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—
Chair

Mr. Leon Benoit

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• (0905)

[English]

The Chair (Mr. Leon Benoit (Vegreville—Wainwright, CPC)): Welcome, everyone. It's good to be back here.

I'm a little leery of giving up my chair to the Liberal vice-chair, because since I've been back, he's found this beautiful room for us in Centre Block.

Thank you very much for filling in when I was gone. I appreciate that.

Today, pursuant to the order of reference of Tuesday, October 30, 2007, we are dealing with Bill C-5, an act respecting civil liability and compensation for damage in case of a nuclear incident, whose short title is the Nuclear Liability and Compensation Act.

Today, for the first hour, we have as witnesses, from the Canadian Nuclear Association, Murray Elston, president and chief executive officer, and Pierre Guimond, director, regulatory affairs; from the Nuclear Insurance Association of Canada, Dermot Murphy, manager, and Colleen DeMerchant, assistant manager; and from Walker Sorenson LLP, John Walker, legal counsel.

Each group will be allowed up to ten minutes for their presentation. We will take the witnesses in the order they are on the agenda. It's up to each group to decide who speaks for them.

We will start with the Canadian Nuclear Association. Go ahead, Mr. Elston, please.

Mr. Murray Elston (President and Chief Executive Officer, Canadian Nuclear Association): Thank you, Mr. Chair and members of the committee, for inviting me to be here with my colleague Pierre Guimond, who is the association's director of regulatory affairs. I have a brief statement and will obviously be pleased to take questions afterwards.

The Canadian Nuclear Association is a non-profit organization established in 1960 to represent the nuclear industry in Canada and promote the development and growth of nuclear technologies for peaceful purposes. One of the things we do most is to provide information for public policy consideration. As an example of that, I've provided to the clerk today in English and in French a document that we prepared analyzing a report drawn up by Greenpeace on tritium. And the analysis of that report that we had conducted under the auspices of an internationally recognized authority on the subject, Dr. Osborne, is in fact an analysis of where the Greenpeace study came up short in its analysis of the effects of tritium.

That is an example of what we do to try to make sure that the information is all available for public consideration. It makes this particularly valuable at this time when the whole world is considering the expansion of nuclear industry assets for the purposes of generating electricity for solving medical problems and for dealing with other interesting issues.

We use that just as a piece of information for you. Please read it, because we want the record to be straight and we spent a lot of our resources and assets in a fashion to make sure that material is available to you.

Nuclear energy in Canada generates about 15% of Canada's electricity and over half of the electricity generated in Ontario, without polluting air. There are 22 reactors in Canada, with two undergoing refurbishment and 18 presently operating. Two units at Pickering A nuclear generating station are in safe storage mode at the moment.

The industry directly employs about 21,000 people and another 10,000 indirectly in other industries, government, and other organizations involved in the nuclear field, including uranium mining, mining and processing, developers and operators of nuclear plants and facilities, electrical utilities, nuclear medicine, and all the way to aerospace and automotive research, manufacturing, engineering, consulting, and education institutions. We're much more broadly spread than just the generation of electricity, which is at the moment probably the most spoken about part of our industry.

As Canada and in particular Ontario embark on making urgent and important decisions on our future electricity generation supply, it becomes even more important that the contributions of nuclear energy are well understood. Our society is grappling with the challenges of supplying its citizens with reliable, affordable electricity without harming the environment. Nuclear energy will be even more important in the future in helping us reach our economic and environmental goals. It has, for 45 years in Canada, enjoyed an excellent safety record, and we're proud of our accomplishments.

The industry is committed to continued better performance, more efficient and safe operation of its units, and an increased contribution to Canada's economic well-being. The commitment to a culture of safety throughout the industry is total. Quite frankly, we will not operate reactors, mine uranium, process nuclear fuel, develop medical isotopes, and manage used nuclear fuel without a full and total commitment to a culture of safety.

Statute law and the regulatory process help the industry fully implement what we are already committed to do on safety. Regulatory oversight is one of the vehicles by which we demonstrate to the public the extent of our safety-first commitment and actions. We do this day in and day out.

The members of the CNA have reviewed Bill C-5, the Nuclear Liability and Compensation Act, presently before the standing committee. The CNA is generally supportive of the act and the improved and coherent liability regime that it brings about. The nuclear liability framework established under the 1976 legislation in Canada is based on principles of absolute and exclusive liability of the operator, mandatory financial security, and liability limitations in time and amount. These principles are standard features of nuclear legislation in the United States, as well as in Europe and other parts of the world. Bill C-5 upholds these important principles, while bringing the existing legislation up to date in some important respects.

Several of our member companies have written to the chair through the clerk and indicated their support of the bill, with a few changes. We have identified the need for a broader range of options in providing financial security. The small changes we wish to propose for Bill C-5 are consistent with this view. In short, more flexibility and options in providing financial security can be achieved by deleting clause 25 and subclause 24(3), and paragraph 66(a).

• (0910)

We are asking the committee to consider deleting clause 25, subclause 24(3), and paragraph 66(a) for the following reasons:

Concerning approved insurers in clause 25, it is not clear to us why the minister needs to designate as an approved insurer “any insurer or association of insurers”, given that the Office of the Superintendent of Financial Institutions already provides such approvals. The basic insurance functions—offering the right policies and providing a claims adjustment service—are now widely available under contractual arrangements, the same way that the Nuclear Insurance Association of Canada, or NIAC, contracts to secure them. We therefore see this clause as unnecessary and propose that it be deleted from the bill.

Concerning the “Maximum amount of financial security” in subclause 24(3) and in paragraph (a) of clause 66, the CNA believes there ought to be more flexibility permitted in providing the financial security referred to in subclause 24(1). We believe that the portion of such financial security that may be provided in the form of an “alternate financial security” should not be limited. It should be determined by the minister on a case-by-case basis, as provided in subclauses 24(2) and 24(4), after considering the adequacy of the financial instruments proposed by each operator.

Similar flexibility already exists in the Canadian Nuclear Safety and Control Act. The 50% limitation specified in subclause 24(3) is confusing and unnecessary, and we ask that it be deleted from the bill, along with paragraph (a) of clause 66, which would then be redundant.

Further, as presently drafted this subclause will limit market flexibility and may also have a negative effect on the range of

options operators can employ. For operators, subclause 24(3) may result in unjustifiable cost passed through to shareholders or to customers in the price of electricity. Nuclear operators want full access to these products and to the full range of options available in what is now a mature market.

Members of the CNA are of the view that on the whole the bill responds to society's needs and represents a balanced approach. The bill provides for protection of the public under a coherent, explicit, and stable framework, in which all liability is channelled through the operator and the operator's liability is absolute. These principles also give assurance to the public, the government, and contractors working alongside operators, and as a result, we support those elements.

The CNA would underscore the following considerations. While the CNA members support the increase in liability to \$650 million, our support is given on the basis that there be adequate insurance available at competitive rates. The minister ought to have more flexibility to approve forms of alternative financial security on a case-by-case basis.

In addition to that, the members of CNA wish to urge the members of the committee to see these changes in the act as a prelude to the adoption of the Convention on Supplementary Compensation for Nuclear Damage. In order to ensure capacity for conducting nuclear new build and to meet the supply chain needs, this is a priority for us at the CNA and is not to be seen as a “next step with priority” by this committee.

Finally, we are pleased to note Minister Lunn's commitment to consultation during the second reading debate of October 30. CNA members appreciate the minister's comment, because we believe that the regulations are an important component of the framework. Consultation with our industry on drafting the regulations will help to ensure that they are workable and resilient. The CNA wishes to offer technical expertise as appropriate. Similarly, we also hope to see the government's reinsurance agreement to ensure it covers any gaps.

We are pleased to be here this morning and pleased to answer your questions.

Thank you, Mr. Chair.

• (0915)

The Chair: Thank you very much, Mr. Elston, for your presentation.

We will now go to the second group of witnesses, from the Nuclear Insurance Association of Canada.

Mr. Murphy, are you the spokesperson?

Mr. Dermot Murphy (Manager, Nuclear Insurance Association of Canada): Correct, Mr. Chairman.

The Chair: Go ahead, please.

Mr. Dermot Murphy: Thank you.

My name is Dermot Murphy. I'm manager of the Nuclear Insurance Association of Canada, known as NIAC. As Mr. Chairman pointed out, I'm joined by Colleen DeMerchant, the assistant manager, and John Walker of Walker Sorenson, our legal counsel.

Under the date of November 23, 2007, we did submit a written comment document to the committee, and I hope you have had, or will have very shortly, an opportunity to review the same. In order to provide the committee with some basic background information, I point out the following:

The Nuclear Insurance Association of Canada was established in June 1958 in response to the need to provide adequate insurance cover arising from the peaceful development of nuclear power in Canada. As an approved insurer of nuclear liability insurance in Canada, as provided by the Nuclear Liability Act, NIAC provides the statutory cover required by Canada's nuclear operators, which presently is \$75 million. NIAC is a domestic pool representing approximately 20 property and casualty insurers, both primary and reinsurers, who operate in Canada. For those risks requiring more capacity than NIAC has available on the domestic front, two other international pools are considered to be approved insurers to assist with capacity, as well as other technical issues. I will identify those pools in a moment. It is through these pooling arrangements that NIAC has access to worldwide capacity that is available for the nuclear energy hazard.

NIAC is an unincorporated, not-for-profit association formed by the members of the Canadian nuclear insurance pool. It underwrites nuclear liability insurance. It issues nuclear liability policies and inspects nuclear facilities. All of this work is performed on behalf of its members.

NIAC also assists in making the capacity of the British and U.S. nuclear insurance pools available to Canadian nuclear operators. It works closely with these pools by providing engineering inspection reports on Canadian nuclear power plants and establishing insurance rates for these facilities.

Our members comprise both primary property and casualty insurance companies and reinsurers, such as Royal and SunAlliance; Dominion of Canada; Lombard; Zurich; Temple Insurance, part of Munich Re; and Scor Re. All of this is through the Canadian nuclear liability insurance pool. Any additional capacity needed is accessed through the pooling system via the British and U.S. insurance pools.

This completes my comments, Mr. Chairman.

The Chair: Thank you very much.

Thank you, Mr. Murphy, for providing this question-and-answer background information. It's helpful to have information in a concise form. You both have provided that. Thank you very much.

We'll go now directly to questioning, starting with the official opposition. Mr. Alghabra, go ahead please, for up to seven minutes.

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

Good morning, everybody, and thank you for being here.

My questions are first directed to NIAC. I'm just trying to understand the business model that NIAC follows. Is NIAC the actual insurer for the supplier?

• (0920)

Mr. Dermot Murphy: No, sir.

Mr. Chairman, that's a good question. We are an intermediary. We are not a licensed insurance company in the normal description. We have a constitution. We have bylaws, etc. We are the intermediary that works through the Canadian insurance companies—I gave examples—and works in harmony with the capacity available on the international nuclear insurance front through the British and U.S. pools.

Mr. Omar Alghabra: Thank you. But in the letter it says that Natural Resources Canada has approved NIAC as the only nuclear liability insurer.

Mr. Dermot Murphy: We're the only Canadian insurer. They also provide the same clarification for the pools that are operating in the U.K. and in the U.S.

Mr. Omar Alghabra: I'm just trying to reconcile this. You're not an insurer, but you're the only approved Canadian insurer?

The Chair: Mr. Walker, go ahead, please.

Mr. John Walker (Legal Counsel, Walker Sorenson LLP): Mr. Chair, maybe I could attempt to clarify.

There are 20 Canadian insurance companies that belong to the insurance pool, and they are the ones that provide the insurance themselves. They are listed on the policy and they each have a certain percentage of the \$75 million limit. These insurers have established NIAC as a representative for them. It's in a sense instead of each having an underwriter who is knowledgeable with respect to nuclear insurance, they established NIAC so that they could have one or two people who would be responsible for that. That's Colleen DeMerchant. It's effectively an association of the insurance companies that provide the insurance.

Mr. Omar Alghabra: I'm really just trying to understand how this market works. So those 20 insurers who are out there, who decided who they are? Is it the market? Is it the ministry? Is there some kind of certification process?

Mr. John Walker: They are all members of the Canadian nuclear insurance pool. All of them are licensed already as insurers in Canada.

Mr. Omar Alghabra: So NIAC is open to any qualified insurance company to actually underwrite a nuclear power plant. Is that correct?

Mr. John Walker: That's correct.

Mr. Dermot Murphy: Perhaps I could add a comment. Over the process of time, the insurers have reduced in number through mergers and acquisitions. We have twenty insurance companies today; probably a decade ago it was in the low thirties, etc. The capacity is made available by these companies to the market. Each year we go to the market to try to solicit increased participation by way of additional members to the pool and by way of additional capacity from specific individual company members.

Mr. Omar Alhabra: So there are no special requirements besides being qualified as an insurance company?

Mr. Dermot Murphy: That is correct. There are no specific requirements. However, I would draw your attention to the fact that the requirement to become a licensed insurance company in Canada is a very stringent set of rules and regulations.

Mr. Omar Alhabra: Not all of the insurance companies in Canada are into the nuclear business, right?

Mr. Dermot Murphy: That is correct. They have made perhaps an underwriting decision to opt out of providing insurance for nuclear risks.

Mr. Omar Alhabra: You talk about pooling. Are all of your members required to deposit some equity or some funds into this pool?

Mr. Dermot Murphy: No. They establish reserves for potential exposures in the normal process and procedures that are required under the Insurance Companies Act, etc. The companies are governed by OSFI and follow the recommended procedures for reserving, etc.

Mr. Omar Alhabra: So pooling is not necessarily pooling that is specific to set as a reserve for the nuclear potential catastrophes.

• (0925)

Mr. Dermot Murphy: There are no pooled reserves pertaining to the potential of a nuclear incident.

Mr. Omar Alhabra: So what is it that you mean by pooling here?

Mr. Dermot Murphy: We pool the capacity that is available through Canadian sources and match that with the capacity available through the British pool—it's called nuclear risk insurers—and through the American pool. It's equivalent to a phrase, "a promise to pay".

Mr. Omar Alhabra: Okay. Aren't all insurance companies committed to do that through the licensing process of becoming insurers?

Mr. Dermot Murphy: That is correct.

Mr. Omar Alhabra: Are there any additional guarantees, deposits, or reserves that these insurance companies are expected to make because they're in the nuclear business?

Mr. Dermot Murphy: There are no specific requirements concerning pooling of reserves.

Mr. Omar Alhabra: How does this model compare to Britain, let's say?

Mr. Dermot Murphy: It is identical.

Mr. Omar Alhabra: Are you saying that you're able to pool the Canadian capacity with other capacities around the world?

Mr. Dermot Murphy: Yes. For instance, upon enacting the legislation before the House at this time, whereby the limits will eventually increase to \$650 million, we will be dependent upon the capacity available through the British pool and the U.S. pool to reach that limit. That level of limit is not available purely from the domestic Canadian market.

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

Madame DeBellefeuille is next, for up to seven minutes.

[*Translation*]

Mrs. Claude DeBellefeuille (Beauharnois—Salaberry, BQ): Thank you, Mr. Chairman.

Mr. Murphy, on page 2 of your document, you say that nuclear risks are not considered as ordinary risks.

There's no translation.

[*English*]

The Chair: It's channel one.

[*Translation*]

Mrs. Claude DeBellefeuille: I'll be able to get those seconds back, Mr. Chairman?

[*English*]

The Chair: Go ahead.

[*Translation*]

Mrs. Claude DeBellefeuille: Is that all right?

[*English*]

The Chair: We'll start the time again.

[*Translation*]

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

From what we can read in your document, nuclear risks, in insurance matters, are considered to be different from other risks. The purpose of this bill, to all intents and purposes, is to determine compensation in the event of a nuclear accident. You also say that that can achieve a scale, an amplitude, that cannot be compared with other industrial accidents. You even say that radioactive waste from a nuclear reactor could contaminate an entire continent and affect millions of persons. In fact, your role is really to emphasize what the risks are.

Mr. Murphy, do you believe that \$650 million would be enough to cover compensation in the event of a nuclear accident?

[*English*]

Mr. Dermot Murphy: On the stated limit of \$650 million, we are reluctant to express an opinion as to whether this is adequate. But we would hasten to point out that compared to the existing limit of \$75 million, the limit of \$650 million proposed for Canada is more in line with international limits available throughout the world. I would also mention that at \$650 million we are approaching the maximum capacity available throughout the world markets.

On the difference between nuclear exposure versus others, the nuclear one—albeit unlikely—could be catastrophic in nature. We compare that in our notes to an incident at a chemical factory. Some airborne pollutants might migrate, but typically they would be contained to a geographic area much less than the potential geographic area associated with a nuclear incident.

• (0930)

[Translation]

Mrs. Claude DeBellefeuille: In his last appearance, the minister said there could be an increase of six times the present value of the premium.

Can you confirm that figure?

[English]

Mr. Dermot Murphy: The present \$75 million would eventually go to \$650 million, which is an 8.6-fold increase. The premium commensurate with that would be somewhere in the region of four to six times the existing premium.

[Translation]

Mrs. Claude DeBellefeuille: Thank you very much, Mr. Murphy.

Mr. Elston, you said in your presentation that limiting financial security to 50% could have negative effects on the range of available options. Since I represent the interests of Quebec, and Hydro-Quebec belongs to Quebecers, I'm somewhat concerned at the idea that the premium might increase by eight times its present cost.

I'd like to know how much Hydro-Quebec or the other members of your association pay in premiums and what impact maintaining the clause that you are seeking to have deleted, which limits the financial security to 50%.

[English]

The Chair: Mr. Elston.

Mr. Murray Elston: Thank you, Madame.

At the moment we have accumulated about \$3.5 million in premiums from the industry. I haven't broken it out into individual members. I'm sure that would be available from each of them. We tend to aggregate them.

Our concern is that if we are required to access one precise piece of the market when we know there are broader markets available, you will probably pay a higher premium because of that exclusivity. We're simply looking at being authorized to let our individual members go out and test the market. They know there are other existing entities with whom they can directly discuss the premiums and hopefully, with that competition, drive premiums to their best level.

We recognize that the increase in liability to \$650 million brings us more in line with the world, and obviously we want to do that. But we also want to have the ability, as individual entities, to test the markets that provide us with the broadest range of prices possible to get the best value for our customers, or in some cases our shareholders.

[Translation]

Mrs. Claude DeBellefeuille: Mr. Guimond, you are asking us to delete clause 25. Perhaps you could explain to us in French what it would mean in concrete terms for the members of your association, including Hydro-Quebec, if it were withdrawn on the one hand, or maintained, on the other. What would be the benefits? How would your flexibility be affected?

Mr. Pierre A. Guimond (Director, Regulatory Affairs, Canadian Nuclear Association): We're thinking especially of the small operators, that is to say those who only own one reactor. New Brunswick and Quebec are in that situation. The operators, which are Crown corporations operating under the protection of the province, can use the financial security offered by it. Clause 25 is somewhat confusing as a result of a potential limitation on the range of activities or tools that can be used by a Crown corporation such as Hydro-Quebec or New Brunswick Power.

Perhaps the same is true of the two large corporations, including Ontario Power Generation. It's also a Crown corporation. Whatever the case may be, this undermines the flexibility of power companies. We would like to see the broadest possible range of activities in the operations of the provincial government, which manages its power company at the financial level.

• (0935)

Mrs. Claude DeBellefeuille: In Quebec, for example, it could provide security equal to \$650 million. In that way, direct taxpayers would not have to bear the consequences of a supplementary premium. Could we go so far as to say that?

Mr. Pierre A. Guimond: The example you gave illustrates the flexibility you were seeking quite well.

The Chair: Thank you, Mr. Guimond.

Thank you, Ms. DeBellefeuille.

[English]

Mr. Bevington is next, for up to seven minutes. Go ahead, please.

Mr. Dennis Bevington (Western Arctic, NDP): Thank you, Mr. Chair.

Thank you, witnesses, for coming here today on this issue.

I'd like to start by talking about the safety record of the existing CANDU reactors in Canada. It's my understanding that we do have a very strong safety record. We have reactors that have been built with multiple safety features on them. These safety features actually have hampered the ongoing maintenance of the equipment that is in place, and that may be part of the reason that our costs in our systems are higher than others in other parts of the world, because of the nature of the maintenance that has to go into these overlapping systems.

What do you see for the future of the nuclear system, with the new reactors that are coming onstream? Are we going to see a similar safety record, with the same types of redundancies that are in place with the existing system?

Mr. Murray Elston: Thank you for the question.

There are two observations to make. One is that the evolution of our safety systems has kept pace with the technology changes in our industry. Obviously we can now do more with computerized systems that permit us to do even heavier monitoring than we did in the past, and we have had to retrofit, as we should, some of our existing units with new redundant systems. So the next generation of units will, in a sense, be simpler than the first, as often happens when you go with a first-generation technology. There are improvements of understanding and knowledge of how they work. They have a better understanding of the material science that goes into constructing these units.

I think the one very valuable development in our society has been the addition of the computerized capacity to monitor extremely complex systems. Having gone through that, we will end up having redundancies. Also, if you take a look at the schematics for the proposed ACR, the advanced CANDU reactor, for instance, we will have a quad-type construction that lets individuals work, in a maintenance sense, on one quadrant of the plant in safety and security without shutting down the other pieces. You see that also in other types of generation options. You will see the redundancies maintained, and you will see people doing things more remotely than before.

You have also seen, when we went to Pickering, for instance, the containment around those units spread into what we would describe as conventional elements of the generating plant. That is, they stretch not only over the actual nuclear power plant, but also into pieces of the plant that are seen as part of the generation and turbine units. So making that simpler means that we'll end up also being much more simple and probably more cost-effective in doing the safety work that we require.

Mr. Dennis Bevington: In terms of the system that's being proposed in this bill to cover liability, a \$650-million limit, above that it appears that the federal government would be responsible for any further liability that would come from a catastrophic failure of any systems. But in the U.S. they have a different system. They have a system of pooling the overall amount of \$9.7 billion liability, with individual plants being responsible for \$300 million. Perhaps you could describe why we wouldn't go to that system in Canada, matching up with our neighbours in North America.

• (0940)

Mr. Dermot Murphy: In the U.S., the nuclear power plant operators are required under their legislation to purchase nuclear liability to the level of the \$300-million limit. Over and above that, in the case of an incident, there is in effect an unfunded premium retrospective program in place that will equate to approximately \$10 billion—\$9.67 billion—there. The approach they have adopted is that each of the 104 U.S. reactors would pay approximately \$15 million per year, per reactor, for a period of seven years. This would equate to the \$10 billion, approximately—I'm rounding it out there. It is an unfunded approach. It satisfies their needs, let us assume. I don't particularly or personally feel that it is the best solution for Canada.

Mr. Dennis Bevington: The better solution is to have the federal government subsidize the larger, catastrophic occurrences that may or may not be in the future in this industry.

Mr. Dermot Murphy: It's really a matter of government policy, sir. We would suggest that in moving from \$75 million to \$650 million by way of insurance, or a combination of insurance and financial instruments, we are much further along. We are strengthened by the protection that would be there. As I said, it's a matter of government policy as to what they decide to do in the area in excess of \$650 million.

The Chair: Mr. Bevington, your time is up.

We will go now to the government side to Mr. Trost, for up to seven minutes.

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

Reading through the various notes and listening to testimony, there were some odds and ends of things that caught my attention. One of the things that first caught my attention was number 7 on the questions and answers of the Nuclear Insurance Association. It says here:

We would advise that \$650 million is approaching the upper limit of capacity currently available in the insurance market for nuclear liability insurance.

However, we would caution that, if there is a serious shock to the insurance market (e.g. another 9/11), this much capacity might not be available.

With that in there, and the bill does state that every five years the minister will look at the review to see if it's \$650 million.... I have a couple of questions that basically flow from that.

First, do you think it might be advisable to take steps to provide incentives to increase the capacity of the market? If the minister decides to advance some day to say \$1 billion in a year or two years or five years, one or two cycles, are there things that we, as the government, could do to expand the number of companies that would be interested in providing this sort of coverage? Are there things we should do? And should we do that, or should we just let the insurance industry take up the slack, in your opinion?

The Chair: Mr. Murphy, go ahead.

Mr. Dermot Murphy: Thank you, Mr. Chairman.

I'd like to make a comment concerning the capacity of \$650 million. Capacity is a result of supply and demand. It is also a result of experience, and in the case of the unfortunate World Trade Center events of 9/11, capacity around the world shrunk quite quickly, so that if we had been contemplating \$650 million limits shortly thereafter, it would have been a struggle—perhaps not impossible—to amass that. With the passage of time and the non-occurrence of an unfortunate event of that magnitude, the market has freed up capacity. As we speak to the leaders in the U.K. pool environments and the U.K. market, to bring their building capacity eventually to \$1 billion at some point in the future, optimistically speaking, should be achievable.

You ask an excellent question concerning what the government or other entity might do as an incentive to encourage insurers to participate on a larger scale, greater number of companies or increased capacity. I would mention that as part of the financial security approach, insurance companies can only commit what is called their net limit. They are forbidden to reinsure the exposure dedicated to the nuclear insurance risk. This prevents insurance companies from ending up inadvertently reinsuring their own exposure. It's a net line. It's coming from very financially solvent insurers. That way it works to bring funds that are not in any way in jeopardy of being utilized elsewhere, so that the members of the public and others are indeed properly compensated.

As regards incentives, I really don't have an opinion on that, sir.
● (0945)

Mr. Bradley Trost: I would simply say from my perspective, if there are suggestions or ideas about how we could get more players involved in providing this.... If we do get another 9/11 sort of shock, how are we then going to do what we need to do for this industry?

On my second question, I believe it's clause 25 that's one of your concerns, if I am getting my two clauses correctly here—or clause 24, the 50% by regulation and so forth. It's clause 24. Pardon me.

Again, I'm not a lawyer, but looking at that clause, it leaves a considerable amount of flexibility. From my perspective, it leaves it very wide open. Again, why do you feel it would be so critical? Is it a large cost difference for the industry, 50 versus zero? My understanding from reading it is you still have to negotiate with the minister. You can still have 100% insurance or theoretically zero percent insurance on it. So could you elaborate in more detail what would be the effective costs passed through to the consumer, passed through to you as producers?

Mr. Murray Elston: I guess we really don't understand the intent of the clause. If we're able to make an agreement otherwise for more than 50%, why would the minister prevent us from bringing forward to the minister a full package that covers our obligations up to the \$650 million?

I know the department sees the 50% limit as permissive, but what it ultimately does is present a ceiling above which we cannot go. When you end up having any ceiling, people can trap you into a situation where they know they've got you for the rest.

What we're saying is, why not permit us to go even beyond that, because this really leaves the market wide open? I think for our purpose as well, the development of NIAC and other organizations in the early going was necessary, without any long experience in the business. We think the insurance market now is much more mature, much more capable of being accessed by individual players, commercial players.

As a result, we'd like to test that, but making sure that we can test it for the whole amount or for a lesser amount. Once you put in 50%, we simply don't understand why that is a threshold that has to be there as a prohibition for us.

It would be a great broadening of our opportunity, is really how I'd put it.

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

We'll now go to the second round, for four minutes for each of the three parties, starting with the official opposition.

Mr. St. Armand.

● (0950)

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

Thank you, gentlemen, for being here this morning.

I want to remain open-minded about this alternate financial security arrangement. On something of a flippant note, Einstein said, as probably you've heard, "The human mind is like a parachute—it functions better when it is open." So I want to remain open-minded.

It's to the credit of the industry that it has had an error-free, incident-free record for some 45 years, as I understand it. It's to the credit of the leadership and the operators that you recognize that safety, first, foremost, and always, is the number-one concern, and of course it should be. However, I'm just not comfortable with this alternate financial security arrangement.

From my point of view, if anything untoward were to occur, the very best, the optimum guarantee for communities and individuals that they would be properly compensated, is a paid-up insurance policy. That is, to me, the best guarantee.

Can you let me know, then, what "alternate financial security" actually means on an on-the-ground basis and how secure you feel an alternate financial arrangement would be relative to insurance?

Mr. Murray Elston: Basically, the alternate arrangement would be a commitment to make payments. It really is a contractual obligation in the very same way as an insurance company makes a contractual obligation under a policy. In this situation, the alternate could be the position of a guarantee from a province, as was discussed with Madame DeBellefeuille. So that's ultimately, I guess, one of the most secure ways of understanding the alternate arrangements that might be possible.

I think having that available then puts a tremendous stimulation in the marketing of the premium costs for the insurance business. And all we were wanting to do is be provided with the options of working all of our options and being in compliance with this act, to cover the required amount, Mr. St. Amand.

Mr. Lloyd St. Amand: Mr. Tonks had a question, Mr. Chair.

The Chair: Mr. Tonks, go ahead; you have about a minute and 15 seconds.

Mr. Alan Tonks (York South—Weston, Lib.): I was just going to ask the same question as Mr. St. Amand.

The complaint has come through from the industry with respect to the high charges of premiums on insurance, as compared to Britain and perhaps the United States, although it's a different system in the United States, so why don't we have a hybrid? Why can't we have a portion of the liability covered by a real reserve pool contributed by the industry? It would require some provincial legislation to allow that to occur. To keep the insurers honest—and that's to you, Mr. Murphy, and I don't pretend to understand the industry—why not have a portion covered by insurance? Would that not be in the public interest? Then you would address the concern raised by my colleague with respect to having the government as the ultimate insurer at the end of the risk.

Thank you.

Thank you, Mr. Chairman.

Mr. Dermot Murphy: Mr. Tonks, Mr. Chairman, I won't propose to answer the core of your question, because I don't believe I'm fully qualified to comment about the combination of both. I would, however, go back to a comment you made as being attributable to the industry and expressing comment that their premiums in this country were high or higher. That is not factual; in fact, on average the Canadian insurance premiums are lower, and in some cases lower by a noted margin, than insurance premiums elsewhere in the world.

A question came up earlier in the proceedings as to the costs. Mr. Elston correctly stated that all his members pay in the order of \$3.5 million annually. Without betraying commercial confidential information, I can tell you that the cost to insure a single nuclear reactor for liability exposure under the existing act is approximately \$200,000. It is not an inordinate amount, in our opinion.

• (0955)

Mr. Alan Tonks: Thank you for that. Thank you for the clarification.

The Chair: Thank you, Mr. Murphy.

We now go to Mr. Ouellet for up to four minutes.

[*Translation*]

Mr. Christian Ouellet (Brome—Missisquoi, BQ): Mr. Guimond, I'd like to know whether the Hydro-Quebec people were consulted when this bill was prepared. You don't seem to be very pleased with clause 25.

Mr. Pierre A. Guimond: Hydro-Quebec and the other operators were consulted from the moment a Senate committee took an interest in the issue, that is in 2001. The Department of Natural Resources consulted us through the Canadian Nuclear Association and contacted the operators directly on numerous occasions.

We never saw the bill before it was tabled in the House. In accordance with the consultation procedures of the Government of Canada, the officials are very efficient and strict in this regard. Consequently, we learned about the main features of the bill, but did not see the final version until it was tabled in June.

Mr. Christian Ouellet: Thank you very much.

Mr. Elston, you talked about the safety of the CANDU reactor. You say there have not been any accidents, but this bill opens the door to nuclear generators from other countries. Moreover, we think

that is its aim. You referred to an excellent safety record in the past 40 years, but that only concerns the CANDU reactor. In the past 40 years, the nuclear energy industry has come up with no solution to the problem of nuclear waste, particularly plutonium-239, which is a real time bomb. Not only is it used to make bombs, but it is the substance that takes the longest time to decay.

Don't you think that the bill completely misses Canada's real safety issue, that is to say managing waste rather than continuing to produce it, supported by insurance?

[*English*]

Mr. Murray Elston: I think the bill covers the areas that it must for the purpose of protecting the public from any damages associated with an incident that may arise. I think the preference of our industry has always been to instill a safety culture, not only in its leadership but also among the women and men who work inside the organization. We heard earlier that it's kudos to the leadership, but really it is a total team effort that we put together. It is the unions, the management—

[*Translation*]

Mr. Christian Ouellet: I mentioned plutonium-239.

[*English*]

Mr. Murray Elston: We are a safety culture first. We know how to manage the spent fuel. We know how to manage low and intermediate waste. We know what steps we must take to protect not only the people who work inside our plants but the people who are neighbours of ours outside the plants. Do I think this bill represents the protections they require? I do, and I'm proud to say that I reflect specifically on the total effort—

[*Translation*]

Mr. Christian Ouellet: Wouldn't you be engaging in disinformation by not answering my question concerning the most dangerous places?

[*English*]

Mr. Murray Elston: No, I'm not.

[*Translation*]

Mr. Christian Ouellet: Do I have any time left, Mr. Chairman?

[*English*]

The Chair: You have 20 seconds, so you can have a very short question, Mr. Ouellet.

[*Translation*]

Mr. Christian Ouellet: Mr. Murphy, as the mouthpiece of the insurers, could you tell me why the insurance companies are not open to the idea of residential insurance policies covering nuclear dangers, in addition to the \$650 million measure provided for in Bill C-5.

[*English*]

The Chair: Be very brief, please.

Mr. Dermot Murphy: I'm sorry, Mr. Chairman, but I don't fully understand the question.

[Translation]

Mr. Christian Ouellet: Residential insurance policies could also include the nuclear aspect, but they currently do not. Don't you think that would be significant protection for people?

[English]

Mr. Dermot Murphy: I think I understand, and I apologize.

If I understand the question correctly, it is about the extent to which coverage exists in regular insurance policies—home owners, commercial buildings, and so on. Virtually every single insurance policy has a nuclear exclusion. This allows insurance companies to dedicate their available capacity for nuclear liability to the operator's policy through NIAC. That way they're aware of what the exposure is right up front and it will not be claimed for under residential policies and commercial policies and so on. The available capacity is channeled to the operator.

•(1000)

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

The final questioner for these witnesses is Mr. Allen, for up to four minutes.

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

I'd just like to ask a couple of quick questions. The first one is going to be following up on subclause 24(3), which is where Mr. St. Amand and Mr. Tonks started.

Subclause 24(3) says: "The portion of the alternate financial security that may be authorized may not, unless another percentage has been fixed by regulation, exceed 50 per cent".

Now, do you not think, given this percentage, and considering that the federal government has played a pretty significant role in the development of the nuclear industry, that there's some responsibility on the part of the government to at least set some framework for that percentage? It is still allowing flexibility, because it can be fixed by regulation. Do you not believe that the government has some responsibility and can't just run away from something?

Mr. Murray Elston: If you will consider the financial arrangements that are being made as a package in any event, I don't quite understand why you set 50% in legislation or otherwise. I think it's much easier to be flexible. You don't have to change the legislation every time there is an alternate financial arrangement brought from the market to the minister for approval. So I think in some ways it's a redundancy, if the minister has to approve it anyway.

Mr. Mike Allen: So what's your suggestion for the wording: "zero"?

Mr. Murray Elston: Eliminate it, yes, and that leaves you with maximum flexibility, and the minister can take a look at the arrangements and say good, bad, or indifferent. Certainly we then, as a market, looking at the market, can go out and say that we brought together the following arrangements, including whatever the percentage might be in alternate financial arrangements.

Mr. Mike Allen: Do you believe, given the U.S. model, in which there is a certain contribution into a pool of funds, that this at least gives the nuclear operators some kind of responsibility, versus 50%?

At least from the government's side, we're looking after the taxpayers in some respects. I'm hearing you saying no.

Mr. Murray Elston: There are two interesting elements here. One is that we look after the price of electricity for our ratepayers. We think that if we can get a better price for the cost of covering the liability we're required to cover, this will look after them. It seems that probably we're not going to have to resort to the taxpayers. Remember that, certainly in the case of the consumers of electricity, our costs are passed on in the price. So if we can get a reduced price, we think this is a much better place for us to be. We think the 50% acts, in a sense, as an artificial limit to the variability of plans we might bring in front of the minister to comply with the new limit of \$650 million. And we think that this probably is better not only for our ratepayers, our taxpayers, but probably for our shareholders as well.

Mr. Mike Allen: If that's your line of thinking, consider that in 2003, Natural Resources Canada and the Canadian Nuclear Safety Commission did a study on what the potential impacts would be and what the potential loss would be if there was an accident. I'm sure you're familiar with the study. It said an accident could range from \$1 million to \$100 million, depending on the time period, although in a highly populated area, it could go higher.

Well, if you're protecting your rate payers, then why aren't you arguing for an amount lower than \$650 million?

Mr. Murray Elston: I'm sorry...?

Mr. Mike Allen: If the maximum exposure could be \$100 million, for example, in one of these accidents, then why are you supporting \$650 million, which is causing a higher premium, versus the 50% on the other?

Mr. Murray Elston: I think we recognize that in terms of public policy, while there are real practical limitations like the ones you've just identified, we don't wish to be seen to be significantly out of step with the rest of the world. We look at having excess coverage. I do that on a personal basis. While I don't expect to have a problem with my automobile, I have excess coverage just in case. I think that probably provides some security.

Having said that, when I go to the market, I like to think that I can have the widest possible arrangement that lets me get the best price. That's no different from our members, who also want to have the broadest range of possibilities, moving up to the \$650 million, which government policy has now identified. We support that, but we also want the access to the market so we have the most flexible opportunity for the best benefit of premium price.

•(1005)

The Chair: Thank you, Mr. Elston. Thank you, Mr. Allen.

I want to express my great appreciation, first to the witnesses, but secondly to our two members of Parliament from Saskatchewan, who never once mentioned that their Roughriders won the Grey Cup the day before yesterday. That's remarkable restraint. So thank you, gentlemen.

Thank you all very much for coming today. We really do appreciate your input.

I will suspend for two minutes. If you could, leave the table and the area as quickly as you can so the next witnesses can get settled. Then we can start again in two minutes.

- _____ (Pause) _____
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The Chair: We'll get started now with our next witnesses. We have, from the Canadian Association of Nuclear Host Communities, Franklin Wu, secretary-treasurer; from the municipality of Port Hope, Linda Thompson, mayor; and then in our second group, from Greenpeace Canada, Shawn Patrick Stensil, energy and climate campaigner.

We will have your comments, up to ten minutes from each group. Then we will only have time for one round from each party with these final witnesses, so keep that in mind.

Please go ahead, whoever's going to make the presentation.

Ms. Thompson, go ahead please.

Ms. Linda Thompson (Mayor, Municipality of Port Hope): Thank you, Mr. Chair and members of the standing committee.

My name is Linda Thompson. I'm the mayor of the Municipality of Port Hope. I'm also a member of the Canadian Association of Nuclear Host Communities.

Our association chair is Mayor Ryan of the City of Pickering. Unfortunately, he cannot be here today. I'm therefore acting on behalf of Mayor Ryan, and in his capacity I appear before you today.

As noted, Mr. Wu is our association's secretary-treasurer and he is also the chief administrative officer with the Municipality of Clarington, Ontario. Mr. Wu will be assisting me, if you have any questions.

The Canadian Association of Nuclear Host Communities, also known as CANHC, is comprised of ten municipalities located in Ontario, Quebec, Manitoba, and New Brunswick. These municipalities proudly host various nuclear-related facilities, such as power generation stations, research facilities, and nuclear industries, which are vital to Canada's continuing supply of electricity. As well, they contribute to the prosperity and economic development of our communities.

Our member municipalities are in the province of Ontario, the county of Bruce, the municipality of Clarington, the town of Deep River, the region of Durham, the municipality of Kincardine, the city of Pickering, and the municipality of Port Hope. In the province of Quebec, we have the town of Bécancour; in the province of New Brunswick, the city of Saint John; and in the province of Manitoba, the district of Pinawa.

First and foremost, CANHC welcomes and supports the general thrust of Bill C-5. Over the past few years, our association has continually urged the government to increase the liability insurance and compensation limits for nuclear facilities and it is most pleased that government is taking a very positive step in this direction.

Specifically, we're very encouraged to see that Bill C-5 provides for three very important elements, being the increase in the liability insurance to be carried by nuclear operators, the ability to establish a tribunal for the timely and orderly settlement of claims, and of course the regular review of the amount of insurance coverage that is required.

While our association generally endorses these provisions, we do feel these provisions can be strengthened in the following manner. Firstly, on the limit of the liability, our association is of the opinion that the \$650 million is not sufficient insurance coverage, particularly in locations where a nuclear facility is located in a densely populated area, such as in the city of Pickering, where some 80,000 people live within ten kilometres of the Pickering nuclear facility.

The \$650 million would work out to a little over \$8,000 per person, a rather inadequate amount under the scenario of a nuclear disaster. We understand that there are compensation benchmarks established in European communities, but we would urge the committee to consider the unique challenges faced by nuclear host communities, with nuclear facilities installed in our backyards.

Secondly, the principle of establishing a tribunal to handle claims is a reasonable approach; however, we ask that such a tribunal be totally independent and that a timeframe be entrenched in the legislation or regulations to ensure that all claims are in fact processed in a timely manner, without causing further undue hardship.

Lastly, we would ask that Bill C-5 contemplates the regular review of the amount of insurance coverage at least once every five years. We understand and support the rationale for regular reviews; however, we would suggest that Bill C-5 should also provide for an automatic annual indexing of the coverage, with a more comprehensive review to be undertaken every five years.

- (1010)

In addition to the foregoing comments, our association wants to see clarity in the bill pertaining to compensation for the nuclear host communities. We all know that in the unlikely event of a major nuclear incident, these municipalities will be burdened with the need to repair or replace damage to municipal buildings and infrastructure, of course, such as roads, bridges, water and sewage plants, etc.; the huge cost of providing emergency services such as police, fire, paramedic services, as well as providing for evacuation, emergency shelters, and recovery efforts; and the very significant economic loss as residents and businesses are unlikely to return to the municipality after a nuclear incident, given the inevitable negative media coverage from any nuclear incident.

We believe that such an incident will significantly damage the image of the host municipality, and we do not believe this matter is addressed in Bill C-5. Bill C-5 should therefore clearly identify and provide compensation entitlements to all nuclear host communities and ensure that they be afforded every right to recoup financial and economic loss resulting from damages caused by a nuclear incident.

In summary, our association is supportive of Bill C-5 and strongly urges the committee to give serious consideration to our request to strengthen various provisions of the bill to ensure our residents, businesses, and host municipalities are fairly and quickly compensated for any losses, financial and otherwise, that we may incur as the result of a nuclear incident.

I thank you for the opportunity to come before you and express our views on Bill C-5. And we would be more than happy to answer any questions as they come forward, Mr. Chair.

•(1015)

The Chair: Thank you very much, Ms. Thompson, for your presentation.

We will now go to Greenpeace Canada, Mr. Shawn Patrick Stensil, energy and climate campaigner.

Go ahead with your presentation for up to ten minutes.

[*Translation*]

Mr. Shawn-Patrick Stensil (Energy and Climate Campaigner, Greenpeace Canada): Good morning. My name is Shawn-Patrick Stensil, and I am an energy and climate campaigner for Greenpeace Canada. I'll make my presentation in English, but I'll be pleased to hear your questions in French.

[*English*]

I'd like to thank the committee for this opportunity to present to you today.

In ten short minutes, I'm going to speak to you of three general issues of concern for Greenpeace regarding the proposed Nuclear Liability and Compensation Act.

First, the revisions to the act that have been put forward are indicative of how nuclear policy decisions are made in Canada. I would urge the committee to look further into this bill, as well as other nuclear policy decisions that are being made behind closed doors.

Second, I'd like to call into question the need for the Nuclear Liability Act and address specific issues of concern in the bill.

Third, I'd like to raise an issue of what I see as a policy gap between the Nuclear Liability Act and the Canadian Environmental Assessment Act in regard to nuclear terrorism.

First, in regard to the Nuclear Liability Act as an example of how policy decisions are made on nuclear issues in Canada, I would like to urge the committee to take a closer look at this bill and seek the opinion of many more non-industry stakeholders.

As background, in January 2006 Greenpeace Canada submitted a petition to the federal environment commissioner regarding the failure of Natural Resources Canada to bring revisions to the Nuclear Liability Act. This followed two previous petitions by a grassroots group called Citizens for Renewable Energy, to which Natural Resources Canada had said they would bring revisions by the end of 2005.

I have requested the clerk to provide the committee with copies of this petition.

In the petition, we cited numerous documents that Greenpeace had acquired through access to information showing that Natural Resources Canada had intentionally avoided consulting with non-industry stakeholders, such as the City of Toronto and environmental groups, regarding revisions to the Nuclear Liability Act, which is in front of you today, while it had "carried out extensive consultations with the nuclear industry". Other correspondence showed that despite long-time public demands for revisions to the act, the nuclear industry was advising the government against renewing the act—probably for some reasons of political expedience; I'm not sure.

It is noteworthy that in 2003, Natural Resources Canada pushed through fairly quickly the passage of what was called Bill C-4 at the time, which amended the previous act, in order to meet the need of Bruce Power—a private nuclear company that had formed since 2000—to indemnify investors who were looking to invest in its project. So it quickly pushed through amendments to the act but was holding back on the wider revisions.

All this is to say that this act has been held up for many years seemingly to suit the desires of the nuclear industry. Natural Resources Canada has intentionally avoided consulting the public and non-industry stakeholders, probably because doing so raises a number of big issues for the nuclear industry: one, the threat of accidents, and two, the inherent subsidies that go along with this act.

As a recommendation to the committee, I would like to ask the committee to look at this bill more in depth and to seek the advice and perspectives of people outside the industry. It's the nuclear industry who are the risk-makers; we as Canadians are the risk-takers in this act implicitly, and we have the right to be consulted on that.

I'd like now to speak to the need for the Nuclear Liability Act and to specific concerns about the act.

I would like to say to the committee that the fact that we have this act in front of us should underline the fact that the nuclear industry has failed to develop into an independent and viable industry, despite years of trying and subsidies. Nuclear protection regimes began in the 1950s, and the idea at the time was to give the industry a running start to prove itself. The United States passed the Price-Anderson Act. We've been renewing these acts for 40 years, because the industry has never been able to gain the confidence of the insurance industry to be completely independent without these acts.

It has been estimated that in Canada the current limit on liability amounts to a subsidy of approximately 1¢ to 4¢ per kilowatt hour. As I mention in my petition to the auditor, Greenpeace also discovered that post-September 11 the federal government had begun assuming increased insurance costs for terrorist risk coverage for the industry. The government's stated intent was to avoid the adverse effects of high premium increases on nuclear power competitiveness in a deregulated electricity market. What was the cost of this? It was about \$200,000.

The question why we are paying for it should furrow some eyebrows. Why should Canadians and the environment at large be subject to the risks that exceed the capacity of the insurance market? This goes against the principle of polluter pays which, I would remind the committee, Canada has ratified or signed onto in numerous international agreements. It is Canadians who will be forced to bear the expense and risks of a nuclear accident. This is an unacceptable subsidy to the industry.

•(1020)

I would now like now to address a number of specific concerns, because I think my time is running out.

First, regarding the increase to \$650 million, that amount is a limit not based on the projected costs of a nuclear accident, but on what the global insurance industry has admitted it can handle. It is noteworthy that a 2006 federal government study of the costs of a dirty-bomb attack in downtown Toronto that released a small amount of radiation over four kilometres concluded that the costs of such a small accident would be \$24 billion. That is way out of sync with what we're being told at the committee today for an accident releasing a small amount of radioactivity at a nuclear site. It is difficult to see, then, how even a small-scale release of radioactivity could be covered by the limits established in this bill, let alone a Chernobyl-scale event occurring in Canada—which the federal government has completely discounted.

As I mentioned in my petition to the environment commissioner, Greenpeace is concerned about the quality, rigour, and transparency of the risk studies carried out by the Canadian Nuclear Safety Commission, studies that are used to claim that Chernobyl-style accidents wouldn't occur. I don't have time to discuss this in depth, but I would encourage the committee to investigate it.

It is Greenpeace's position that this cap on liability is inadequate, and nothing should stop this committee from recommending that the cap be taken off, as Germany has done. You could still insure up to \$650 million, take the cap off, and then examine other options that have been mentioned this morning, such as industry pooling, so that we can internalize more of the costs of the nuclear industry.

A second issue I'd like to raise is the period for compensating victims, which has been extended from 10 to 30 years. The bill needs to address the nature of nuclear accidents. The impacts from radiation exposure, such as cancer and genetic damage, can take long periods to appear and then may be difficult to trace or attribute. Proving causation is obviously a cause for concern in regard to the proposed 30-year limitation period. For example, if it takes 10 years to prove the link between radioactive emissions and, say, an inter-generational effect, then a 30-year limit is clearly too short for claimants. We should extend this period.

Finally, I'd like to raise an issue I also raised in my petition regarding a gap in federal legislation between the Nuclear Liability Act and the Canadian Environmental Assessment Act. This former act excludes the damages and the costs from a nuclear incident caused by terrorism. Implicitly, that means we Canadians are assuming the risks for a terrorist act such as that. If so, we should have the ability to evaluate and discuss in public what those potential impacts could be. A forum for this may be the Canadian Environmental Assessment Act. During environmental assessment hearings on nuclear projects in the past, such as the current life extension of Pickering B, Greenpeace requested that terrorist attacks be addressed in the Environmental Assessment Act. The response from the Canadian Nuclear Safety Commission was that this was not a requirement under CEAA and therefore they don't have to do it.

I would note for the Canadian Nuclear Safety Commission that in the United States last year, a federal court, as well as the Supreme Court, directed the U.S. Nuclear Regulatory Commission that in licensing decisions they had to consider the environmental impacts of a terrorist attack. We should be making those amendments to our legislation here in Canada, so that at least the people who are taking on the risks will be aware of the full costs.

With that, I believe my ten minutes may be up.

Thank you very much for your attention.

•(1025)

The Chair: Thank you very much, Mr. Stensil, for your presentation.

We'll go directly to questioning. As I've said before, there will be one round, and we'll have to limit it to five minutes to include all parties within the time we have left.

So we'll go directly to the official opposition and Mr. Alghabra, for up to five minutes.

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

I'm going to split my time with Mr. St. Amand, so please alert me at the halfway point.

Thank you, all, for coming here this morning.

Ms. Thompson, I have a couple of questions for you, but would you mind distributing your remarks to us? I'm sure all of us are very interested in the actual recommendations you've highlighted today. I think they would be very helpful for us to review later on.

I think you were here for the first hour of testimony. On behalf of the municipalities you represent, do you have an opinion on this issue of self-insurance or 50% insurance liability?

Ms. Linda Thompson: In regard to the presentation, it was made available this morning to your clerks. I'm sure it will be copied to you.

In regard to self-insurance, we have had discussions with industry, and I can speak for my own community and with other areas where there are generating facilities. As an association, I don't think we would object to that.

In regard to the cost, if the profits are being made by the individual companies that are producing the power, I think they should share in some of the cost.

Mr. Omar Alghabra: I didn't catch your last comment.

Ms. Linda Thompson: I would believe, yes, they should share in some of the cost.

Mr. Omar Alghabra: You don't have a problem with allowing the producers in your local communities to carry self-insurance 100% on their own?

Ms. Linda Thompson: As I understand it, a portion of the pool would be acceptable.

Mr. Omar Alghabra: The legislation now allows up to 50% in self-insured or another means, and 50% in buying policies. So are you okay with what is being proposed?

Ms. Linda Thompson: Yes.

Mr. Omar Alghabra: I'm okay with that.

The Chair: Thank you, Mr. Alghabra.

Mr. St. Amand, you have two and a half minutes.

Mr. Lloyd St. Amand: To you, Ms. Thompson, if I may, you indicated that, in the view of your association or council, \$650 million of insurance is not adequate. Have you a figure in mind that you or your colleagues would consider adequate?

Ms. Linda Thompson: We are aware of the review that was done by CNSC also, which was more in line with, I believe, \$100 million. While our association has not put forward a specific number, I think we would be more in line with the study that proposed the \$100 million.

Mr. Lloyd St. Amand: In a community like Port Hope, obviously located close to a nuclear facility, do you have a rider in your municipal insurance coverage that provides compensation in the event of a catastrophe?

Ms. Linda Thompson: Not that I'm aware of, and I don't believe that Clarington does either.

Mr. Franklin Wu (Secretary-Treasurer, Canadian Association of Nuclear Host Communities): I can perhaps speak on behalf of the Municipality of Clarington. Darlington nuclear station is located in our municipality. I do not believe we have that kind of rider in our insurance coverage at all.

Mr. Lloyd St. Amand: Lastly, to Mr. Stensil, you've asked us to be cautious about the risk assessments that have been proffered by the nuclear associations. Has Greenpeace itself done a risk assessment?

Mr. Shawn-Patrick Stensil: That's a very good question. First, the Senate committee on natural resources in 2002 looked into risk assessments at the CNSC and had a number of large criticisms around how they were done, so it's not specifically Greenpeace that has addressed this. They made a number of recommendations.

One of the biggest needs we have is, first, for transparency in getting these risk assessments. It's very difficult to get hold of one. These are basically what bound environmental assessments. They basically say any accident of over one-in-a-million chance is not credible. When I've asked for these from Ontario Power Generation or the CNSC, the response is generally no.

As for Greenpeace doing one, they're very expensive to do. These are called probabilistic risk assessments. They cost millions of dollars. What I think is most important is that we have transparency and perhaps have the ability of third-party experts who could look into and analyze these for uncertainties to improve them over time. That's what we currently don't have.

● (1030)

Mr. Lloyd St. Amand: You're not suggesting, though, that the experts who have been retained by the association would risk their own integrity or their own licence to come up with a flawed assessment, are you?

Mr. Shawn-Patrick Stensil: Well, there are two things.

In terms of intentionally making a flawed assessment or intentionally omitting things, I will give you an example.

One of the biggest areas where the probability of an accident can occur is in terms of what's called external events—floods, earthquakes, erratic weather, terrorism.... Ontario Power Generation is currently doing an environmental assessment on Pickering B, which Greenpeace is following. The probabilistic risk assessment they have done for that environmental assessment, we have learned through access to information, specifically correspondence, did not include external events, even though it is widely regarded in the industry that this should be in such risk assessments, and the Senate committee report that I mentioned stated in the past that they should move towards that. They knowingly didn't put that in. Their response to CNSC staff when they noted that they had not included external events was that they had already finished the study, so they were not going to do it again.

I underline the point that we need more transparency to be able to look for these uncertainties, because certain things are often omitted.

The Chair: Thank you, Mr. Stensil, and thank you, Mr. St. Amand.

Now we go to the Bloc Québécois for up to five minutes.

Madame DeBellefeuille.

[Translation]

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

Ms. Thompson, the Government of Canada will pay approximately \$520 million in the next five years to correct the mistakes of the past regarding radioactive contamination. Your municipality is probably concerned by this measure. This year, an extra \$100 million was granted to Atomic Energy of Canada Ltd. to develop the CANDU. Your municipality will host a nuclear power station, and you will have to increase safety by using firefighters or people who can administer first aid. A lot of expenses are incurred by a province or city that hosts a nuclear power station.

You gave us a very striking picture by saying that, for the City of Pickering, for example, \$650 million would work out to compensation of \$8,000 per person. You didn't provide a compensation figure, but, in your opinion, \$650 million is not really enough.

Are you prepared to say that it is quite unfair that Canadians, through their taxes, pay the extra compensation in the event of a nuclear accident? What proposals do you have to make concerning the tribunal? That issue is a great concern for me, but we were unfortunately unable to take an in-depth look at the clauses of the bill with the officials.

If the municipality of Port Hope, for example, filed a claim for compensation with the tribunal for losses related to its water supply system or its public property, I don't know whether it would be allowed. Do you have any suggestions to make to the tribunal? You said it was independent, but do you think the municipalities might be entitled to compensation?

[English]

Ms. Linda Thompson: Thank you.

I would like to provide you with some information. The Municipality of Port Hope is one of the oldest nuclear communities in Canada, having had a facility—Cameco Corporation—which is a refinery, since the 1930s.

Currently, due to past business practices from the 1930s to the 1950s, we have material deposited throughout our urban area. In fact, my whole urban area is being decommissioned, so to speak. That process, which will also involve a small portion of the community of Clarington beside us, will cost the federal government \$260 million, since it was originally a federal corporation.

Having said that, do I think \$8,000 is not enough? As municipalities, we do not feel \$650 million is sufficient in the unlikely event of an incident. Personally, I don't believe there should be a cap.

In regard to Canadians paying for that, I think the pool idea and the insurance are very important to the process so that it is not the responsibility of the federal, provincial, and municipal governments.

In regard to tribunal courts, my personal opinion would be that they should be at arm's length.

● (1035)

The Chair: Mr. Ouellet, we have about a minute.

[Translation]

Mr. Christian Ouellet: Thank you, Mr. Chairman.

Ms. Thompson, Minister Lunn just told us that he will require the nuclear power stations to keep their nuclear waste on site for

30 years. The bill does not currently say whether insurance policies must be extended for the period of time when the very dangerous nuclear waste is on site.

Doesn't that concern you?

[English]

Ms. Linda Thompson: Perhaps, Mr. Chair, I could ask for clarification.

[Translation]

Mr. Christian Ouellet: Does it concern you that nuclear waste might remain on site, in refrigerated pools, that it might be readily accessible to terrorists or that, in the event of an explosion, it might continue to cause substantial damage in the surrounding communities? Doesn't it concern you that insurance policies don't cover that period of time?

[English]

The Chair: Ms. Thompson or Mr. Wu.

Mr. Wu, go ahead.

Mr. Franklin Wu: To answer your question with regard to the nuclear waste currently still on site in our Canadian nuclear power plants, our association has been working very closely with the NWMO, which is the agency established by the federal government a few years back to look after the long-term management of the nuclear waste issue. Our association is very engaged with the NWMO. We enjoy the dialogue. We want to make sure, as an association, that our host communities' interests are fully expressed to the NWMO to deal with that issue.

On the insurance side, obviously we know that a nuclear accident may occur in the future, we just don't know when. In that unlikely event, nuclear waste that is still on site is part and parcel of the entire equation in addition to the existing nuclear generation facility. So in our view, anything within the parameters of a nuclear facility should be covered by the insurance.

The Chair: Thank you, Mr. Wu.

Ms. Bell, for up to five minutes.

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

Thank you to the witnesses for appearing today. This is a very important issue for our country.

You've raised some concerns, which I think a lot of Canadians have, with regard to the compensation. I don't know what house prices are in Pickering or any of the other communities. I would imagine they're similar to average prices across the country: very high. So \$8,000 per person really isn't a lot when you have to vacate your home and lose all your possessions and everything. It's really not much.

We've negotiated trade deals with the Americas, and with the U.S. especially, that say that if we make a law that hinders your ability to make a profit, or hinders your business, then we're liable for compensation for future lost revenues.

I'm curious as to whether you think that should be built into a compensation law. You mentioned, Ms. Thompson, that the negative perception around a nuclear incident would scare away business for years to come, maybe forever. If you had a business and it was shut down, you lost your revenue, there's nothing to compensate you for that lost revenue for the future. I'm just wondering, if it's good enough for trade deals, why isn't it good enough for Canadian businesses?

• (1040)

Ms. Linda Thompson: That is one of the issues involved in that economic loss.

I know of what I speak. Port Hope has been in the news lately, with some very negative nuclear issues with regard to the release of a study. In the matter of a week we had businesses identify that they didn't want to look at businesses in our community. People walked away from housing. It does have an impact on business. If there were other legislative pieces that could assist in that, it would be helpful.

Ms. Catherine Bell: Sure.

Mr. Shawn-Patrick Stensil: One comment I would make on this is on the SARS impact for Toronto. I didn't see any mention of... Industries such as tourism would be greatly affected if there were an accident at the Pickering nuclear station. Even if it was a near miss, it would become known worldwide. There's probably no ability in the bill to deal with that. So that's another consideration to make when discussing economic impacts.

Ms. Catherine Bell: Thank you.

Mr. Stensil, the Canadian Nuclear Association has done a review of the tritium hazard report that I think you put out in June of this year. Could you comment on that review? You've probably read it by now. I wondered if you have anything to say about that report.

Mr. Shawn-Patrick Stensil: What I would say in regard to the report is that after we released it, the provincial Minister of the Environment referred it to the Ontario drinking water standards committee, which is currently undertaking a review of tritium standards in Ontario, which is exactly the issue we raised in the report. The author has met with that committee and will hopefully be meeting with them again.

At the same time, the Canadian Nuclear Safety Commission has undertaken a review of tritium standards in Canada because of concerns raised by the public. There is as well the Environmental Protection Agency in the United States, which makes the recommendation of again increasing the dose factor on tritium, so we think our report is quite in line with what's going on worldwide in terms of science showing there is a greater risk from tritium than previously thought.

Ms. Catherine Bell: You mentioned that the period for compensating victims needs to be longer. Proving causation is a huge issue; we see that with asbestos and other nuclear exposure around the world. I don't know how long it takes in some cases, but I understand it's many years.

Do you think there should be any cut-off, or it should just be open-ended?

Mr. Shawn-Patrick Stensil: I don't think there should be a cap. We're still learning about the health impacts from Hiroshima and

Nagasaki, as well as from Chernobyl, and intergenerational impacts are just that—they're intergenerational, so we won't necessarily see them show up. It will take a great deal of study to trace it back to what the original impacts are at the population level.

The Chair: Thank you, Ms. Bell.

We will go now to the government. Go ahead, Mr. Harris, up to five minutes.

• (1045)

Mr. Richard Harris (Cariboo—Prince George, CPC): Thank you, Mr. Chairman.

Thank you, ladies and gentlemen, for your presentations.

Mr. Stensil, I listened during your presentation, and you kept going back to using the term "a terrorist attack". God forbid that ever happens, but if I understood correctly, it seemed you were thinking that if a terrorist attack on a nuclear facility took place, the facility itself—not the government—should be required to pay a large part of the liability. I think I understood you to say something like that. Am I correct?

Mr. Shawn-Patrick Stensil: I didn't state an opinion on that per se.

If my memory serves, there has been a change since 2001 in European conventions regarding responsibility for terrorist attacks. I'd have to confirm that.

My point was that under the Nuclear Liability Act as proposed, nuclear operators would not be responsible for the economic costs of such an incident. My point was to say that if Canadians are then going to assume those impacts, we need a forum under which we can evaluate them and have a discussion of whether they're socially acceptable and of other methods we could use to mitigate that risk.

What I proposed was that an amendment or a change in regulation should be made under the Canadian Environmental Assessment Act to require terrorist incidents and the environmental impacts to be evaluated, because that is not the case now in Canada. What I noted is that in the United States, the Supreme Court has ruled that the NRC must require an evaluation of environmental impacts in licensing new facilities.

An example raised by Mr. Ouellet would be a terrorist attack at the dry storage site for waste, which right now is frankly not very well protected, because most of the facilities were built prior to September 11. In licensing a new facility in the United States, they've had to evaluate what those costs would be. That gives the public an understanding of what the hazard is and of whether it's socially acceptable. It also allows a forum for discussing what we could do to necessarily mitigate this environmental impact—do we make these buildings more robust?

That was what my comment was.

Mr. Richard Harris: All right. You also were quite critical of the fact that the Nuclear Liability Act had not been reviewed for many, many years, as you put it. Actually, in your presentation you weren't happy about a number of things. But considering that the previous governments did not respond to a review of the Nuclear Liability Act and now it's happening, at least does that give you some sort of comfort? Although you may not agree with some parts of the bill—that's why you're here, to make some suggestions—you must at least be comforted in some way that finally this government is doing a review of the act and is updating it and making some changes that, given the professional advice it's had in the process, are making some changes to the act. You must be pleased at least about that, that it's being worked on.

Thank you.

Mr. Lloyd St. Amand: On a point of order, Mr. Chair, the question is baseless, unless the witness is able to tell us how long he's been involved with Greenpeace, how long he's been involved with the movement. Otherwise, he would have absolutely no idea what happened 15 years ago.

The Chair: I'll allow the witness to respond to the question.

Mr. Stensil, please respond.

Mr. Shawn-Patrick Stensil: That's a great question, because it raises an issue I forgot to mention in my presentation.

As I mentioned, I filed a petition with the Environment Commissioner. There had been previous petitions, again, as a way of trying to push previous governments to table this legislation. The day I received my response from the Environment Commissioner—I think there's a three-month limit—I got a call from one of the opposition parties asking why the Nuclear Liability Act had been tabled that very day.

So what I would say on this point, for information for the committee, is it shows the need to have something, such as the Environment Commissioner, where we can push through things and get them out on the table.

One thing that I would note, in response to your question, as well, is I've got hold of the order papers. This act has been done for many years under previous governments, and one of the things that was noted was bringing this act up may require a broader public debate on the future of nuclear power in Canada. That is something that past governments and this government have not done and it's something, as I mentioned in my presentation, that this committee should probably dig into because there are other decisions, such as the privatization of AECL, which studies also began under past governments, that are being discussed again behind closed doors, and this committee could help keep NRCan accountable that way. I would hope the members see that as their role.

• (1050)

The Chair: Thank you, Mr. Stensil.

And Mr. Harris, I've even allowed you a little extra because of the intervention.

Thank you very much to the witnesses.

I would ask the members of the committee not to stand to thank the witnesses because we have a lot of business to do in the next ten minutes. We do have a committee following us here in this room. We have to be done our committee meeting by eleven o'clock.

So thank you to all of you very much for your presentations and the answers to our questions.

We now will go to a motion, which has been given proper notice by Ms. Bell. Ms. Bell, just before we do go to that, I want to make a suggestion to committee.

We have a meeting for Thursday, which, as of right now, isn't planned. Is the committee open to going to clause-by-clause on Thursday?

Mr. Anderson.

Mr. David Anderson (Cypress Hills—Grasslands, CPC): I wanted to actually address that.

We had asked for witnesses' lists to be sent forward. They were sent forward. There were a couple of extra witnesses that were submitted. This has to do with Thursday's meeting, I think, and we have to set future business here.

I guess we have two ways of hearing these witnesses. One is to bring them in here to hear them; the other is to have them submit written submissions to us. I think if we went through written submissions, we could go to clause-by-clause. If we're going to hear them, then obviously we're going to need to have another meeting of witnesses.

I was actually wondering also what the committee's desire is. Do they want to go to clause-by-clause fairly quickly to try to see this bill through? So I'd like to know from them what they're thinking.

The Chair: Madame DeBellefeuille.

[*Translation*]

Mrs. Claude DeBellefeuille: In response to Mr. Anderson's question, I feel quite rushed. I find this bill quite airtight. It would be good to hear witnesses and to be able to react. That would give us time to absorb all this new information. As a committee member, I don't feel ready to proceed with the clause-by-clause consideration on Thursday.

[*English*]

The Chair: To be fair, we did ask for names of witnesses to be presented by a certain deadline. We've accommodated I think all but one. The NDP had proposed two; we accommodated one, which I think was appropriate. The witnesses presented by the Bloc were after that deadline.

There were several other witnesses who have been allowed to make written presentations, and we certainly welcome that, as Mr. Anderson said.

Any witnesses who haven't been heard, if there are some, even the ones suggested later, are certainly more than welcome to make written presentations. So we can certainly do that.

I will go now to Mr. Alghabra, who is next on the speaking list.

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

I do appreciate having rules and a deadline. Given the fact that Thursday is still not planned yet and we do have a couple of outstanding witnesses—and I agree the more we talk about it, the more we hear from witnesses, the more we understand the bill and the more we understand what direction to take—I think the committee might be willing to start clause-by-clause next week, and with your approval we probably could accommodate the witnesses for Thursday.

The Chair: Just because we have to get to Ms. Bell's motion and we have to be out of here by eleven, may I propose that we hear witnesses the first hour, and go to clause-by-clause the second hour? Would that be an appropriate accommodation? Is that all right?

I see agreement. Thank you. We will arrange that. We will accommodate everyone we can.

Let's go now to Ms. Bell. If you could move your motion, I understand you've changed it slightly, but it seems certain that the notice would still apply.

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

I'm not sure how to proceed with this, because I've had some discussions with my colleagues at the table to amend the motion even further than what's before you. Should I do that first?

• (1055)

The Chair: You should read the motion, yes. I think I have before me the changes you've proposed.

Ms. Catherine Bell: But just since I've come in the room today, there have been some changes.

The Chair: Okay. Read the motion, then.

Ms. Catherine Bell: The motion is that the Standing Committee on Natural Resources calls on the government to adopt the recommendations put forward in the "Advisory Group Report: National Roundtables on Corporate Social Responsibility and the Canadian Extractive Industry in Developing Countries", to announce its proposals for the implementation of these recommendations, and for the committee to immediately report on these proposals to the House.

That's the original motion that I put forward.

The Chair: Could you just move it as you would like the motion to read?

Ms. Catherine Bell: It would be removing the last line, basically. It would read:

The Standing Committee on Natural Resources calls on the government to adopt the recommendations put forward in the "Advisory Group Report: National Roundtables on Corporate Social Responsibility and the Canadian Extractive Industry in Developing Countries", to announce its proposals for the implementation of these recommendations to the House.

The Chair: Okay. Maybe "and to announce its proposals". Would that maybe read okay?

Ms. Catherine Bell: Yes, okay.

The Chair: Great. We've heard what you've presented, Ms. Bell.

Has everyone got that, or is it clear?

Yes, Mr. Anderson, and then Mr. Alghabra.

Mr. David Anderson: No, he's first.

The Chair: Okay, go ahead.

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

In my discussions with Ms. Bell, I thought we might change "adopt the recommendation" and instead we'd ask the government to "respond to the recommendation".

The Chair: Ms. Bell, is that an acceptable proposal?

Ms. Catherine Bell: Yes.

The Chair: Not to prejudice members, but I would ask the committee, would they agree to that readily, rather than "adopt" for the government to "respond to", which is what the government will do anyway?

Mr. Anderson.

Mr. David Anderson: Mr. Chair, I would just ask that she read the entire motion, please. We're not against the first part of that. I'm not sure what the text in the second part of the motion is.

The Chair: The clerk will read the motion.

The Clerk of the Committee (Mr. Chad Mariage): The motion reads: The Standing Committee on Natural Resources calls on the government to respond to the recommendations put forward in the "Advisory Group Report: National Roundtables on Corporate Social Responsibility and the Canadian Extractive Industry in Developing Countries", and to announce its proposal for the implementation of these recommendations to the House.

The Chair: Mr. Anderson.

Mr. David Anderson: Mr. Chair, we're prepared to support the motion if there is a period after "Developing Countries".

We're talking about the response to the CSR report, so we're not going to presume they will implement the recommendations.

The Chair: Mr. Alghabra.

Mr. Omar Alghabra: Instead of having "to announce its proposal", why don't we say "to announce any proposal"?

Mr. David Anderson: We're presuming then that these recommendations will be implemented prior to the government even responding to them, and I don't think we can do that. I'm prepared to call on the government to respond to the report, but I'm not prepared to presuppose that we're going to implement the recommendations or report immediately.

The Chair: Mr. Anderson, I think what Mr. Alghabra has proposed—I haven't asked Ms. Bell yet whether she will accept that—doesn't necessarily indicate proposals would be put forth. It says "to put forth any proposal". I think that is open, at least in my judgment, but the committee decides that.

Ms. Bell, what do you think about that?

Ms. Catherine Bell: I'm okay with both amendments—to respond, and to announce any proposals. I understand, through discussions with my colleagues, we're asking for a response here from the government; we're not presupposing they will adopt the recommendations, approve them, or implement anything.

• (1100)

The Chair: Please read the motion.

The Clerk: The Standing Committee on Natural Resources calls on the government to respond to the recommendations put forward in the “Advisory Group Report: National Roundtables on Corporate Social Responsibility and the Canadian Extractive Industry in Developing Countries”, and to announce any proposals for the implementation of these recommendations.

(Motion agreed to)

The Chair: Thank you so much for your cooperation.

If we're going to clause-by-clause in the second half of the meeting on Thursday...

Ms. Bell, sorry. Go ahead.

Ms. Catherine Bell: If it doesn't say “to the House”, will it not go to the House?

The Chair: The government generally responds.

Mr. Anderson.

Mr. David Anderson: A little more comprehensive form of this motion may be coming before one of the other committees. I think they will be discussing it at length and in more depth than we are. Perhaps from there they will make a recommendation to report to the House.

The Chair: Thanks to everybody for your cooperation.

If there are any amendments, get them in as soon as you can. I assume you've been working on them anyway. Get them in tomorrow to the clerk—tomorrow morning ideally.

Thank you very much.

The meeting is adjourned.

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