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Chair

Mr. Merv Tweed

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Monday, February 26, 2007

• (1530)

[English]

The Chair (Mr. Merv Tweed (Brandon—Souris, CPC)): Good afternoon, everyone, and welcome to the Standing Committee on Transport, Infrastructure, and Communities, meeting number 38, pursuant to the order of reference of Tuesday, November 7, 2006, Bill C-6, an act to amend the Aeronautics Act and to make consequential amendments to other acts.

Joining us today from the Canadian Airports Council are Mr. Jim Facette and Mr. Fred Jones; from the Air Transport Association of Canada, Mr. Sam Barone and Mr. Les T. Aalders; from the Canadian Business Aviation Association, Rich Gage; and from Teamsters Canada, Mr. Phil Benson. Welcome.

I'm sure it was given to you as information by the clerk that you can pick the order in which you want to start, but you have seven minutes. Once that's complete, we'll go to a series of questioning.

Jim, do you want to start? Thank you.

Mr. Jim Facette (President and Chief Executive Officer, Canadian Airports Council): Thank you very much.

Good afternoon, Mr. Chair and committee members. Thank you for the opportunity to provide comments on the proposed amendments to Canada's Aeronautics Act, the backbone of our aviation regulatory infrastructure here in Canada.

For the most part, Canada's airports support the proposed amendments. This is good legislation. In the attached brief that we will be distributing to committee members, we have outlined some comments and concerns, but today I would like to highlight two important areas in which we believe this legislation can have a tremendously positive impact on the continued safety and importance of aviation in this country: the continued promotion of aeronautics as a mandate of the minister; as well as the promotion of safety management systems and the designation of organizations to shepherd these systems.

Aviation plays an essential role in Canadian society and our ever-increasingly trade-dependent economy. For that reason, we believe it is important that the promotion of aeronautics remain a mandate of the minister, as it is currently in the Aeronautics Act. The proposed amendments would eliminate this, but we believe that would be a mistake.

As Canada and our economy continue to grow, the country's aviation sector grows with it. This requires airports to be more nimble and quicker to adapt to change. Canada's airports believe

several of the proposed amendments represent a fresh and welcome approach from the government to achieving this goal.

Safety is the number one concern for Canada's airports. Safety management systems, or SMS, represent a proactive approach to the safety of aviation in Canada by extending a voice to those closest to the action, the thousands of men and women who make our aviation system work every day. Who else is in a better position to identify risks and tender possible solutions than those in the field?

It is important to note that Canada has an extremely safe aviation sector today, and Canada's airports have an excellent safety record. The designation of organizations for regulatory stewardship is a natural evolution of a more mature SMS approach. It will create a more responsive approach to safety in which industry is able to more quickly identify risk and implement changes to mitigate it. Naturally, it should only be available to industry segments that have demonstrated an outstanding safety record and the ability to manage the delegated responsibility.

The designation of organizations will require a change in culture—there is no doubt about that—but it is a welcome change that will allow us as an industry to capitalize on identifying potential problems before they result in a safety incident. We're talking about real, tangible improvements to safety.

At airports each and every day, our men and women see potential problems, problems of which only they are aware. For example, there may be an intersection at a particular airport that pilots or ground workers know to be hazardous. What we have today is a system in which we need to wait until the regulator approves of changes to fix the problem, and it could take months for the necessary changes to airport operation manuals to be approved by the department. It is an inefficient system in which unnecessary delays represent unnecessary safety vulnerabilities and inefficiencies. Yes, regulations in the current system can obstruct safety. Under SMS, which Canada's airports have been working steadily to adopt, we have a system being put into place in which people can report such safety problems without fear of reprisal.

Airports know their businesses and are best placed to know what will improve safety within their organizations. Today they often find themselves constrained by the regulations from implementing safety-related improvements. Surely this is not the government's intent.

Very recently, for example, certification standards for apron marking, signage, and lighting are being removed from Canada's airport certification standards. This has allowed the CAC to develop a best industry practices document on the subject to replace them. They reflect the very best standards available from a variety of airports across Canada.

In time, we could do similar things with other areas of certification standards and with areas of the Canadian aviation regulations. A natural evolution in the SMS approach, the designation of organizations to manage safety standards then allows industry to move much more quickly to plug safety vulnerabilities long before they need to have a safety incident.

• (1535)

The vulnerabilities identified through SMS programs could feed regulatory change. The designated organizations represent another layer of safety oversight, while the minister would still retain the right to audit and inspect the organization and the affected certificate holders.

In conclusion, we would like to reiterate the primary commitment of Canada's airports to safety. We believe that many of the proposed amendments to the Aeronautics Act under consideration today will contribute greatly to ensuring Canada's aviation sector continues to enjoy one of the best safety records in the world over the busy years ahead.

Thank you very much, Mr. Chair.

The Chair: Thank you.

Mr. Barone.

Mr. Sam Barone (President and Chief Executive Officer, Air Transport Association of Canada): Thank you, Mr. Chairman.

Honourable members, good afternoon.

I'm very pleased to be here as president of the Air Transport Association of Canada to speak to you on the very important matter of Bill C-6. As you may know, ATAC represents the commercial aviation sector in Canada. Collectively our members account for over 95% of all commercial aviation revenue in Canada.

Nothing unites our members more than our absolute commitment to the safety and security of our passengers. It is the most important thing we do. That's why we're here today to ask you for your support in the passage of Bill C-6. As many of you will recall, this bill has been up for consideration previously under different numbers, but always with the same content. Why? Because this is one of the few examples of legislation with broad support.

ATAC has supported passage of this bill each time because it improves the efficiency and effectiveness of how air carriers manage their safety protocols through safety management systems. The same holds true in the case of Bill C-6. ATAC supports this legislation and urges members of this committee to support it as well.

Safety management systems provide an additional layer of assuredness to the way aviation safety is managed in Canada. They work for carriers and their passengers alike, because they impose a standardized accountable discipline on the way companies manage their safety protocols. In short, it's a risk management type of approach.

Carriers are mandated to submit SMS plans to Transport Canada for approval. These plans are scrutinized against a very rigid set of criteria to ensure the performance plan is both comprehensive and deliverable. In fact, all of Canada's major carriers routinely use SMS today to manage their safety protocols. Bill C-6 would simply recognize and codify a safety management system that is largely in place today and working quite well.

Having briefly addressed the merits of Bill C-6 and why we think it deserves your support, let me turn to a few areas that could stand improvement. I want to start with the fundamental principle of fostering a climate of open, non-punitive reporting. This is central to the ultimate success of SMS regimes. For this reason we are concerned about the lack of protections in the bill for the integrity of safety data provided to Transport Canada.

While protections are provided to the individuals making initial reports, it is not entirely clear if those same protections are extended to carriers. In this regard, members may want to consider amending proposed section 5.39 to be clearer on this point. After all, we are most interested in identifying and mitigating safety risks as soon as possible. We must encourage companies and individuals alike to be open and transparent about their reporting. This is relevant, not out of concern that real safety issues might get buried, but that eventually over time marginal issues might start to not be identified, especially if a given operator has recently been signalled out for issues that ultimately turn out to be insignificant.

We want all operators from the biggest to the smallest to be as forthcoming as possible about all issues. We don't want to create a situation where individuals may choose to not report, out of concern that it might be held against them.

More broadly, we'd also like to see stricter definitions in this bill. That same proposed section 5.39 refers to integrated management systems. The following provisions chart a very clear and prescriptive course for managing a safety management system. For that reason, integrated management systems should be changed to refer to safety management systems. Bill C-6 is designed to deal with safety management; why not just say so?

We would also like to comment on the recent debate surrounding the prospective lack of inspections. Let me assure this committee that rather than using SMS as a means by which to avoid inspections, ATAC is proposing that the data collection provisions called for in Bill C-6 be amended to require on-site gathering by Transport Canada inspectors.

Provisions that require carriers to submit SMS reports to the department by methods such as email are simply not acceptable. In our view, it compromises the integrity of the data and adds an unnecessary and non-value-added layer to the reporting process. Our members welcome and encourage the direct involvement of Transport Canada in this respect.

Again we encourage members of this committee to consider amending proposed section 5.39 to require on-site data inspection by Transport Canada, rather than requiring carriers to submit it electronically or otherwise. Such a move would ensure the integrity of safety data and foster a direct working relationship between carriers and the regulator.

● (1540)

This issue of data integrity is also the basis for another concern we have with the legislation, namely the lack of clarity surrounding the relationship between this bill and other regulatory frameworks. These include the workplace occupational health and safety regulations, the Canadian Transportation Accident Investigation and Safety Board, and even access-to-information laws. In short, we want to ensure that safety data is used by and for safety professionals for the express purpose of improving aviation safety and that the use of such data is consistently applied across government departments.

Again, our perspective on this issue is grounded in our desire to foster a climate of fulsome, open reporting. Safety information must be given priority and protection. For that reason, we're asking members to consider amending the act to exclude the use of aviation safety data for any purpose other than aviation safety. From the perspective of the Access to Information Act and the relationship with the Canada Transportation Accident Investigation Safety Board, we must stress that we have no concern about final reports being made available following a full investigation. However, this has to be undertaken with proper care to avoid needlessly implicating individuals or companies involved.

Indeed, full, fair, and frank investigations are in everyone's interest. What is in no one's interest, however, is to have piecemeal, unaudited information being put into the public domain. This has the potential to cause inappropriate and needless worry among the travelling public and to discourage front-line staff from fully disclosing safety concerns.

If SMS is going to be as effective as possible in fostering a climate of non-punitive open reporting, we must ensure the integrity of the information. The theme of protecting the integrity of the safety data is also broadly applicable to many provisions of the act that give the minister too much discretion in the use of the data collected by operators. Proposed paragraph 5.392(1)(c) allows the minister to disclose any data that he deems relevant in the context of a licence suspension. Proposed section 5.394 allows the minister to enter into any agreement with operators without the use of data from flight data recorders or for general aviation safety purposes. And proposed

subsection 5.397(1) allows the minister or his designate to use any aviation data for any purpose they consider necessary for aviation data.

In each of these cases, we think it appropriate for Transport Canada to define in the legislation the circumstances under which aviation data will and won't be used. If, for instance, carriers are assured that commercially sensitive competitive information will be excluded from such uses, these clauses become much more palatable.

In short, the best way to foster a spirit of openness and cooperation is to provide assurances of the integrity of information being requested from carriers by the regulator.

Finally, let me return to the issue of non-punitive reporting. I think we can all agree that it is much better to identify problems and get them fixed than to engage in a game of "gotcha". From that perspective, we should be concerned about the limits imposed on the use of immunity provisions specified in section 5.396. The waiving of immunity should be based on conditions more specific than the number of times an individual uses protection within a given period of time. I would hate to see a potential safety risk go unreported because an individual has already claimed immunity for an unintentional violation within the last two years.

Let me end, Mr. Chairman, where I started. As much as we are concerned about some of the provisions in the bill, on balance it is good legislation which ought to be passed by this Parliament. This is the third incarnation of this bill, and it is time we moved forward with this important modernization of the Aeronautics Act.

With that I thank you for your time and welcome your questions.

● (1545)

The Chair: Thank you very much.

Mr. Gage.

Mr. Rich Gage (President and CEO, Canadian Business Aviation Association): Thank you, Mr. Chairman.

Mr. Chairman and honourable members, thank you for allowing me to comment on Bill C-6. Before I do so, allow me to introduce the Canadian Business Aviation Association.

We've been in business for quite some time; in fact, we've been an effective advocacy organization since 1962. We currently have well over 400 members and speak for 272 companies and organizations that operate more than 500 aircraft domestically and internationally. In addition, another 150 companies are members of ours in the manufacturing and support sector of the aviation industry. The CBAA is the voice of business aviation in Canada.

We've been actively engaged throughout the extensive consultation process of amending the Aeronautics Act and have helped lead a wide-ranging group of representatives from government and industry to craft a progressive and modern document. The amendments to the act incorporate proactive and proven management practices, organizational flexibility, broad-based accountability, and a non-punitive reporting system, all of which are designed to improve aviation safety and efficiency.

Of particular interest and importance are the safety management concept and its explicit and comprehensive process for managing risk. The safety management system, or SMS, embeds organization-wide accountability and actions to preclude accidental losses and establishes proactive management tools to identify and control risks prior to their occurrence. It is a documented process that integrates operations and technical systems with the management of financial and human resources to ensure aviation safety.

In conjunction with Transport Canada Civil Aviation, the CBAA has helped lead the aviation industry in the design, development, and implementation of safety management systems, and the creation of performance-based standards for aircraft operators specifically under Canadian Aviation Regulations part VI, subpart 4. To break that down into another more meaningful definition, perhaps, it captures those operators or owners who are operating turbine-powered pressurized aircraft and carrying passengers that are non-commercial.

The CBAA program is supported by all of the 272 CAR section 604 operators. Its recognized advantages are greater organizational participation in aviation safety, increased operational flexibility and effectiveness, and improved administrative efficiency.

CBAA members have more than four years' experience using safety management systems and collectively endorse this method of managing risk. In our assessment, the CBAA program and the use of SMS has enhanced aviation safety for business aircraft operators, eliminated red tape, and reduced administrative costs. During this same period, it should not go unnoticed that business aviation in Canada has grown at an annual rate of 15% to 18%; that is, in the last four years, we've doubled our size.

The Canadian aviation community is a world leader in advancing safety initiatives, and Canadian officials, at least in part, have successfully influenced the International Civil Aviation Organization and other national aviation bodies to endorse and implement the concept of safety management systems. SMS will become an international tool in the identification and management of risk.

It should also be noted that 11 national or regional business aviation associations worldwide, representing more than 14,000 business aircraft operators, have sanctioned the Montreal-based International Business Aviation Council's program called Interna-

tional Standards for Business Aircraft Operators. IS-BAO mirrors the CBAA program. It is founded on a safety management system and uses performance-based standards. Such widespread use and recognition of SMS clearly demonstrates its value.

Mr. Chairman, in all respects the CBAA supports the proposed amendments to the Aeronautics Act.

Thank you.

• (1550)

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

Mr. Benson is next.

Mr. Phil Benson (Lobbyist, Teamsters Canada): Thank you, Mr. Chairman, and good afternoon to all.

Teamsters Canada is a labour organization with more than 125,000 members. Teamsters Canada represents workers in many sectors, including all areas of transport, air, rail, road, and ports, and also in other sectors, such as retail, motion pictures, breweries, soft drinks, construction, dairy, warehousing. We're also affiliated with the International Brotherhood of Teamsters, which has 1.5 million members across North America. We thank this committee for allowing us to participate in the review of Bill C-6.

Most of the bill appears to be housekeeping or updating of the current legislation, bringing it up to current requirements. Though there may be some need for improvements, our comments will be limited to those areas of the bill that in our opinion may overreach the goal of the legislation, affecting the safety and security of the industry.

The management systems proposed by the bill, one would think, are best corporate practices that do not need legislative approval. As a vision, however, we have concerns that proposals are not inconsequential and may lead to unsatisfactory results. The management system legislative framework will be fleshed out by regulation, a regulatory process that is heavily influenced by both the transport department's policy promoting efficiency and the economy, and the application of a so-called "smart regulatory process". This legislation may lead to effective deregulation, self-regulation; if that's desired, then the legislation should clearly state it.

It has been claimed that the airline industry would never do anything to compromise safety and security—the legislation regulatory process under this bill will certainly test that premise—and claims the industry does not need prescriptive rules. Indeed, the pressures of the market and the bottom line would never produce a car that blew up, tires that blew out, materials that caused illnesses, prescription drugs that did more harm than good, or companies that push workers beyond what biology allows.

We have prescriptive rules in place because it is a company's job to make money and the government's job to govern. One does not let the fox look after the chicken coop. Canadians deserve to know that the government is responsible for the safety and security of the public. No matter what the legislation, if an incident occurs, it will not be the CEO of a company or representative of an industry association who will bear the brunt; ministers do, because that's what members of Parliament demand, and that's what the Canadian public demands.

Paragraph 4.9(v) would permit fatigue management procedures. Again, one would expect that management of fatigue involves best corporate practices that do not need legislative approval. Clearly, fatigue is not just another safety and security risk that can be managed. Each sector in the transportation industry may have different processes or needs to function in their market niche. However, the biology of workers does not change, nor does the need for prescriptive rules to ensure that minimum standards apply. Standards that comply with sleep science, not the needs of the industry, are the bottom line of companies.

Hours of service of flight attendants was derailed under the existing regulatory process. The science is being ignored and minimum safeguards are not in place now, and we feel it may be more difficult to achieve if the legislation passes unchanged. The issue of hours of service for transportation workers was dealt with in the Arthurs report on part III of the Canada Labour Code. We agree with the recommendations that Labour Canada should participate or take the lead for setting hours of work for transportation workers. Flight attendants and all workers in the aviation industry deserve the same rights as any workers—health and sanitation breaks, breaks between assignments, time to eat.

Rotational shifts and fatigue are not just safety and security risks to manage. The current regulatory process examined how it affects the planes in operation, and not how it affects workers' lives and their health and safety. We disagree with that approach. These issues are fundamental health and safety workplace issues governed by the Canada Labour Code, and it should not be that if one chooses to work in the transportation industry, they do not apply.

We leave it to the committee to imagine where Bill C-6 will take us. We're not always comfortable with the current regulatory process, though we will admit at times it does make sense and outcomes can be achieved that are mutually satisfactory to all in the industry. We are certain Canadians will not be comfortable with where Bill C-6 may lead. Teamsters Canada submits that this bill needs some work before it is passed.

Thank you, and I'm ready for any questions you may have.

• (1555)

The Chair: Thank you, Mr. Benson.

Monsieur Bélanger.

Hon. Mauril Bélanger (Ottawa—Vanier, Lib.): Thank you, Mr. Chairman.

Before I start, there's something I want to put on the record, if you don't mind.

There was a story in *The Canadian Press* last Thursday about a Transport Canada official trying to restrict committee witnesses. In it, Mr. Julian and Monsieur Laframboise are quoted, and that's fine. I was also interviewed for that story, yet what I said does not appear. I don't know if it was the reporter or an editor; however, whatever that may be, I thought it should be on the record. It wasn't very newsworthy, I recognize that, but what I said was that the allegations that were made vis-à-vis a senior Transport Canada official were just that. This committee had indicated that it would ask that individual to appear again, and until that appearance before committee and the chance for that individual to give his side of the story, I thought best that we should hold off on our judgment. That is what I said to the reporter. That was not reported.

I thought it was important enough to be put on the record, Mr. Chairman. Thank you for your indulgence.

Before I go to questions, there are two requests. There are many requests outstanding, Mr. Chairman.

First, I'd ask for a note on what are the current legal and regulatory underpinnings of the SMS. I think that information might be timely if we could get it soon, before the break, for sure.

Secondly, Transport Canada was to offer us the bill as it is, the law as it is, plus the bill, and how they overlap. We still haven't seen that. Now, when the witness committed to giving us that, it wasn't that they had to prepare it; it was a document they already had. So I'm just wondering what's taking so long to get it, Mr. Chairman.

Mr. Barone, you made a series of suggestions and expressed serious concerns on amendments to the bill before us. In the preparatory work that has gone on for a decade, I gather, for this version or previous ones that may or may not be the same—I haven't verified that—I presume you've been consulted by Transport Canada officials, or you've had a chance to discuss with them your concerns. Is my presumption correct?

Mr. Sam Barone: Do we consult with Transport Canada on this bill? We consult with Transport Canada as the lead regulator of our industry on this bill and many other bills that come before Parliament, sir.

• (1600)

Hon. Mauril Bélanger: Thank you.

Did you make these very recommendations to Transport Canada at any time?

Mr. Sam Barone: We have always put our position forward, consistent with what we have said here today.

Hon. Mauril Bélanger: Have they given reasons to you on why they've not been accepted?

Mr. Sam Barone: I have not been given any reasons myself, although my staff has been involved with this process longer than I have.

Mr. Les T. Aalders (Vice-President, Engineering and Maintenance, Air Transport Association of Canada): Mr. Chairman, Transport Canada and ATAC have been involved in these discussions through the CARAC process, which I'm sure you're familiar with.

Hon. Mauril Bélanger: No, I'm not.

Mr. Les T. Aalders: ATAC is a very strong participant within the Canadian Aviation Regulation Advisory Council, as are other industry and bargaining unit memberships. We have commented on the proposals, and at this stage we have found that some of the comments we have made at the various stages have not been taken as fully into account as we would have liked to have seen. That is why, today, we are proposing some additional changes.

Hon. Mauril Bélanger: I don't know if you have the capacity to do so, but if you do have the capacity, would you be inclined to propose actual wordings that would suit you and to submit them to this committee for their attention?

Mr. Les T. Aalders: Yes.

Mr. Sam Barone: Yes, Mr. Chairman.

Hon. Mauril Bélanger: Thank you. Perhaps if you could do that by mid-March, it might be very useful.

Mr. Facette, for the time remaining, I'd like to have a discussion on designated organizations. What are they?

Mr. Jim Facette: A designated organization would be an organization that, in Transport Canada's opinion, has the capacity to carry out a safety management system. Right now in Canada, there is one in aviation, that's the CBAA. They are a designated organization under this act, if you applied this act today.

Hon. Mauril Bélanger: In your opinion, what could they be under this act?

Mr. Jim Facette: They could be airport authorities.

Hon. Mauril Bélanger: And—?

Mr. Jim Facette: It's hard for me to comment beyond that.

Hon. Mauril Bélanger: Are you comfortable with the—? Because Mr. Benson seemed to indicate that he wasn't comfortable. There's a clause I'm starting to focus on here. It's proposed subsection 5.31(3):

A designated organization has all the powers necessary to monitor compliance with the standards and rules that it establishes.

Are you comfortable with that, Mr. Facette?

Mr. Jim Facette: We are, and I'll have our VP of operations and legal affairs explain why.

Mr. Fred Jones (Vice-President, Operations and Legal Affairs, Canadian Airports Council): Thank you.

The designated organization could be an association, as in the case of CBAA. It could be a separate and arm's-length incorporated organization. The act isn't specific about what shape the designated organization would take, but there are a number of options, suffice to say.

The organization could be for a prescribed segment of the aviation community under their oversight. It could be that for a certain segment of the standards or regulatory framework, they would be able to establish standards of their own for that segment of the aviation community.

Hon. Mauril Bélanger: If I were to quote some members of the government side—and I would agree—the premier role of the government in the case of what's before us is the paramount importance of the safety of the travelling public. I must admit to some misgivings with the notion that a designated authority would have the powers to set the standards and the rules that would apply, and then enforce them. That doesn't bother you?

Mr. Fred Jones: Not at all, sir, because, with respect, it's not an abdication of the minister's responsibility; it's a delegation. The minister can step back in to enforce against the designated organization if they violate the system they've articulated for the department. They can even step back in against individual certificate holders. Nothing prevents them from doing that.

Hon. Mauril Bélanger: What would cause the minister, in your mind, to step back in—an incident?

• (1605)

Mr. Fred Jones: Not necessarily, although that could trigger, it would seem to me, a higher level of oversight.

The minister would step back in and do regular audits of the designated organization, to begin with. If there were problems identified in the course of that audit, they might even be compelled to examine individual certificate holders if there were any misgivings about what was happening inside the organization.

Hon. Mauril Bélanger: If I have a second chance, I'll come back to this.

Thank you, Mr. Chairman.

The Chair: Monsieur Laframboise.

[Translation]

Mr. Mario Laframboise (Argenteuil—Papineau—Mirabel, BQ): Thank you, Mr. Chairman.

Thank you, sirs, for joining us today.

My first question is directed to you, Mr. Facette. I'm not opposed to the safety management system. In my view, the industry needs to take responsibility for its operations and this is one way to achieve that end. However, I do have a problem with one thing, and that's the whole inspection system in place to ensure the efficient operation of the safety management system. It's a matter of balance. I'm surprised to see that you are in favour of the safety management system. Things are going well for you. That's the solution.

The Canadian Federal Pilots Association had this to say about the situation:

In March 2006 Transport Canada killed the National Audit Program which covers the 8 largest airlines, the 5 largest airports and the 3 largest aircraft manufacturers in this country. The reason? To allow for regulatory oversight resources and funds to be redirected to the administration of SMS programs.

That is what has me worried. We've had our safety problems with Montreal's Trudeau Airport. Reporters are now doing the inspections to ensure that requirements are met. We've learned that since March of 2006, oversight resources at the five largest airports—and I'm assuming Montreal's Trudeau airport falls into this category—have been redirected to safety management systems. I'm not at all reassured by this revelation.

I hope you understand what I'm saying. I would have liked you to talk a little more, as Mr. Barone did somewhat, about the need to maintain an adequate surveillance and oversight system, while administering at the same time safety management systems.

Would you agree with me?

[English]

Mr. Jim Facette: Thank you for the question.

It's a difficult leap to make, to go from one's perception of what an airport's responsibility is in securing the environment today to that of a safety management system. You need to compare apples to apples. I don't know that the comparison is quite there just yet.

The airport responsibility of security is not 100%. What we're talking about here is an evolution of aviation safety and taking it to a whole new level where people on the ground who are working at an airport have a system in place that they can trust, that they can provide information into that can improve the system. So we're also talking about an additional way of making the regulatory environment improve safety over and above where it is today, at a quite high level.

We're confident that the people who work on the front lines at airports have the ability to participate in that kind of system, to ensure that airports are safe, when the proper regulations and the proper environment exist. Comparing it to security at an airport today where the lines are at varying points, they're drawn very differently than they are in anything else, because an airport is not responsible for all measures of security. There are certain things that an airport authority can and cannot do for airport security, so it's a difficult leap to make.

So we would argue that while there are some improvements that need to be made, including to this bill—and we've outlined some very specific improvements in our detailed submission, which will be distributed later—the parallel to security is a little bit difficult to make at this time.

[Translation]

Mr. Mario Laframboise: You haven't answered my question.

Would you be in favour of putting in place a proper oversight system to ensure that safety management systems operate smoothly?

[English]

Mr. Jim Facette: Yes, we have a system in place to overlook security and make sure it operates today.

[Translation]

Mr. Mario Laframboise: I'll come back to you later, Mr. Facette.

My second question is for Mr. Gage.

I checked out your website and saw your presentation. Can we assume that the Canadian Business Aviation Association is a designated organization under this Act?

• (1610)

[English]

Mr. Rich Gage: Our organization is enabled under the existing legislation. This is not something that has been done in advance of some amendments to the Aeronautics Act. The existing legislation allowed us to enable what we're doing today. There are extensions of being able to clean up some of the activity that we would like to clean up with the new legislation, but there's nothing that we're doing in advance of legislation.

[Translation]

Mr. Mario Laframboise: Once the legislation is enacted, you will become a designated organization. Earlier, Mr. Facette said that you were a designated organization.

[English]

Mr. Rich Gage: There will be no change in our position. What I would say is that the term “designation” doesn't necessarily represent us correctly. I believe the term “regulated third party” is a more appropriate way of describing what we do and the linkage to our members and the linkage to Transport Canada.

In terms of the Aeronautics Act, the term “designation” is used, but it's not necessarily the way I would describe our structure.

[Translation]

Mr. Mario Laframboise: The fact remains that under the new act, it is quite likely that Transport Canada will view you as a designated organization, even if you think differently. If ever an organization should be considered a designated organization under the new act, surely it is your organization.

[English]

Mr. Rich Gage: We are a designated body today to do certain activities and manage and administer elements of the structure. If you're asking me would we do more, the simple answer to that is yes, we would do more, if there was an agreement both from Transport Canada and from the CBAA. So you need a giver and a receiver.

[Translation]

Mr. Mario Laframboise: As I understand it, you are already accepting some mandates? Is that correct?

[English]

Mr. Rich Gage: I do.

[Translation]

Mr. Mario Laframboise: Has Transport Canada audited your operating procedures?

[English]

Mr. Rich Gage: We work with Transport Canada on a daily basis at the staff level. We have had one audit from Transport Canada already and we are about to embark on a second audit—or “assessment” may be a better term, assessment from Transport Canada—that will assess the CBAA's entire structure in the way it manages and administers the private operator certification program.

[Translation]

Mr. Mario Laframboise: You have exercised certain powers since 2003. You say that you have only been audited once since 2003.

[English]

Mr. Rich Gage: That's correct. We have been issuing operative certificates for the past four years, initially under an exemption, and then more recently under the changes to the regulation.

The Chair: Thank you, Mr. Gage.

Mr. Atamanenko.

Mr. Alex Atamanenko (British Columbia Southern Interior, NDP): Thank you very much for taking the time to be here, gentlemen.

Bear with me; my first question is quite long, but I think it describes what might be happening. I'll ask Mr. Benson initially to respond and also get your comments.

We have seen how Air Canada Jazz mechanics have exposed dangerous practices that have put the lives of 80,000 Canadians at risk over the last five years due to near misses. The airline has allowed an average of one flight a week to take off, even with serious mechanical problems. We have also seen how four Air Canada Jazz mechanics were suspended last year for highlighting dangerous practices by the airline concerned, after their complaints to Transport Canada yielded no results.

At their last press conference, Canada's aviation inspectors released a Pollara survey indicating that two and three aviation inspectors believed that Transport Canada's SMS system supported by Bill C-6 will increase risk to the system, and 80% of Canada's most experienced inspectors say it will prevent them from correcting safety problems before they happen. They have also exposed the fact that a lack of whistle-blower protection in Bill C-6 will not provide protection to whistle-blowers from a punitive environment and will increase the safety deficit.

We're assuming the inspectors know their trade. What they said is common sense. By handing oversight exclusively to industry associations and airline companies and leaving the determination of appropriate risk levels in the hands of the airlines, inspectors will no longer be able to assess if what they see on paper is reflected in reality, on-site. As we have seen, workers will have even less protection if they blow the whistle.

Do you agree with what the inspectors are saying? If so, what would you propose as counterweights as part of a balanced approach to fix the problems? Mr. Benson, you mentioned you have other recommendations of what needs to be done. Gentlemen, please feel free to comment on this.

• (1615)

Mr. Phil Benson: Thank you.

I can't comment on the media reports, other than what is in the media reports. Obviously, we're always concerned when the safety of an operation is questioned, as our members fly those planes and deal with them, and of course we like to minimize it.

The major issue with the bill is the process by which the regulations are set. At the end of the day, if we have a process whereby the regulations are set because companies want it, we end up with a situation where they are self-regulating. There are a whole bunch of issues for which we would not have a concern. I agree if it's a silly regulation, something is green, not black, or not blue, it's irrelevant. But when it comes to affecting the health and safety of workers, when it comes to issues or the assumption that companies will always do what's best for everybody's safety, the reason we have prescriptive rules is that this has proven not to be the case.

In this case, prescriptive rules surrounding health and safety concerns of workers, safety in the workplace, and the safety of the travelling public, we have no confidence at all that a proper box is going to be built around these rules to ensure that the government and the transport department have the necessary oversight to ensure that indeed the travelling public is safe, and that our members are safe.

On the issue of the health of workers, the Arthurs report was quite clear about that. Currently, Transport Canada's goal in efficiency and economy, basically the corporate bottom line, means that the scales are not balanced. Under the Canada Labour Code, when it comes to workers and their needs, it is balanced. We have to look at what's good for the economy and the efficiency of corporations.

We're all for companies making money, but at the same time we have to balance both social concerns and the health and safety concerns contained in the code. We're not convinced at all under these particular proceedings or these particular processes. In fact, our experience has been exactly the opposite, that it has not been dealt with properly and adequately. If we roll forward, our concern for the travelling public and also for parliamentarians is we're not sure the minister is going to maintain the oversight they should. We do not have total confidence in the process and we take part in it every time we can.

Thank you.

Mr. Alex Atamanenko: Are there any other comments?

Mr. Jim Facette: Mr. Chairman, thank you.

I would just say, Mr. Chairman, to the committee member, that you should be careful about the use of the word "exclusively", because nowhere in the act does it say, in our reading of it, that the powers would be given exclusively to anyone. As we outlined earlier, there is still an opportunity for the minister to intervene at the appropriate time, and the proper mechanisms are in place to do so. So that doesn't go away. That is just as a point of clarity.

I'd also like to make it very clear that we have put forward a position that this is going to enhance safety. It will provide for the ability of people to make things safer.

We agree, and we outline it in detail in our presentation, that there are some issues, and changes need to be made, in the whole area of confidentiality and information so you can ensure that the information can be provided and that people on the front line can make things safer. But you should be careful to characterize in the debate that designated organizations cannot do things as safely or better than they are done today, because that's just, honestly, misrepresenting what is the intent of the act.

The Chair: Go ahead, please.

Mr. Sam Barone: Mr. Chairman, thank you.

I want to clarify for the committee that this is not a back-of-the-envelope approach we have here. Aviation SMS are well established throughout the world, and they're carefully designed to look at the realities of our industry in terms of how we do business.

Moreover, we are very proud of our safety record. Even according to Transport Canada's safety data, we're among the best in the world, and it's getting better. We're not asking for anyone's trust when it comes to safety. We actually welcome the scrutiny, Mr. Chairman. We are, as an industry, one of the most tightly and highly regulated industries in Canada and in the world, and when it comes to safety, rightly so. Bill C-6 simply introduces better discipline. It codifies and entrenches, actually, the concerns about punitive and non-punitive reporting, and we want that codified.

Moreover, for us as an industry, safety is not a cost, it's an investment. Right now, we are using SMS. What we're saying is that this bill codifies it in a cost-neutral way. It also codifies some other concerns that the honourable member has brought up, Mr. Chairman.

• (1620)

The Chair: We'll go to Mr. Gage, very briefly.

Mr. Rich Gage: I fully support ATAC's position, recognizing that our accident rate is flat. It's come down considerably over the last forty years, but nevertheless, it's flat, and the prescriptive concept we've been using is not improving on that. We need to find new ways of doing business in terms of managing safety, and SMS is one way to do that.

The Chair: Thank you.

Go ahead, Mr. Fast.

Mr. Ed Fast (Abbotsford, CPC): Thank you, Mr. Chair, and thank you to all of you for attending today.

I listened intently to Mr. Benson as he spoke to the bill. What pops out again, and this has popped out before at this committee, are the words "deregulation" and "self-regulation". I know that Transport Canada and the minister have gone to great pains to emphasize that this isn't self-regulation or deregulation. To me, self-regulation implies a wholesale abdication of responsibility and accountability on the minister's part.

I'm assuming that all of you have read the bill. I'm assuming that all of you have read, or at least fully understand, the contents of the Aeronautics Act and how the bill and that act work together now to improve safety in the air.

I'll just throw this out to you. Do you see this as being a bill that moves the industry to self-regulation, or do you see this more as a

new layer of safety being imposed upon an existing regulatory structure?

Mr. Rich Gage: I'll respond to that.

Essentially, that is correct. It is an additional layer. But I would also describe the relationship as a partnership relationship, a shared responsibility relationship with Transport Canada. This is a program that relies on several groups and parties to contribute to the program. Self-regulation is not what we do, by any stretch of the imagination. It is most certainly, though, a shared responsibility with Transport Canada, and we're quite comfortable with that.

The Chair: Go ahead, Mr. Barone.

Mr. Sam Barone: Mr. Chairman, there is no doubt in our minds, as an industry, that the oversight of Transport Canada, when it comes to safety, will continue, and it will be part of the system. Actually, if anything, we're asking for another layer of oversight to that end in terms of the objectives of the bill. Canada has always been, Mr. Chairman, a leader in terms of innovation in aviation, whether it's technology or regulatory frameworks and institutional arrangements, and this is an example of it.

Thank you.

The Chair: Go ahead, Mr. Jones.

Mr. Fred Jones: Thank you, Mr. Chairman.

I agree with the comments of Mr. Barone and Mr. Gage. The only thing I wanted to add was that this isn't evolution—it's a culture change.

Some of the skepticism that I hear about safety management systems from members of this committee was articulated by members of the aviation community eight or nine years ago when we first became engaged in the process. This has involved a considerable investment of resources for the aviation community. All certificate holders are investing in it. There is a considerable spin-up time required, not only for companies but also for their employees, but it does entail more responsibility, and it entails more liability for certificate holders.

The international community is moving in this direction; it's not just Canada. Canada has been a leader in this area. We found it necessary to move off the safety plateau we were on for years and improve it. It's taken some time for the aviation community to spin up to this concept, but we believe this is the way of doing it. Safety management systems are the next way of depressing our accident record even further.

• (1625)

Mr. Phil Benson: To be clear, there are lots of parts or portions of the SMS and SEMS systems that are not of grave concern. When I talk about deregulation and soft regulation, we're talking in part about the process. I'll give some examples, just to make it clear.

Why is it when a health and safety issue is raised by Teamsters Canada surrounding the new retinal pictures of eyes that are taken, it takes nine months to respond, and I'm still waiting for a letter? Why is it, when you're talking about hours of service and regulation of how people work—which is science dealt with in both air and rail—it is derailed because in the process the companies are not desirous of it? Why is it, when it's something dealing with a company, that it's dealt with immediately in front of this process?

We're talking about SMS and SEMS, so there's a whole bunch of stuff. Fine, but when we're talking about workers' health and safety concerns for workers, we'd like it to be balanced; in our experience, the process at this particular time is not balanced.

Being part of that process is what this legislation is going to empower. We're currently waiting for—I can go on—

Mr. Ed Fast: Mr. Benson, my time is really short. I have probably only a minute left.

I'm not disputing what you're saying. The problem is that Bill C-6 is not addressing occupational health and safety; it is addressing air safety.

I'm getting back to the focus here. Some of your brothers were here at the table earlier, two other unions, and it appeared that they were the only ones who were really opposed to Bill C-6. We've had a raft of witnesses, many of whom have as their sole focus the safety of air travel, and they're all supportive of this bill, subject to some minor amendments that we've heard here as well. The government, I believe, has indicated we're willing to continue dialogue on that.

When we're talking about your organization and the other two unions that were before us, clearly there is an issue of individuals fearing they might lose their jobs because of this, because of what you referred to as self-regulation. It certainly came out from the other witnesses.

Mr. Phil Benson: That's not the issue. I'm not raising that; what I'm raising is simply that fatigue is a safety issue, fatigue is a security issue, but fatigue is not just another safety and security issue to be managed by a management process.

There is biology; there is science. There are diktats that say there are rules that cannot be broken. Within those rules, you can set things like hours of service and how people work—so, yes, it is a safety and security issue.

When people are fatigued, if they're sick, if they're ill, it is a safety and security issue. When one of our members is lying on the floor, hurt, on a plane, the question going through from the pilots, because of the 9/11 rules, is whether they should go back to help her or not. The Canada Labour Code says if you get hurt on the job, you're supposed to be able to get aid. Under the security rules, the question becomes whether there is any potential damage to the plane.

Well, this is part of the process we're talking about that creates these rules. There is need for not having a wide-open box. We say prescriptive rules—and as you know, Teamsters Canada is not obstructive at these meetings. We're quite open to changes that make sense to our employers so that they can be more efficient and create more work, but there are lines to be drawn, and this bill doesn't take it into account.

The Chair: Mr. Pacetti.

Mr. Massimo Pacetti (Saint-Léonard—Saint-Michel, Lib.): Thank you to the witnesses.

I'm a new member here, just filling in.

Mr. Facette, your organization oversees the airports—is that correct?

Mr. Jim Facette: Yes. The Canadian Airports Council represents 45 airports in Canada, including Canada's eight largest airports. We have a board of directors of 14.

Mr. Massimo Pacetti: So how does this bill affect you? The bill is mainly about safety, and you are in charge of security, are you not?

Mr. Jim Facette: We practise both safety and security at airports. I gave the example of an incident in the taxi area of the runway where perhaps the lighting or the markings need to be changed a bit, and both the pilot and the people on the ground, the airport authority personnel, see that some changes are necessary. That takes some time, so when the airplane touches down at the airport, the airport authority assumes responsibility for the safety of that aircraft and the people inside it, to make sure they bridge properly and people get off the airplane in a safe way.

Security is certainly another part of all that, but the Aeronautics Act and what we're talking about primarily is safety.

● (1630)

Mr. Massimo Pacetti: What happens in your relationship with the airlines? Does the airline not take care of making sure its aircraft are safe?

Mr. Jim Facette: You have to separate the aircraft from the aerodrome, if you will. They are two very separate entities. So the airlines are responsible for the safety and maintenance of their aircraft, but the aerodrome, the facility itself, is where the airport authority takes responsibility.

Mr. Massimo Pacetti: And those are safety issues.

Mr. Jim Facette: Yes.

Mr. Massimo Pacetti: Thank you.

Mr. Barone, in your presentation you spoke about putting safety data in the hands of Transport Canada, and you weren't too happy about that—the fact that there was some confidentiality. Was it just because you didn't want it to be in e-mail, or is there a problem there?

Mr. Sam Barone: We have a concern about our safety data being transmitted by e-mail, and to that end we welcome additional on-site inspection. On commercial propriety and the data being transmitted, we have concerns that some of that data should be used for safety purposes only, and not for any other purpose in public use.

Mr. Massimo Pacetti: Where does that information presently go?

Mr. Sam Barone: It goes to Transport Canada.

Mr. Massimo Pacetti: So what's the issue there? Where else would it go?

Mr. Sam Barone: We want it to be consistent with other regulatory frameworks with respect to access to information. Sometimes when there is an incident, if it gets released publicly right away without it having any—We cannot promote a psychology of fear in our business. It's not very appropriate, and many times it may be just a small incident that should be investigated, but it should be within—

Mr. Massimo Pacetti: Getting back to the other question, if you don't want to interact via e-mail, what do you suggest—old-fashioned letters? It's still a hard copy.

Mr. Sam Barone: Inspectors would have access to the data as well as other transmission techniques, but we just aren't confident transmitting our data on safety audits and other sensitive information by e-mail.

Les, do you want to elaborate on that and give some specifics?

Mr. Les T. Aalders: We are encouraging that inspectors come to the air carriers to look at all of the data together, not one snippet of the information in isolation, to review the databases at the air carriers and go through them with the people.

Mr. Massimo Pacetti: That's not specifically addressed in the bill.

Mr. Les T. Aalders: No. That's one of the changes we will be proposing.

Mr. Massimo Pacetti: Thank you.

Mauril.

Hon. Mauril Bélanger: What is a low-risk non-air-transport area of the aviation industry? Who is in that category here?

Mr. Fred Jones: As a starting point for a designated organization, you would need to have a segment of the aviation community that has demonstrated a certain maturity and an outstanding safety record under the existing regulatory regime. They have to be mature enough to incorporate the infrastructure that would allow them to do the oversight of the community for which they have stewardship, or the extra layer of oversight.

In our minds, those are some of the conditions that would exist—and naturally a mature SMS system—before you could consider—

Hon. Mauril Bélanger: We're not talking about SMS here; we're talking about low risk. A lot of people have talked about low-risk, non-air-transport areas of the aviation industry.

Mr. Fred Jones: Low risk, non-air-transport.

Hon. Mauril Bélanger: Yes. I'd like to know what that is.

Mr. Fred Jones: I'm sorry, I can't help you there, sir.

Hon. Mauril Bélanger: Mr. Gage, would you—?

•(1635)

Mr. Rich Gage: I'm not sure what you're referring to. Anything in aviation has risk.

Hon. Mauril Bélanger: I'm referring to testimony we had in our committee by the Airline Pilots Association International, and I'm quoting:

We have been advised by Transport Canada officials that this provision is meant to address only low-risk, non-air-transport areas of the aviation industry. We recommend that the committee obtain, for the record, such an undertaking from the minister.

I've been trying to understand what was meant that, so I'm looking for help.

Mr. Rich Gage: I'll do my best to put my spin on something that is not completely clear with what was requested here.

I think it's along the line that Mr. Jones had suggested, areas of the industry that perhaps are not directly in the public domain, that can be defined well. The business aviation community might be one such example of that that's easy to define; there's no significant pressures on the profit motive, in terms of the operation. So they're talking about an organization and trying to define an organization and making those organizations being a potential target for some form of —

Hon. Mauril Bélanger: Would airports be in that category?

Mr. Rich Gage: I'll give you my personal opinion. It's only a personal opinion.

[Translation]

The Chair: Mr. Carrier.

Mr. Robert Carrier (Alfred-Pellan, BQ): Mr. Barone, you suggested some amendments during the course of your presentation. Would it be possible to have copies of your speaking notes in both official languages so that we can read your proposals?

Mr. Sam Barone: Certainly, Mr. Chairman. The French copy will be available tomorrow.

Mr. Robert Carrier: And a copy will be made available to the Clerk?

Mr. Sam Barone: Yes.

Mr. Robert Carrier: Thank you.

Earlier, you admitted to having to add another level of security to your system. In your opinion, should inspections by federal pilots continue or would it be preferable to simply audit safety management systems?

[English]

Mr. Fred Jones: Mr. Chairman, I'd be happy to start.

Naturally, there would be some shift, it would seem, to airports, from auditing the minutiae of a certificate holder's operation to auditing the safety management system, because now you've imposed an additional level of oversight on the certificate holder, as far as safety is concerned. That wouldn't prevent the minister from taking a closer look if there was something wrong with the system, where there was reason to be concerned about the way the system was functioning, but I think it would be natural, it would seem to us, that inspectors would focus more on the system inside a certificate holder rather than auditing the minutiae of an organization. Auditing the minutiae, make no mistake, it might be very good at spot-checking, but there is simply not the ability of the inspectorate community to audit all of the detail of an operation. All they can do is spot-check.

[Translation]

Mr. Robert Carrier: Would you agree that there would then be a link between government aircraft inspection oversight and the system that would be put in place? We're talking about relying fully on the system. Our inspectors would therefore not be able to vouch for the soundness of the aircraft.

Are you in favour of this approach, Mr. Barone?

[English]

Mr. Sam Barone: I think we have always committed to audits and will continue to commit to audits through this safety management system. It gives a very disciplined, accountable framework under which safety issues have to be addressed, and they can't be altered. This is something we totally agree with. And as I said earlier in my remarks, it codifies the process. In your terminology of audit and inspections of our carriers, that does not change any aspect of it with SMS; this simply makes it more formalized through legislation, as opposed to actually voluntary.

[Translation]

Mr. Robert Carrier: Mr. Gage, an important component of this bill relates to designated organizations. Your organization is one such example. Since 2003, you have been awarding licenses to air carriers and conducting safety inspections. Therefore, you've been doing this work for four years.

How often do government inspectors actually carry out inspections of your own aircraft or check you operations? Once a year? Twice a year?

•(1640)

[English]

Mr. Rich Gage: It's a completely different culture from what prescriptive arrangements or organizations would be. First of all, it's not an airline, it's a business aviation community. It's the people who own and operate their own aircraft, principally. This is non-commercial.

We have a system that says every operator must have a safety management system. Those operators are audited on a maximum three-year cycle. The cycle is between one to three years, and the audits are done through other organizations. They're not done directly by the CBAA.

The CBAA is the management and administrative entity. We interrelate with the operator. We also interrelate with Transport Canada, which is the regulatory authority. We're providing a service on behalf of Transport Canada, but we're not working outside of that regulatory structure. The oversight is from Transport Canada to the CBAA, and from the CBAA to the operator.

[Translation]

Mr. Robert Carrier: Nevertheless, on your website, you claim that you issue licenses related to safety.

Despite the fact that you have taken on this responsibility, have Transport Canada inspectors monitored your work in some way over the past four years?

[English]

Mr. Rich Gage: Transport Canada has oversight and does inspections on airworthiness-related issues and maintenance-related issues. In terms of operational issues—what we're responsible for—we hold that oversight capability.

Each one of these operators has an SMS and has an audit. This is the only country in the world that does this for the business aviation

community. No other country has such oversight. No other country is using SMS in our community.

The Chair: Mr. Watson.

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

My thanks to the witnesses for appearing.

Boy, listening to the New Democrat member earlier, I almost thought planes were falling out of the sky and the inspectors were getting pink slips.

Bill C-6 is not inventing SMS. I think we can establish that here. It has already been in play or in practice or in development. The bill is codifying it, and I think that allows us to probably assess a few things here.

We keep hearing a number of things. There's almost the suggestion that somehow regulations are going to disappear with SMS. Since we can test that hypothesis against some reality here, have any Transport Canada regulations disappeared yet? Do you know of any that have disappeared?

Mr. Sam Barone: Mr. Chairman, one of the concerns I have comes when I hear the word “deregulation”. Deregulation of our industry came primarily in terms of exit and entry, in terms of the economic regulation of the airline industry, if you will. That happened in 1986. However, to say that safety has been deregulated is very misleading. If anything, this is yet another enhancement of the regulatory framework affecting aviation safety in this country.

We have not seen any changes in terms of oversight or responsibility from Transport Canada. It is a continuous relationship, and as I stated earlier, Mr. Chairman, as the Canadian aviation industry, we are very proud of our record here in Canada.

Mr. Jeff Watson: In fact, Transport Canada has more regulations. Is there some fairness to that?

Mr. Sam Barone: I would say that's a very fair comment, Mr. Chairman.

Mr. Jeff Watson: Mr. Benson, I'm going to raise the issue, since you said SMS may lead to deregulation or self-regulation. “May” is a pretty squishy word, and I want to invite you to clarify it. Will it or won't it?

Mr. Phil Benson: Based upon the process I deal with, it's not a question of what's removed; it's what's not added. “Constantly” means this prescriptive notion comes up. That's not part of smart regulations, and it's not part of the new way we're going. For us, looking purely at worker health, safety, and security issues, it's very important that there be rules in place. It's not a matter of leaving it to a company and a bottom line. There are a whole bunch of issues on this, which, again, for the promotion of economy and efficiency in the market place, are fine. There are other areas in which there's an intersection of other laws and policies from the government, which have to be taken into account. Unfortunately, under this framework they will not be taken into account. At least that's our concern.

As far as the deregulation goes, one has to sit at all the meetings and listen. The answer I get back or the feeling I have is that that's precisely what we're going to run into.

•(1645)

Mr. Jeff Watson: All right.

Earlier questioning by Monsieur Laframboise with respect to this balance between SMS and inspections almost left the impression, at least in terms of the questioning, that the current situation is somehow unbalanced. SMS is already in play. Is the situation currently unbalanced? Is SMS somehow hurting inspections? Is it lessening inspections? Is there an imbalance that exists? Are there fewer inspectors than there were four years ago, for example?

Does anybody want to comment on that?

Mr. Les T. Aalders: I will if I can, Mr. Chairman.

No, there are no fewer inspections or inspectors in place at this time. The same amount of oversight is taking place. In some ways, the oversight has actually increased. Especially as we are implementing SMS in these early days, there's a lot for us to still work on very closely with Transport Canada.

Mr. Jeff Watson: Quickly just coming back to Mr. Benson, you seem to almost suggest that SMS is going to replace regulations. Just walk me through this a bit here. If an accident occurs, the NTSB—let's take fatigue, for example, which you raised—may look backward at an accident and say fatigue was a contributing factor in this one, and it could then suggest regulatory change. Can SMS not look at trends going forward, for example, at an issue like fatigue, and inform necessary change before an accident happens?

Anybody else who'd like to can comment on that?

Mr. Phil Benson: At Teamsters Canada, because of our role across various sectors as well as North America-wide, I think we have a serious understanding of sleep science and biological needs. If that's true, then the best model we can have to deal with fatigue is prescriptive rules coupled with a fatigue management system. Sleep science and what is required for prescriptive rules are quite definitive. If one looks at the new hours of service for trucking, you see a glimmer of it. So the issue becomes that we're locked in a process that says we can't have prescriptive rules and that we can just take care of it through fatigue management. The answer is that you can't.

We're locked in a process in which we were talking about it, and it was pulled off the table. We know through our understanding of sleep science—because of our involvement in the trucking and rail industry and aviation and elsewhere—that there are concerns. We have concerns about a process that doesn't deal adequately with health and safety concerns of our members. We have a concern with a process that always talks about not having prescriptive rules and having to have this new system. That's the process. That's not the legislation; it's a process.

So as long as I see the process, members of Parliament should be aware that codifying a process that doesn't deal with these things going forward causes us concern. And the fact that these issues are health and safety concerns leads to effective deregulation. It leads to all sorts of things that we don't think you, as legislators, want to go to. At least we would hope not.

The Chair: Mr. Facette.

Mr. Jim Facette: Thank you, Mr. Chairman.

The whole point of updating and modernizing Canada's Aeronautics Act and including designated organizations and SMS is exactly as Mr. Watson pointed out, Mr. Chair. It's to look forward, to take mitigating action, to think ahead and not have to have these incidents caused by whatever they are caused by, and to allow the people who work every day on the front line to take the necessary actions they can right now and solve the problems, rather than having to start a process today that takes weeks or months on end.

The Chair: Mr. Gage.

Mr. Rich Gage: Thank you.

Your SMS in fact will consider fatigue management, it will be forward-looking, and it can be customized to the circumstances you're dealing with. That's one of the reasons why prescription does not work. Just because you say you'll take 12 hours of rest does not necessarily mean you've gotten appropriate rest. Fatigue management is part of SMS and should be used.

•(1650)

The Chair: Mr. Zed.

Mr. Paul Zed (Saint John, Lib.): Thank you, Mr. Chairman.

I had a question for Mr. Benson regarding the voluntary legislative framework in regard to the contraventions that were related to aviation safety or security. Persons who report such information are provided with confidentiality programs, protections, and presumably enforcement immunities.

My question specifically is whether you think the voluntary provisions in the bill are adequate against self-incrimination. Do you think the internal reporting mechanisms could fail for other reasons, such as an employer's discouraging an employee from reporting security concerns?

Mr. Phil Benson: Again, as we said in our brief, this is something one would expect in the best practices of a company that has as its intention to make sure that all safety and security are in place. We have it in the legislation, obviously, because there are concerns that's not going to occur. We do know, or it has been reported to me, that in other issues on health and safety the companies have been, shall we say, rather forceful in trying to dissuade people from making reports.

Will it happen here? I certainly hope not. Is it satisfactory? The fact that it's here and the questions we ask about how it's going to impact should raise some red flags—not enough, as we said at the end of our submission, to necessarily kill it, but to examine it. If you have questions in your brain, then why are we pushing forward with it in this particular structure?

Mr. Paul Zed: Could I request, for the committee's consideration, that if you have some red flags you might propose some amendment or alternative that you might want us to consider? We may not consider it, but it's our job to evaluate it.

Mr. Phil Benson: I'll certainly discuss it with the airline division.

As a general rule, your capability as a committee, as with the justice department, has a clear understanding of writing or drafting statutory proceedings. If you have a question or query, perhaps the justice department lawyers and Transport Canada lawyers will have the time to do so. But certainly we will look at it.

The Chair: Mr. Facette, would you like to offer a comment?

Mr. Paul Zed: Mr. Jones would like to comment on this area.

Mr. Fred Jones: These are addressed in our more detailed written submissions, but the protection that currently exists in Bill C-6 does not extend to proceedings under other acts or access by the courts to the voluntary reports, and there are certain areas where the minister may release the information that may be contained in voluntary reports.

We're concerned that these voluntary and non-punitive reports are at the very heart of the safety management system. They tap safety information that we've been unable to access through any other mechanism historically. The first time this information leaks—who made the voluntary report, what the contents of the report are—or the voluntary reporter is subpoenaed as a witness in the civil courts or for proceedings under another act, then we are concerned that some of the those voluntary reports will dry up and we will lose access to that safety information.

So we don't think the protection that exists in Bill C-6 is adequate currently.

Hon. Mauril Bélanger: I want to quote another testimony, this one by the Aerospace Industries Association of Canada.

The provisions outlined in Bill C-6, in particular those that relate to designated organizations and safety management systems, will help pave the way toward the aerospace industry assuming greater responsibility for regulating its own behaviour in areas of the law that are widely seen and accepted as low risk.

There are a few more things in that paragraph, but this is just to add to Mr. Facette's comment from a while ago. When anyone says "regulating its own behaviour", I suspect that could be interpreted as self-regulation. We'll see that as we go along.

I want to go back to low risk, that airports are low risk. When the Vancouver airport posted on the Internet its detailed plans, and you immediately had to yank them for fear that anybody who would want to have information to sabotage that airport would have ready access to those detailed plans, would that be considered low risk?

• (1655)

Mr. Jim Facette: Mr. Chair, Vancouver's behaviour is best asked of Vancouver.

Hon. Mauril Bélanger: Are they a member of your association, Mr. Facette?

Mr. Jim Facette: They are, sir.

Hon. Mauril Bélanger: But you can't speak for them.

Mr. Jim Facette: That particular question is best addressed to Vancouver directly.

Hon. Mauril Bélanger: I may well do that.

The Chair: Mr. Jones.

Mr. Fred Jones: If I may, Mr. Chairman, the phrase "self-regulation" is—

Hon. Mauril Bélanger: That's not my area of questioning. I just wanted to put that on the table. I'm on to "low-risk". I'm trying to get a sense of what that is.

Perhaps I can go the other way around with the time remaining. What's "high-risk" or "medium-risk"? What are the categories? Can someone help me with that?

Mr. Phil Benson: Just to address it, this just comes to my mind, but I'm not sure it will help you. The whole idea of risk management assessment is basically how you feel about something. Is it high-risk? Is it low-risk? What are the percentages? What do you think is going to happen? Invariably, a company wants it, it's not that risky, and we can do it. I'm joking. There are times when they do not, but rarely.

When they say "low-risk", I have a strange feeling that maybe what they're talking about is under that process. At least that's been the case the times I've heard it. It's a feeling, not a number.

Hon. Mauril Bélanger: Mr. Benson, with all due respect, the thing is that we are asked to look at legislation. We're told by officials and by people who have spoken with officials that designated organizations would only be meant for "low-risk". That's nowhere in the current written bill, so I'm trying to determine the intent of those who crafted this, because it becomes my intent as a legislator once it's the law.

This is certainly not my intent now, so I'm trying to understand it. I'm asking people whose livelihood is in the industry to help me understand what is meant by "low-risk", or conversely by "high-risk" if we can't define "low-risk".

Mr. Phil Benson: You're going to find a very difficult time getting an answer to that question.

Hon. Mauril Bélanger: Gentlemen, if you wish to offer responses beyond today, I'm very much open to them.

The Chair: Mr. Gage.

Mr. Rich Gage: It's a terminology that other people have introduced. It's not a terminology that we would necessarily use for designated organizations in terms of what was high-risk or low-risk. But risk is determined through some form of assessment, and there are some probability issues here as well.

The organization is required to do some form of a risk assessment. There's a matrix or way of doing that. Where they determine that there is high risk, risk, or moderate risk, then there needs to be a means of being able to mitigate that risk in some form of a set of procedures or documents.

So the term they're using in the context that they're talking about really doesn't necessarily make a lot of sense, certainly not to me.

The Chair: Mr. Jean.

Mr. Brian Jean (Fort McMurray—Athabasca, CPC): Mr. Chair, I just want to make a point. I don't really have any questions.

We did hear evidence that "low-risk", in the context, was in relation to airlines that had a given track record. We heard examples of Air Canada and WestJet, which had a track record of no accidents and great responses to government investigations, etc. High-risk ones were actually new airlines that had just started up, with people who don't have a long track record or history of being able to provide safety as their paramount concern. That was my understanding of what "low-risk" and "high-risk" were in the context that we heard from, I believe, the transportation department.

Anyway, I have no questions.

The Chair: Mr. Barone.

Mr. Sam Barone: Mr. Chairman, I have a concern with this line of crossing over, in terms of relating to the statement by the honourable member Mr. Bélanger, with respect to a quote that came from the Aerospace Industries Association, which represents aircraft manufacturers. I'm now hearing the statement with respect to airline safety.

As far as we're concerned, this bill codifies a risk management approach in terms of safety, and our record speaks for itself. I would caution about mixing a quote from an aerospace manufacturing association executive with what the airline industry's record represents today.

The Chair: Monsieur Laframboise.

[*Translation*]

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

I'm always a little concerned about how SMS programs are monitored. By the way, I want my colleagues to understand that I am in favour of such systems. The problem lies in how to improve oversight.

Mr. Gage, you stated in your presentation that SMS programs would eliminate bureaucracy and reduce costs. That worries me because Transport Canada did the very same thing. It cut costs. Consider Mr. Watson's graph. Since 2004, Transport Canada has reduced staff levels and the number of inspectors. If we follow the curve, we see that the number of inspectors increased after September 2001, but is now dropping.

Earlier, Mr. Barone said that the number of inspectors on staff had remained steady. You may think that's true, but in reality, there are fewer of them on the job right now. Transport Canada's goal is to reduce the numbers further. Our job is to ensure that your operations are closely monitored.

Earlier, Mr. Gage, you didn't answer my colleague's question. He wanted to know how often members of your association were subject to an inspection. You told me that your organization had been inspected once, but that another inspection was scheduled to take place soon, within the coming days or months. You told me that you were scheduled to undergo a real inspection.

A voice: An evaluation.

Mr. Mario Laframboise: An evaluation, an audit. That worries me, because evaluations were supposed to be done more often, at shorter intervals. You issue operating licenses to pilots. That's cause for concern, Mr. Gage. I want you and my colleagues to clearly understand what I'm saying. The department is buying tanks, aircraft and helicopters and cutting inspection budgets for civil aviation. I have a problem with that.

● (1700)

[*English*]

Mr. Rich Gage: First of all, Mr. Chairman, I think we're mixing some of our responsibility with Transport Canada's responsibility. Airworthiness is solely the responsibility of Transport Canada. We're not issuing any airworthiness certificates at all.

Our role is purely on the operational side. We provide operational certificates. Operators operate the aircraft within the bounds of the operating parameters. It's nothing to do with airworthiness, nothing to do with maintenance, and nothing to do with other parts of the Transport Canada regulatory structure and Transport Canada's oversight. Our role is limited to that.

I would suggest that two assessments over a four-year period are reasonable for Transport Canada to consider what we're doing and how we're doing it. This is new ground for everybody. This is a cultural change we've embarked on.

In addition to the more informal inspections, there has been routine communication with officials at Transport Canada, at both the staff level and at the president and CEO's level. In my view, there is more than adequate oversight on what we're doing, both from a formal and an informal perspective.

But in terms of the airworthiness activity, that is not our responsibility whatsoever. That is purely a Transport Canada function. They will continue to provide that function the same way they did before.

My response, though, to the efficiency issue is that there are two pieces of red tape here. There's the government element, which I'm not going to respond to; someone else can. But in terms of us delivering service to the members, there's certainly an improvement over what it was when government provided that service. In terms of service to the membership and service to the operator, there are efficiencies.

The Chair: Mr. Barone.

Mr. Sam Barone: Mr. Chairman, in our view, audits will not disappear from this process. Moreover, in addition to the audits, this legislation not only codifies and entrenches the discipline and puts together a framework; the bill insists on airlines and companies under the purview of this bill having an accountable executive that will be personally responsible for ensuring the integrity of this process.

[*Translation*]

Mr. Mario Laframboise: That doesn't reassure me in the least, Mr. Barone. In other countries, many board members who were responsible have been prosecuted and jailed. My concern is for the safety of the public. The only way to ensure that the public is safe is by having an adequate inspection service to provide oversight. Personally, I have a problem with your replacing inspectors with company chairmen.

Mr. Benson.

● (1705)

[*English*]

Mr. Phil Benson: Thank you, Mr. Laframboise. I think it's an excellent comment.

My friend just stated that there are executives and boards of directors, and their presentation made it clear that part of the reason we have some of these prescriptive rules, whether there are too many in here or not, and the reason we have a box around almost everything that happens is this. At the end of the day, it's not a CEO, it's none of my friends—and they are all colleagues here from the various associations I deal with on a regular level—it's the minister, it's you, it's this House of Commons. We're not convinced there's enough box or enough envelope around this particular process and structure that they put forward so that this is in fact going to happen. We have concerns as well. Perhaps they'll be able to address them or deal with them, perhaps not, but that's the question we raised. It's the simple concern, at the end of the day, that our members have a right to travel safely—they're the ones who would get hurt initially—that the public has a right to travel safely, that we have a right to security. The people of Canada have to know that it's not associations or the head of a company, it's the government, it's the transport department, it's the minister. It's the way our Parliament works. We're not totally confident that this bill will in fact ensure that this continues.

Our further concern is that the goal is to roll out the SMS and SEMS systems throughout all the transportation industry. Rail—we know some of the problems there. In some ways, my message to members of Parliament is that we're not opposed to this going forward with the correct box around it, but it's the importance of getting it right, because if this is rolled out wrongly, it might roll out wrongly for a whole bunch of the transportation industry. Therefore, it might be worthy of the members to take a bit more time with the bill to really ensure that it is going to do it properly, sufficiently, to address your concerns.

Thank you for the question. I think that was very helpful.

The Chair: Mr. Facette.

Mr. Jim Facette: Thank you, Mr. Chairman.

Mr. Chairman, nowhere in my reading of the amendments, because they are not exact, did I read that we're reducing inspectors and that we're replacing inspectors with CEOs. Let's be clear, that's not at all written in the act. What we're trying to achieve here is modernizing the bible of aviation in this country through proven systems that enhance safety. It is in no one's interest, not of those people who we collectively represent at this table, to diminish safety in any way—absolutely not. So the idea that we're going to replace people and then we're going to possibly get away from the safe system that we have today is just not on, it's not there.

The Chair: Mr. Barone.

Mr. Sam Barone: Mr. Chairman, to reiterate the points that we made in our submission today, we are asking for additional inspections and an additional layer of oversight on site at the premises of airlines. Those additional inspections are combined with the legislative requirement that there be an accountable executive within the company. So we're actually marrying responsibility at the carrier level with the oversight of inspectors being on site. We're actually asking for additional oversight.

Moreover, to reiterate about public safety, not only for our airline employees, but also for our passengers, those two aspects are the most important thing we do every day, and we have a record that backs that up.

The Chair: Monsieur Bélanger.

[*Translation*]

Hon. Mauril Bélanger: ...Mr. Chairman.

The Chair: Mr. Carrier.

Mr. Robert Carrier: On a point of order, Mr. Chairman. Earlier, in response to my question about the number of inspectors on staff, Mr. Jones, who is here with Mr. Facette, answered that more inspectors would be assigned to the task of auditing SMS systems, but not to aircraft inspection duties. Mr. Facette indicated that the number of inspectors assigned to the second task would be the same. It's not clear to me, because earlier, I was told that Transport Canada will focus more on auditing SMS systems, and conduct fewer aircraft inspections.

I'd like some clarification, because Mr. Facette just said that in his mind, it was clear that the number of inspectors on staff would not change. This is an important point, because it validates the safety management system.

[*English*]

The Chair: That is not considered to be a point of order. What I'm going to do is go around the table one more time, Mr. Carrier, and I'll give you the opportunity to ask that question.

Mr. Bélanger.

• (1710)

Hon. Mauril Bélanger: I want to pick up on Mr. Benson's last answer to Monsieur Laframboise.

I'm sorry that I don't have in front of me your testimony, and I look forward to reading all of your testimony. I'm not sure you've addressed it in any specific—You're talking about this box representing the necessity for safety and security, which I don't think anybody disagrees with. Your concern is that this box is not well built, as presented in Bill C-6, yet I think it would be useful if your apprehensions were a little more precise in terms of exactly where you would like to strengthen that box. Unless we have that, then we'll just be left with a vague sense of where you want us to go.

Mr. Phil Benson: The regulatory process that creates the regulations, from which this will derive, can be less than satisfactory, although not always. In short, issues that we might consider to be very important get short-shrifted. These are things that we regard as very important. Other issues that companies and corporations may wish, because they will save money, get steam-rolled through.

The process is such that when you make the rules, this is what's going to be audited, what's going to happen. So without that confidence in the process, we're not happy with it.

Hon. Mauril Bélanger: My experience in law-making, if you will, is that you can circumscribe in the law—

Mr. Phil Benson: Yes.

Hon. Mauril Bélanger: —where the regulation can and cannot go.

Mr. Phil Benson: Yes.

Hon. Mauril Bélanger: In that sense, your specifics might be very useful in introducing amendments to the bill that is before us.

Mr. Phil Benson: Certainly on labour standards, etc., I will get back to you and the committee.

Hon. Mauril Bélanger: Thank you.

The Chair: Monsieur Carrier. And I'm sure we know what the question is, but we'll let you put it again.

[Translation]

Mr. Robert Carrier: We're trying to gauge the value of the SMS. Several of the witnesses are telling us that safety will be enhanced. Earlier, however, in response to my question, Mr. Jones from the Canadian Airports Council stated that inspectors were instead going to be focusing on safety systems audits rather than on aircraft inspections. Mr. Facette has just stated the opposite. As far as he is concerned, inspectors will continue to do what they've always done.

Therefore, I'd like to hear the Council's opinion on this matter. Should the inspections continue to take place—I would be reassured if businesses self regulated—or should we put our trust in the system which, theoretically should be sound?

[English]

Mr. Jim Facette: Mr. Chairman, there's no question that the role of the regulator in an SMS environment is going to change a bit and probably grow to become more of an audit function. But I don't recall in my remarks ever saying that there would be anything contradictory to what we've said here, that there would be less or more of anything according to numbers. There's no inconsistency at all.

My colleague is quite correct, in that the role will change in an SMS environment, but I don't believe that the act goes to how many inspectors are going to be used for anything.

The Chair: Could I add that probably this should be a question that we ask the department directly?

[Translation]

Mr. Robert Carrier: Fine then.

[English]

The Chair: Mr. Atamanenko, do you have a follow-up question?

Mr. Alex Atamanenko: Yes.

Before I start, too bad he's gone, but my honourable colleague Jeff kind of made light of my last question, and I'd like to say that this is safety—serious business. And we're not in question period. All of our questions are valid.

Ed mentioned self-regulation, and I'd like to pursue this with Mr. Gage.

Your association is a leader in SMS. You're blazing new trails in aviation. You've been working with Transport Canada for some time, studying a new approach. According to information posted on your website, you've been working with Transport Canada on this since before the year 2000.

There's a very interesting report on your website, co-sponsored by you and Transport Canada. It's called "Self-Regulation of Business Aviation in Canada: Analysis of the Feasibility of Adopting a Self-Regulation Model for Business Aviation in Canada". It would seem

to be the launch point for your association to assume responsibility for licensing and safety oversight.

Would you characterize business aviation in Canada as being self-regulated? Also, would you say that the SMS system approach was one of the foundations at the start of business aviation self-regulation?

• (1715)

Mr. Rich Gage: Thank you.

The study was initiated in 1998-99. It was a feasibility study. The terminology "self-regulation" was used for a period of time, but as a result of that feasibility study, and then a second-phase study, it was quite clear that it was not the terminology we should be using, nor was it the process toward which we were working. We were certainly working toward an administrative and management responsibility, but it certainly wasn't self-regulation. Some two or three years after that feasibility study was initiated, we in fact changed the terminology and have not used "self-regulation" for at least five or six years.

The safety management system is the foundation of the concept by which we help manage our community. It's a system that emerged as a result of the work we were doing through the feasibility study. It was something that James Reason and others have academically put together. I would suggest that our work is probably one of the forerunners of actually implementing a safety management system. There's a lot of academic material out there, but we have some first-hand experience with that.

As with any other management process, it continues to be a work in progress. To this point, we would be complimentary of the system but recognizing that it is cultural change and recognizing that there's a fairly substantial amount of training that is required. In fact, one of our new initiatives is to conduct training such that our community is better trained, more knowledgeable about SMS, and therefore more capable of actually using it to its full extent.

Mr. Alex Atamanenko: Thank you, Mr. Gage.

The Chair: Mr. Fast, a final question.

Mr. Ed Fast: Thank you, Mr. Chair.

I want to address the issue of the number of inspectors. There was a suggestion at a previous meeting of this committee that the number of inspectors had gone down. One witness, I believe, suggested that. I believe we asked that witness to table information supporting that. Mr. Laframboise just a few minutes ago suggested the same thing. I would ask him to table evidence to that effect as well.

It's my understanding that the number of inspectors in 2002 was 862, and it went up to 873 in 2006-07. So I'd like to see some clear evidence that despite the fact that SMS has been actually implemented in the airlines, in fact the number of inspections has gone down, regulation has gone down, and somehow the whole system is at risk.

Are any of you aware that the number of inspections or the number of inspectors has actually gone down since you've implemented SMS? None of you?

The Chair: Monsieur Laframboise, on a point of order.

[*Translation*]

Mr. Mario Laframboise: I'd just like to inform my colleague Mr. Fast that federal inspectors tabled a document at the last meeting which lists the number of inspectors and pilot inspectors, that is federal pilots, and reports on the staff cuts that have taken place. Everyone received that information, Mr. Chairman.

[*English*]

The Chair: Monsieur Bélanger.

Hon. Mauril Bélanger: To the point of order, Mr. Chairman, we have requested at a previous meeting the full, exact numbers and statistics from Transport Canada going back a few years, so that we can all speak from the same numbers—hopefully, accurate numbers.

Mr. Ed Fast: We'll have Transport Canada back as well.

The Chair: I just want to advise everybody that we have asked Transport Canada for those numbers.

Further, to the committee, as was requested by Mr. Bélanger, this SMS report will be here tomorrow. It's being translated. I have asked that we get the information from Transport Canada for Wednesday's meeting.

With that, I would like to thank our guests for their contributions today. Hopefully you have contributed to making better legislation.

The meeting is adjourned.

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