace, we've made it a corporate undertaking. I'll repeat here tonight for the record that in the future when we have those types of changes that we're contemplating, we will consult with the local communities.

Mr. Dennis Bevington: Don't you see your role as taking direction from Transport Canada on this?

Mr. John Crichton: I really think, given the nature of these types of changes, it wouldn't be necessary. And I don't think the objective evidence indicates that there's a real issue.

Mr. Dennis Bevington: But if there is not a real issue here, maybe in the future there will be a real issue somewhere else. And don't you think that Transport Canada has some degree of responsibility here?

Mr. John Crichton: I'm just giving you my opinion. These types of changes are usually non-controversial.

Mr. Dennis Bevington: Well, Transport Canada says on its website that their "...concerns about aircraft noise are best addressed to the management of the airport where an aircraft is either landing or taking off...."

That's your opinion. That's where you feel the responsibility for the production of noise from aircraft is located. Yet we see here that obviously Nav Canada thinks it has a role in the abatement of noise or dealing with noise pollution issues. So where does it lie?

Mr. Martin Eley: I think it's fair to say that until recent times, beyond that 10-mile limit, which doesn't necessarily have a deep scientific basis, typically there were not issues because the aircraft were at sufficient altitude that the noise hadn't been an issue. That may be part of what's changing, with increased sensitivity. And the recent experience of Nav Canada has shown us that.

But today I don't think we have anything in place to deal with the noise beyond those airport responsibility limits.

• (2030)

Mr. Dennis Bevington: So Transport Canada, which has the ultimate responsibility for the management of aircraft, airports, Nav Canada—the whole works—should not ultimately hold the responsibility here to ensure that this works together?

Mr. Martin Eley: I would like to say that I don't believe we've identified the need to regulate or control that beyond what we already do with the airports.

Mr. Dennis Bevington: But that's like reactive policy, isn't it? You haven't identified a situation yet where you need to use the policy, so therefore let's not have a policy?

Mr. Martin Eley: But the experience helps to drive policy, so that's something that I think we need to take a look at. But I can't tell you we're about to put something into place, because there are no plans, to my knowledge.

Mr. Dennis Bevington: I'm just trying to work out the authority structures here, because it seems there needs to be some clarity here on those.

Mr. Martin Eley: The other part of our responsibility clearly is not to put regulation in place without need. One of the things we have to justify through Treasury Board is to make sure when we put regulations in place that there is a need. So that's the trade-off.

Mr. Dennis Bevington: Well, I wish you would use that with aviation security now. That would make me happy.

Mr. Martin Eley: That's not my area. I won't comment.

The Chair: You have 30 seconds.

Mr. Dennis Bevington: I'll give it up.

The Chair: We'll go to Mr. Jean.

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

I had questions for the witnesses, but I see that Monsieur Guimond has appeared, and I know he had some specific questions for some of the witnesses here tonight. I'm wondering if he's ready to ask those questions. If he wants the time of the government to do so, he's more than welcome to it.

[Translation]

The Chair: You have seven minutes.

Mr. Michel Guimond (Montmorency—Charlevoix—Haute-Côte-Nord, BQ): I would like to apologize, I was detained at Montreal airport.

My questions concerning noise were essentially covered by my two colleagues. However, I may have one on the Air Canada Public Participation Act.

Ms. Gravitis-Beck, we left each other last week when we were discussing your interpretation of that act. I would like to understand.

In your opinion, is the act that resulted in the privatization of Air Canada and that was adopted by the Conservative government in 1988 still in effect?

Ms. Brigita Gravitis-Beck (Director General, Air Policy, Department of Transport): Yes, it is.

Mr. Michel Guimond: Consequently, all provisions remain in effect.

Ms. Brigita Gravitis-Beck: That's correct.

Mr. Michel Guimond: Do you acknowledge that paragraph 6(1) (c) requires Air Canada to maintain operational and overhaul centres in Montreal, Mississauga and Winnipeg? Is that correct?

[English]

Ms. Brigita Gravitis-Beck: No, there is a nuance that I would add to your comment. The requirement is that Air Canada include in its articles of continuance the obligation to maintain the centres in the three areas you indicated. So it is an indirect obligation; it is not a direct obligation. The obligation is on Air Canada to include it in its articles of continuance, and that obligation has been met. The follow-through of that obligation rests with Air Canada and its shareholders and its management.

[Translation]

Mr. Michel Guimond: I don't understand what you mean by "indirect obligations".

Ms. Brigita Gravitis-Beck: In my introductory comments, I drew a distinction between direct obligations, such as official languages obligations,

[English]

and that is a direct obligation on Air Canada, which the Government of Canada is responsible for enforcing.

There is a different kind of obligation that exists with respect to inclusion in the articles of continuance. There are several elements under ACPPA that the government requested that Air Canada include in its articles of continuance. One of those elements pertains to the maintenance of the three operational and overhaul centres in the locations you have indicated. That obligation has been met, because the articles of continuance include those references, that requirement. But the follow-through of that requirement rests with Air Canada and its shareholders. It becomes a private governance issue that is between the corporation and its shareholders. So there is a distinction in terms of the obligation.

● (2035)

[Translation]

Mr. Michel Guimond: I was not a member in 1988, since I was elected in 1993, but I followed an eminently political issue at the time. When the Crown corporation Air Canada was privatized, they wanted to keep jobs in those three places. In addition, pursuant to the other paragraph, the idea was to maintain headquarters. The act refers to headquarters in the Montreal urban community. Ultimately, that was to ensure the critical mass of very well paid jobs for skilled employees.

In your view, the Government of Canada has no obligation or no power to ensure that Air Canada complies with those provisions. That means that Parliament has spoken for no purpose. The same is true of the headquarters. If Air Canada decides that its headquarters is transferred to Flin Flon, you're telling me that the Government of Canada, by virtue of the obligation imposed by one of the acts democratically passed by Parliament, has no power. That makes absolutely no sense. I find it hard to follow you.

Ms. Brigita Gravitis-Beck: I can only repeat my answer.

[English]

Because there is an indirect obligation, the obligation under the statute, which has to be respected, Air Canada must include in its articles of continuance the provisions that are articulated in section 6.1 of ACPPA. Those requirements include that its articles of

continuance maintain the three overhaul and operational centres in the three locations. They also speak to the head office and to the foreign ownership provisions. All of those are in the articles of continuance.

The obligation has been met if the articles of continuance include those obligations, and they do. From a Government of Canada responsibility perspective, that obligation, as it is included in ACPPA, has been respected.

The follow-through of that obligation is a private governance matter between the corporation and its shareholders. It is up to the shareholders to determine if that obligation has been met and to bring a complaint if they so choose under the Canada Business Corporations Act.

[Translation]

Mr. Michel Guimond: To whom can we complain?

[English]

The Chair: Monsieur Guimond, excuse me, I have to stop you there. We'll come back.

Mr. Byrne.

Hon. Gerry Byrne (Humber—St. Barbe—Baie Verte, Lib.): Thanks, Mr. Chair.

To pick up on that argument, or that line of legal process, there is no obligation on the part of Air Canada to maintain its own facilities as long as it provides or awards a maintenance contract to any entity to perform those services for it. That's all that's relevant. Would that be a correct interpretation?

Ms. Brigita Gravitis-Beck: The interpretation is that the articles of continuance, the wording in paragraph 6.1(d), are very general. It is that Air Canada include in its articles of incorporation the obligation to maintain operational and overhaul centres in the three centres. That is as general as the obligation is. Therefore, any interpretation of that obligation is a question for the courts, given that the legislation includes that kind of a reference.

● (2040)

Hon. Gerry Byrne: We do have a fair bit of jurisprudence on this issue.

The word "maintain" was a very contentious issue when it came to the disposition of constitutional jurisdictions with the operation of various transportation services. In effect, in B.C., for example, the word "maintain" does not appear in the operation of the transfer of railway services. It just simply says that Canada will assume ownership of transportation services. Therefore, that responsibility can be extinguished.

Where the term "maintain" is used in the constitutional language, that has been interpreted by the courts to establish an ongoing operational requirement. So the use of "maintain" in the statutory language of the Air Canada Public Participation Act, if we were to use that legal language as we have in the constitutional interpretation, would imply that Air Canada has the obligation to continue to operate Air Canada-based facilities, if my limited paralegal training would be correct.

Ms. Brigita Gravitis-Beck: I'm not a lawyer either, and I will ask my colleague to supplement my comments.

Again, I would make a distinction in your interjection between the obligation that exists to include in the articles of continuance that the obligation has been met. That is all that ACPPA requires of Air Canada. The pursuant obligation rests with the shareholders and the arrangement between Air Canada and its shareholders.

In terms of the definition and interpretation of the legislation, once the legislation is in place, interpretation in terms of scope and meaning rests with the courts.

I cannot speak to whether or not there is already some jurisprudence in terms of that interpretation.

Mr. John Thachet (Legal Counsel, Legal Services, Department of Transport): There are two different obligations, as Brigita mentioned. One is the obligation of Air Canada to the government, enclosed in the articles, that operational and overhaul facilities will be maintained in the three locations. Second is the obligation between Air Canada and its shareholders that those facilities are actually maintained.

So whether "maintain" includes the actual Air Canada operating those facilities or contracting out to a third party is an interpretation issue. We cannot sit here and interpret what that means. In our view, there are two distinct obligations. What also complicates this is if you really get into the interpretation business, then you have to look at what Air Canada was doing back in 1988 and whether that was in line with what was being done at that time.

Hon. Gerry Byrne: I think we're done.

Are we, in terms of time?

The Chair: Yes, your time is up, but I'm sure we'll have another round.

Monsieur Guimond.

[Translation]

Mr. Michel Guimond: Yes, thank you.

Ms. Beck, I would like to go back to your statement that Air Canada shareholders can file a complaint. With whom can they file a complaint?

[English]

Ms. Brigita Gravitis-Beck: I'll turn to my legal colleague.

Mr. John Thachet: Again, going back to what Ms. Beck mentioned earlier, there are two different obligations. The second obligation is between Air Canada and the shareholders. If the shareholders believe that Air Canada is not living up to the obligations, then they have a wide variety of avenues open to them, more than the CBCA—that's the Canada Business Corporations Act—and common law.

Under the Canada Business Corporations Act, they could approach a court and seek an order that Air Canada comply with its own articles. The powers of the court in those circumstances are pretty wide. In fact, the section reads to the effect that the court can order what it thinks appropriate in the circumstances. So it's a pretty wide—

• (2045)

[Translation]

Mr. Michel Guimond: I'm a lawyer. Please don't lecture me on law. We're going to stop talking in parables. I'm asking you a direct question. In 2007, Air Canada sold its operational services to Aveos. Under the Air Canada Public Participation Act, does Aveos have an obligation to maintain operational centres in Montreal, Winnipeg and Mississauga, or can that company transfer those jobs to El Salvador? What is your interpretation of the act? When Air Canada sold its operational services, it needed money, or wanted to get out of something. They had reasons for selling. Do you honestly think that Air Canada's shareholders will go and file a complaint? They're the ones who sold the operational services. Come on, you shouldn't treat us like imbeciles.

[English]

Ms. Brigita Gravitis-Beck: Thank you.

Aveos is not covered by the Air Canada Public Participation Act. The obligations that exist on Air Canada are the only obligations under the Air Canada Public Participation Act. As a result of the restructuring that took place in 2004, the then Air Canada technical services unit moved out from an in-house function in Air Canada into a separate entity, a distinct entity, under the holding company ACE. When it moved out from within Air Canada, it ceased to be part of the obligations to Air Canada under the Air Canada Public Participation Act. So Air Canada remains under the obligations that exist under the act. It continues to have to comply with the articles of continuance, and it continues to do so. And Aveos is not covered by ACPPA.

[Translation]

Mr. Michel Guimond: In other words, if Air Canada tells us that it no longer has operational centres and that it has sold them to Aveos, why are you saying that Air Canada still has an obligation to maintain operational centres? Gone with the wind.

[English]

Ms. Brigita Gravitis-Beck: Again, I don't want to get into questions of interpretation, but I would say that the obligation that exists on Air Canada through its articles of continuance is a very general obligation to maintain operational and overhaul centres in the three locations. It is not specific in terms of level of activity or scope, and it would not preclude creation or continuation of other functions outside of Air Canada directly, through Aveos.

[Translation]

Mr. Michel Guimond: In your opinion, Ms. Beck, are Aveos employees employees of Air Canada or Aveos?

[English]

Ms. Brigita Gravitis-Beck: The employees of Aveos are Aveos employees. Many of them come from Air Canada originally. And I understand, as I indicated in my opening comments, that there is a certification issue before the CIRB right now in terms of separating the certification of those employees under the machinists' association, in terms of those who will continue to be certified under Air Canada and those who would be certified under Aveos. So there is a process in play right now to separate the certification.

[Translation]

Mr. Michel Guimond: You're saying that they're employees of Air Canada—

[English]

The Chair: I'm sorry, Monsieur Guimond. Your time is up.

Ms. Brown.

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

I appreciate having you here. It's late at night.

Mr. Crichton and Mr. Eley, you've had a little bit of a break, so I'm going to ask you a couple of questions.

You know, panel, we really are just trying to get to the “plain” truth here—whichever spelling you decide you want to use.

I live in York Region, and we have a slightly different issue going on in York Region with the Buttonville Airport, which I'm sure you are familiar with. I have lived in York Region long enough to have seen Toronto move north. York Region has expanded, and what was never intended to be an urban airport has suddenly become an urban airport. Of course, I flew out of the Toronto airport when it was still called Malton and there was no Mississauga—it was Port Credit—and Brampton was a long way away.

Many of these urban centres have grown up around these smaller airports, and we really do have quite a conundrum right now in York Region because the Buttonville Airport has been the only accessible airport for emergency landings for York Region. There are quite a number of corporate headquarters that have grown up in the Markham area and into Richmond Hill, so quite a number of those corporate headquarters have maintained corporate airplanes at the Buttonville Airport. Now, for a variety of reasons—and I'm not saying the growth around has been the sole problem—we're losing the Buttonville Airport. It's being sold. It's a private airport and they have the right to do that, but I am absolutely confident that one of the reasons that has come into play here has been the noise that has been a problem in the area.

Nav Canada says they do a consultation process; Transport Canada says they do a consultation process. Can you expand on what the consultation process looks like? Are the municipalities involved with that? When growth is happening in an area, are developers part of that consultation process? And do you consult with each other? Do you combine your reports, or are they two separate areas?

Does growth change the patterns for the routing? I suppose Nav Canada would have to answer that one.

● (2050)

Mr. John Crichton: I should clarify that we're indicating, as a result of what happened in Vancouver, that in the future we will consult. But the consultation that we've been involved in up until now has really simply been through our membership on the airport noise management committees. So that consultation is really done by the airports themselves and we're just a technical adviser to the committee. But because of the unique incident in Vancouver, we're saying, in the future, when we are planning those types of changes,

which are quite a distance away from the airport, actually, we will consult on that. Heretofore, it has not been a problem. So we will consult.

Mr. Martin Eley: Just a comment on the airports, where there is a need to consult the community.... The third leg that I was having trouble remembering earlier on is the land use management. Part of that strategy is to make sure that the local authorities define the land use to be appropriate in the region, and that normally, within certain noise boundaries, would not include residential, for example. So part of that strategy is to deal with that. That is not necessarily the case in Buttonville, I would say.

The Chair: I have to stop you there.

I'm going to go to one final round of two minutes. I would ask you to keep it as close as possible.

Mr. Dhaliwal, two minutes.

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

My question is to Mr. Crichton.

On the nighttime air cargo flights moving over my riding of Surrey South, Guildford, those areas, I'm sure you heard many concerns that there is noise that exceeds or does not meet the chapter 3 requirements of those hush-kitted 727s. Is there a way that we should keep on allowing those noisy airplanes to fly over populated areas, or do you think there should be some alternative to it?

Mr. John Crichton: Again, I don't want to be ducking the question, but Nav Canada has absolutely no jurisdiction on the aircraft noise standards.

● (2055)

Mr. Sukh Dhaliwal: How about Mr. Eley, then?

Mr. Martin Eley: All the aircraft, even the 727s and the older 737s, meet the current ICAO requirements. Noise standards, like safety standards, define the minimum safety level, the minimum noise level. A lot of modern aircraft exceed those. The aircraft you're talking about do comply. They are considered to be within noise limits.

Mr. Sukh Dhaliwal: Do you think they should be allowed to fly even at night? That's the question.

Mr. Martin Eley: The individual airports have noise abatement procedures, which in many cases include a curfew, which applies to all categories of aircraft.

Mr. Sukh Dhaliwal: Okay.

My question to Nav Canada is this. Nav Canada is consulted by the airport authority, which is not accountable to the public. In fact, the way I see it, the only agency that's responsible is Transport Canada, through the minister, but others are not accountable to the public. When Nav Canada provides input to airport authorities when developing airport noise abatement standards, is your advice a mandatory implementation, or is it just a mere recommendation that's not implemented?

Mr. John Crichton: It would depend on the specifics. We have certain separation standards and procedures in air traffic control. If somebody was going to propose something that would violate those standards, well, then, we would have recourse to put a stop to it.

The Chair: Thank you.

Monsieur Guimond, two minutes.

[Translation]

Mr. Michel Guimond: Thank you, Mr. Chairman.

I'm speaking to you once again, Ms. Beck.

In your view, Aveos employees are not Air Canada employees, are they?

[English]

Ms. Brigita Gravitis-Beck: Aveos, being a distinct company from Air Canada...I believe that would be accurate. As I indicated, there is still some ongoing discussion on the certification.

[Translation]

Mr. Michel Guimond: I didn't have time to drop by my office in the West Block, but I had a pay cheque of Pierre Poirier, an Air Canada machinist. How is it that his pay cheque was issued by Air Canada, when we're talking about a machinist that was sold to Aveos? Why has his pay cheque been issued by Air Canada? Why does it state in the collective agreement of the machinists' union that this agreement was entered into between Air Canada and the machinists' union? Why does the president of Aveos have an employee number that starts with AC? And yet you're telling me that these are no longer Air Canada employees.

If, instead of your pay cheque bearing a maple leaf, you received a cheque from the Government of Quebec bearing a fleur de lys, wouldn't you wonder whether your business had been sold, whether your job had been sold overnight?

[English]

Ms. Brigita Gravitis-Beck: I don't know the particulars you're referring to. Clearly, if it is the case that cheques are still coming under the auspices of Air Canada to Aveos employees, this may reflect the fact that the certification distinction between Air Canada and Aveos has not yet been consummated. That's a process that isn't directly related to my area of responsibility, so I can't speak to the technicalities of it.

[Translation]

The Chair: Thank you, Mr. Guimond.

[English]

Mr. Bevington.

Mr. Dennis Bevington: When the sale of the maintenance facilities to Aveos took place, was Transport Canada in any way involved in maintaining the interest of this particular act?

Ms. Brigita Gravitis-Beck: Transport Canada's obligation is to ensure that the articles of continuance include the provisions stipulated in ACPPA, and we have confirmed at various junctures in Air Canada's history that those articles of continuance respect the obligations of ACPPA.

Mr. Dennis Bevington: When the sale of the facilities to Aveos took place, was Transport Canada engaged in it?

Ms. Brigita Gravitis-Beck: No, that was a private matter between private entities. Transport Canada was not part of that discussion or arrangement.

Mr. Dennis Bevington: And you took no interest in it?

• (2100)

Ms. Brigita Gravitis-Beck: No. Because it was a private transaction between private parties, we did not.

Mr. Dennis Bevington: How did you determine whether what was happening would match up with the act we have in front of us? How did you make the determination that your interest was not in play here?

Ms. Brigita Gravitis-Beck: The only determination of the Government of Canada is to validate that the articles of continuance make reference to the obligation to maintain the operational and overhaul centres. That obligation has been met, and the obligation to follow through is an internal matter between Air Canada and its shareholders. Therefore, as its corporate structure has evolved, it would be up to Air Canada and its shareholders to confirm that the intent of those articles of continuance is being respected.

Mr. John Thachet: I can also confirm that Air Canada's articles of continuance were amended a couple of times to reflect changes in share structure, but the provision to maintain these specialties in these three locations hasn't changed over the years since it was privatized. So that clause is still in the articles of continuance.

The Chair: Thank you.

Mr. Jean, a final comment.

Mr. Brian Jean: I have just a couple of questions, Mr. Chair, if I may.

With respect to the airport authorities, congratulations to the local component. I think that's very important. Regarding the consultations, the new policy, that Nav Canada is bringing in, that's great.

Who usually sits on these boards of the local authorities? For instance, the Fort McMurray Airport Authority, the Calgary Airport Authority, or the Montreal Airport Authority....what kinds of people make up the boards of these authorities and make the decisions regarding noise and traffic and things like that?

Mr. Martin Eley: For the noise, that's a consultative committee. It's not part of the management of those airports. Some of the airports you named aren't necessarily part of the national airport system. They wouldn't have that particular requirement, so there is no obligation on their part. I can't speak to how they're set up.

Mr. Brian Jean: Who usually sits on these boards?

Mr. Martin Eley: You mean where there's a requirement to have one?

Mr. Brian Jean: Yes.

Mr. Martin Eley: The airport's responsibility is to engage all the stakeholders, which are typically the municipalities and anybody affected around the airport. There's usually a citizen component to that. Nav Canada is usually part of it. Transport Canada participates on the larger airports. Certainly, we have somebody on that committee as well. So it takes in all the interested parties, but it varies by airport. There's not a specific definition.

Mr. Brian Jean: What can the government do if Air Canada does not respect its articles of incorporation or continuance? I know the courts can lift the corporate veil and all that, but what can the government do?

Mr. John Thachet: The Air Canada Public Participation Act requires Air Canada to maintain the articles of continuance of this particular provision. If Air Canada wants to change this provision, then they need to obtain shareholder consent. So that's the first step. Then they come to government to make changes in the Air Canada Public Participation Act, and then they would make changes to the articles of continuance.

Mr. Brian Jean: That wasn't my question. My question was, what can the government do if Air Canada does not respect its articles of incorporation and changes that?

Mr. John Thachet: It's primarily an obligation between Air Canada and the shareholders. Government can only observe whether

the articles of continuance still have that portion in it. Other than that, they can't do much about it.

The Chair: Thank you.

With that, I'll thank our guests. Many of you changed plans, and we do appreciate your being here tonight. We wish you a Merry Christmas and a Happy New Year.

Committee members, we will be meeting again on Thursday morning at 11 o'clock.

Thank you and have a good night.

The meeting is adjourned.

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