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Chair

Mr. Leon Benoit

Standing Committee on Natural Resources

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• (1530)

[English]

The Chair (Mr. Leon Benoit (Vegreville—Wainwright, CPC)): Good afternoon, everyone. It's good to see all of you again.

Before we get to the business of the day, I want to mention to members of the committee that there's been a request, as I mentioned before, for members of the natural resources committee to meet with members of the Turkish parliament and the Ambassador of the Republic of Turkey, and others, tomorrow between nine and ten, at 131 Queen Street. That's between nine o'clock and ten o'clock, on the eighth floor. For anyone who can possibly make that work, we would love to see you there.

When a delegation comes, it's appreciated if Canadian members of Parliament can make time to meet with them, so I'm putting in a request again.

Ms. Duncan, go ahead, please.

Ms. Linda Duncan (Edmonton—Strathcona, NDP): Mr. Chair, unfortunately, every Tuesday at nine we have a meeting of our members for this committee, and that's for at least half an hour, so I don't think we're going to be able to go at that time.

The Chair: Okay.

Ms. Linda Duncan: You can quiz Peter when he gets here.

The Chair: Okay. We'll see what we can do with that.

Today we're here, pursuant to the order of reference of Tuesday, November 26, 2013, to study Bill C-5, an act to amend the Canada-Newfoundland Atlantic Accord Implementation Act, the Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act and other acts and to provide for certain other measures.

We have two one-hour sessions in our meeting today.

In the first hour, we have, from the Department of Natural Resources, Jeff Labonté, director general, energy safety and security branch. Welcome to you. We have Samuel Millar, senior director, frontier lands management division, petroleum resources branch. Welcome to you. We have Anne-Marie Fortin, counsel. Welcome. We have Tyler Cummings, deputy director, frontier lands management division, petroleum resources branch. Welcome to you.

We have as well, from Employment and Social Development Canada, Brenda Baxter, director general, workplace directorate, labour program. Welcome to you.

Go ahead with your presentations as you have them planned, and then we'll get to questions and comments from the committee members.

Go ahead, please, Mr. Labonté.

Mr. Jeff Labonté (Director General, Energy Safety and Security Branch, Department of Natural Resources): Mr. Chair, and members, thank you very much for the opportunity to present further information on Bill C-5, the offshore health and safety act, a package of offshore health and safety amendments.

My name is Jeff Labonté, and I'm the director general for the energy sector of the Department of Natural Resources. I'm joined by my colleagues, whom the chair has identified.

We're here today to talk on behalf of the department and the deputy minister and minister about Bill C-5 as proposed in the House. It's a set of provisions to amend the accord acts, as well as a number of other acts, and to clarify and strengthen occupational health and safety in the regime for Canada's Atlantic offshore areas where there are active oil and gas developments and exploration activities.

I'll start by pointing out and underlining that the accord acts are somewhat unique as legislation in the federal and provincial versions mirror each other, allowing Canada to continue under what we term shared management regimes with both the Province of Newfoundland and Labrador and the Province of Nova Scotia. We are also actually actively in discussion with the Province of Quebec to establish similar mirror legislation.

By mirror legislation we mean that both federal and provincial legislatures have nearly identical legislation that creates a management structure that allows development to occur on an orderly basis and on a basis that's clarified in law and with a regulatory body. It also means that when amendments are required in the offshore area, there is more than one active party in legislature that requires agreement in terms of how to move forward to make amendments.

Bill C-5 is the culmination of a thorough and sustained process of collaboration with our partners in the provinces of Newfoundland and Labrador and Nova Scotia. All three governments introduced this legislation in May of this year. I'm happy to say that the respective provincial governments passed the legislative amendments and they received royal assent in each of the provinces. In the case of the federal legislation, it was tabled; we came to committee; and the legislation has been reintroduced.

Just as joint management is unique and has a unique legislative frame, our Atlantic offshore is also a unique workplace. Not unique, however, is the need to ensure that the offshore industry carries out its activities safely and in compliance with the most stringent workplace and environmental standards. Canadians expect to see a world-class regulatory regime, and the proposed legislative amendments ensure that our offshore regime remains world class and among the strongest.

The proposed amendments clearly establish authority for occupational health and safety in each of the accord acts and provide that they will be administered by our offshore boards, our arm's-length offshore regulators, who are experts in oil and gas. I understand that later this evening you will have before you the heads of two of the regulatory agencies in Atlantic Canada.

The amendments proposed cement in statute current practices in which the offshore boards apply occupational health and safety standards and requirements traditionally as conditions of licence to operate. Thus, the proposed amendments clarify accountability in statute and will introduce other improvements so the regime can continue to build on its existing safety record, which is solid. The legislation proposes specific worker rights, a new governance model, clarity in the hierarchy of responsibility, and new powers to the offshore board and its officers to enhance safety.

I'll walk briefly through each of these, and then I'll turn the conversation over to you for your questions.

With respect to specific worker rights, the amendments include three fundamental worker rights: the right to know, to be informed about the workplace, the hazards that exist, and the safeguards in place to mitigate them; the right to participate, to be a key part of the decisions that affect health and safety in the workplace; and the right to refuse dangerous work. When we're talking about workplaces here in the offshore, we're talking about workplaces that can be hundreds of kilometres offshore in the North Atlantic, and the need for these rights becomes magnified.

The amendments also propose a specific new governance model for the proposed occupational health and safety sections of the accord acts. Provincial ministers responsible for occupational health and safety will have oversight in partnership with the federal Minister of Natural Resources. This reflects the agreement of the original accord act in which provincial social legislation would apply, and in this case we're talking about labour.

Federally, the Minister of Natural Resources will call on the Minister of Labour as needed, and as the legislation outlines, he or she must do so in specific circumstances, i.e., to review and approve regulations and nominations to the occupational health and safety advisory committee.

● (1535)

The federal minister will also call on the Minister of Transport, as needed, to ensure consistency for our workers offshore when they are in transit to and from the workplace by marine or by air. The legislation also establishes an occupational health and safety advisory council for each of the offshore areas and includes the respective chief safety officers as members. We intend that each committee will advise governments on worker health and safety

issues, including any concerns that may arise in the context of work authorizations, i.e., those related to the operation of the offshore.

With respect to hierarchy of safety, the amendments proposed create a clear hierarchy of responsibility. In doing so, they address a certain point. One is that no one wants an incident to happen, not the companies, the offshore boards, the federal government, the provincial governments, the unions, nor the workers, who all strive to ensure that incidents don't arise. But when something does, the last thing that anyone wants is that we're not responsible or that someone else is responsible. This legislation proposes that it is the operator who is ultimately responsible for the safety and well-being of all workers, contractors, and even visitors who join the opportunity to visit its facilities. The legislation also spells out the duties of employers, supervisors, employees, contractors, and interest holders, as well as the offshore boards and their officers.

The nature of the offshore is that the work sites are far away and certainly necessitate travel and movement to reach the platforms. The legislation also proposes that the health and safety regime explicitly apply to workers when in transit to the offshore. Any worker can refuse to be transported, without reprisal, if concerned with safety. The legislation also includes powers to establish regulations related to additional safety equipment for workers in transit, and offshore board inspectors have the power to conduct compliance audits on vessels used to transport workers. These measures taken together would enhance safety for workers and those in transit to the offshore.

New powers for the boards and officers is the final area that I wish to speak to. The legislation provides a new suite of powers to offshore board officers to enhance safety. For example, they would have the ability and power to inspect the workplace, to take samples, to meet in private with an individual, and to inspect, as needed, living quarters. Due to the distance and some of the issues I mentioned earlier, these officers have the power to act in exigent circumstances; that is, they could act without a warrant to preserve evidence or to prevent non-compliance. A requisite warrant would have to be sought post-activity and be granted by a judge or equivalent.

The final area that I will cover is that of the chief safety officer. First, to ensure that safety considerations are always represented, the legislation proposes that the position of the chief safety officer can never be held by a CEO of the board. In addition, a chief safety officer would have to review and provide written recommendations related to safety on all operational authorizations. This would formalize a process that both boards have already been following and is a practice of ensuring that safety is a priority. Chief safety officers would also be granted the power to allow regulatory substitutions. These could be made when an operator satisfies the chief safety officer that the substitution proposed provides an equivalent or greater level of safety. The chief safety officer could also require that the operator or employer establish a special operational health and safety committee. The committee would be in addition to the workplace health and safety committee that all workplaces with more than five employees must establish.

In certain special circumstances, the legislation also provides that the provincial minister have an exceptional power to appoint a special officer. The legislation is very clear that this can only be done when there are reasonable grounds to believe that such an appointment is warranted to avoid a serious risk to health and safety, and that risk could not be avoided through the use of any other means available through other acts. Both the federal and provincial ministers would have to agree that the required conditions have been fulfilled. The orders of a special officer would supersede all orders of all other officers, including the chief safety officer.

I'd like to close by saying that this proposed legislation is an important step in clarifying our already excellent offshore oil and gas regime and ensures that occupational health and safety remains a priority. We look forward to your questions and discussion on this proposed legislation as it's being considered by Parliament.

Thank you, Mr. Chair.

• (1540)

The Chair: Thank you, Mr. Labonté, for your presentation.

We go now to questions and comments from members, starting with the Parliamentary Secretary to the Minister of Natural Resources, Ms. Block. Go ahead, please.

Mrs. Kelly Block (Saskatoon—Rosetown—Biggar, CPC): Thank you very much, Mr. Chair.

I would like to welcome all of you here to committee. I'm looking forward to the questions and answers that will come out of this session. I do want to thank you as well for obviously all the hard work that has gone into the creation of this legislation.

I'd also like to start by acknowledging just how vital the offshore resources industry is to Atlantic Canada, and in fact to our country's economy. I know the offshore oil and gas industries have made an enormous contribution to Newfoundland and Labrador, and Nova Scotia, and that these industries have transformed the economy of eastern Canada.

With all that activity comes the need to ensure that we have a world-class regulatory body, to ensure that our government is taking measures necessary to ensure Canadian satisfaction in this regard and ensure that people are safe in their workplace.

I also know that this bill has been in the making for many years. I'd like to ask you to describe the process historically and then how crucial it is that these amendments be enacted promptly at this time.

• (1545)

Mr. Jeff Labonté: Thank you for the question.

The work on the legislative package before Parliament got under way almost a dozen years ago. It was following an accident in Nova Scotia in which a worker in a workplace was killed. In that particular accident, the accord acts originally separated operational safety, the operations of the technical units and things that are happening in the offshore, which was embedded within the accord acts, and occupational health and safety as a separate area which fell under the provincial jurisdiction.

In the workplace, in this particular instance and in several instances, there was some potential for what we call the grey area, or what was exposed as a grey area at that point a dozen years ago. Was the worker working in the workplace who received an injury, and who in this case was killed, under occupational health and safety, which was provincial legislation, or was that worker actually working on an operational issue, on operational safety, which is under the accord act legislation, which we would think as federal and the province would think as provincial.

The confusion between whether it was occupational health and safety or whether it was operational was what led to an inability to kind of follow through with this particular instance in a way that left all the governments, all the labour groups together, and all the operators believing this needed to be addressed.

That led to a 12-year process in which, over a number of iterations and through sustained discussions with the provinces of Nova Scotia and Newfoundland and Labrador, the worker community and the operators, the legislation proposed a series of amendments that would take the existing provincial legislation in some cases, existing guidelines in other cases, existing regulations under different acts and embed them and draft them into the accord acts. For the offshore it would be clear that occupational health and safety fit the unique circumstances, and that it fit within the context, but also managed to live within the spirit of the original accord acts, which was that social legislation was going to respect the provincial jurisdiction to the extent it could.

That's something we tried to preserve in the drafting of the bill and in the materials that were in it. The provinces likewise did the same.

It was a fairly extensive process through a number of years. It had reached certain points, in the mid-2007 era, when the bill appeared to be ready to be brought forward, but there was a need to further strengthen the governance on the labour side of the bill. Another series of amendments was proposed and drafted.

Our colleagues in Justice have been on the file for a number of years with the department.

Mrs. Kelly Block: Thank you. That might lead to my next question.

You mentioned that the accord acts are unique in that there's mirror legislation with federal and provincial governments. We know that they've passed in both the provinces involved.

I'm wondering if you could describe for us that consultation process between the two provinces and the federal government.

Mr. Jeff Labonté: It's a fairly detailed and involved process.

What normally happens is the legislation is drafted by a committee that has provincial members, federal members, and justice members. We draft the federal legislation first. Then it goes back and forth between the provinces and the federal government. We go back and forth looking at the different aspects. Then there are consultations with different experts in the community and experts in the domain. Then there is the process of the drafting expertise that goes on, and there's a back and forth that takes a fairly significant amount of time to ensure there are no unintended aspects in either of the provincial cases. To a certain degree, there are fairly detailed negotiations to deal with points of difference, points of nuance, points of interpretation, and we draft together for extended periods. We then settle on the federal bill. It then goes out to the provinces, which draft their own mirror versions that have the right references to their own legislation. Then it all comes back together for a review by everybody *ensemble*, if you will, and then we move forward separately into introducing it in each of the legislatures.

In the case of the two provinces, they did so earlier this year. Their legislative agenda is different from Parliament's here, federally. Both bills passed and received royal assent. Their legislatures have shorter processes, if you will, and fewer stages of review.

• (1550)

Mrs. Kelly Block: We know that this requires both the Minister of Natural Resources and the Minister of Labour to work together. How closely will they work together as a result of this legislation?

Mr. Jeff Labonté: We have worked and continue to work closely with Labour Canada at the officials level. The two ministers have to both agree on regulatory processes and amendments. Before moving forward on regulations or amending the regulations, or introducing new regulations with respect to labour, they have to pass through the Minister of Labour for reviewing and signing, as approval. Then they come back to the Minister of Natural Resources, who then has the final accountability to deliver it to the Treasury Board ministers and the government.

Mrs. Kelly Block: Thank you.

The Chair: Thank you, Ms. Block.

We go now to the official opposition, and to Mr. Cleary, for up to seven minutes. Go ahead, please.

Mr. Ryan Cleary (St. John's South—Mount Pearl, NDP): Thank you, Mr. Chair.

Thank you to the witnesses.

First things first. Mr. Labonté, I noticed that you're having some trouble with the pronunciation of Newfoundland. A good trick is to

say, "Newfoundland, understand; understand Newfoundland." That way you'll never get it wrong.

In one of the last statements that you made in your opening remarks, you mentioned how this proposed legislation is an important step in clarifying our already excellent offshore oil and gas regime and in ensuring occupational health and safety remains a priority.

There are some people in Newfoundland and Labrador who would have a problem with that particular statement, Mr. Labonté. Justice Robert Wells held an inquiry in 2010 into the crash of Cougar flight 491 that took the lives of 17 offshore workers. In Justice Wells' words, the most important recommendation from that inquiry was recommendation number 29. Recommendation 29 called for an independent health and safety regulator, an independent health and safety regulator.

My question is, why wasn't that particular recommendation for an independent safety regulator included in this bill?

Mr. Jeff Labonté: Thanks for the question and the pronunciation. I'll keep that in mind. Having grown up in central Canada, I'm always willing to learn about the new varieties in regional differences in how we pronounce things.

Mr. Ryan Cleary: No worries; we encounter that a lot from central Canadians.

Mr. Jeff Labonté: Indeed. You would think we have an accent in central Canada, and I would think the same for Newfoundland and Labrador—Newfoundland, understand—and Labrador.

Mr. Ryan Cleary: Perfect.

Mr. Jeff Labonté: Good. The chair of the Canada-Newfoundland and Labrador Offshore Petroleum Board will probably correct me on that in the next hour.

The first comment I would make would be that the drafting of the legislation and the identification of the occupational health and safety issues long preceded Justice Wells' inquiry and the work that he had done. Certainly notwithstanding the incident and the tragedy that resulted in the workers perishing in the accident, the work that was done on the bill and the work to move forward with occupational health and safety was an effort to try to make sure there was clarity on what occupational health and safety encompassed, and how it would be addressed in the accord acts. It didn't speak to the structure of the offshore board in terms of its organizational design, except to say that the powers and roles of the board officials, who are responsible for safety, were clarified.

I'd have to say that there are a number of important aspects in the bill that address some of the issues that were raised by that report. Certainly there were 28 recommendations in that report that the board has moved forward with. Recommendation 29 had two parts, (a) and (b). Recommendation 29(a) recommended the separate safety regulator, and 29(b) recommended that within the current legislative framework there were a number of things the government could consider and the board could consider, and a number of practices that could be considered. Certainly a number of those things were well under way. A number of them have been addressed, and we continue to talk with our colleagues in Newfoundland and Labrador to address all of the elements that we have, and to ensure we have a safe workplace.

That said, the bill's amendments certainly are another step at moving forward and continuing to address occupational health and safety, and to ensure, to the extent we can, that workers in the workplace remain safe.

• (1555)

Mr. Ryan Cleary: Thank you very much for that answer.

The Canada-Newfoundland and Labrador Offshore Petroleum Board looks after three different mandates: health and safety, the environment, and industry regulation. Some people where I come from say that puts the C-NLOPB in a potential conflict. You can't look after three adequately.

Kathy Dunderdale, the Premier of Newfoundland and Labrador, and this comes back to my first question, has endorsed recommendation 29, saying that the province wants to move forward with this, but again, it comes down to the federal government and its failure to move forward itself.

More specifically, can you tell me whether or not your department has plans to move forward with an independent safety regulator for the offshore oil industry off Newfoundland and Labrador, and off Nova Scotia?

Mr. Jeff Labonté: I think the Premier of Newfoundland expressed a number of years ago an interest in recommendation 29. She didn't actually express whether it was (a) or (b). At the time of that expression I think the legislation we're speaking to was not yet tabled, nor had it been considered.

From the perspective of the federal government, I think Minister Oliver, who is responsible for the Department of Natural Resources, has expressed some concern about what some have termed the balkanization, or potentially the dilution, of the expertise in the offshore industry should there be more than one regulator.

I think you made the statement about the environment, industry regulation, and safety when you said that there were three roles.

Mr. Ryan Cleary: Right, yes.

Mr. Jeff Labonté: Correct. There are three roles that the board performs. There is the role of safety, looking at the safety of operations. The amendments would address the safety of the workplace, which is one of its primary roles and it is ultimately its most important role. The amendments proposed actually provide the chief safety officer the ability to shut down an operation. That actually cannot be overturned by the CEO. It cannot be overturned

by the board itself. It can only be overturned by a provincial court judge.

Mr. Ryan Cleary: I'm sorry to interrupt, sir. I just have to correct you on one thing.

Premier Dunderdale of Newfoundland and Labrador was pretty straightforward in coming out and saying that she agrees with recommendation 29 insofar as the creation of an independent safety regulator is concerned. She's been clear about that.

Mr. Jeff Labonté: Okay, I would defer to your statement on that particular point.

But I would certainly address the question you had about the three aspects of the board's responsibilities.

Mr. Ryan Cleary: What I'd rather you get to is why the federal government has failed to date to follow through on that particular recommendation from the Wells inquiry report.

Mr. Jeff Labonté: I think we've been looking at all of the aspects of the recommendation, and the report in and of itself. There was the Hickman report, which preceded that one and actually suggested that the strength of the regulator was really important to continue. There are different models around the world, and some have different approaches—

Mr. Ryan Cleary: Again, Justice Wells said that the most important recommendation was number 29, specifically with regard to the independent safety regulator. How come the federal government has failed to move on that specifically?

The Chair: You're out of time, Mr. Cleary, so could we have a very short response?

Mr. Jeff Labonté: I'd like to say that we continue to look at recommendation 29 in the broader context of these amendments and other aspects of the offshore and in the context in which the recommendations are put forward. We continue to have those discussions with officials in the Province of Newfoundland and Labrador, and we will continue to do so.

The Chair: Thank you.

Thank you, Mr. Cleary.

Mr. Regan, you have up to seven minutes. Go ahead, please.

Hon. Geoff Regan (Halifax West, Lib.): Thank you, Mr. Chairman.

Thank you to the witnesses for appearing today.

Clause 45 of the bill before us inserts, among other things, a new section 205.001, which in paragraph 205.001(3)(a) gives regulatory-making powers to the Governor in Council to make regulations, for example, defining "danger". Amendments proposed, I gather, in the other bill that's related to this, Bill C-4, would amend the definition of "danger" as defined in the Canada Labour Code. In relation to this bill, is it the intention that the definition of "danger" for the purposes of the offshore accords will match the definition as proposed by Bill C-4?

• (1600)

Mr. Jeff Labonté: I'll defer to my colleague from Justice who would be able to speak to the issue of the reference.

Ms. Anne-Marie Fortin (Counsel, Department of Natural Resources): When the bill was drafted, there were some issues identified by our colleagues at Labour Canada, the labour program, with regard to the definition as it stood then in the Canada Labour Code. At one point we contemplated importing the definition that existed then. We discussed and negotiated with the provinces, subject to the advice of the boards. I don't know if the labour program at that time furthered its intention to table Bill C-4, and maybe they will want to follow up on my answer, but definitely we knew there was an issue with the definition of "danger" that needed to be addressed, but we were not comfortable in not giving the power to the Governor in Council to address the issue at a later date, once there was further thought into the definition.

Hon. Geoff Regan: I guess my concern is that the government could define "danger" and change the definition of "danger" with absolutely no consultation with employers and employees or experts, as I'm told was done in relation to the changes in Bill C-5 to the definition. I don't know if Ms. Baxter can clarify this and talk about the consultations that took place for redefining "danger" in Bill C-4 and tell us what the plan is in relation to Bill C-5.

Really, is the government planning to do consultations on this?

Ms. Brenda Baxter (Director General, Workplace Directorate, Labour Program, Department of Human Resources and Skills Development): I can't speak to the consultation process with respect to Bill C-5. My colleagues would have to speak to that.

With regard to the changes that are included from the consequential amendments to the Canada Labour Code, in this act they touch on the issues of information sharing. They touch on the issues of timelines for prosecutions, as well as ministerial permission to appear before a civil or administrative proceeding. Those are the specific changes.

Hon. Geoff Regan: I'm confused and a bit baffled. Maybe someone can clarify this. You have provisions that would give the Governor in Council the power to redefine "danger" in this bill before us today. Is no one here able to speak to the question of consultation on that question? My understanding is that when Bill C-4 was before the committees in both the House and the Senate, it became clear that there had been no consultations with the employees, the unions, of the employer groups.

The question is, what's the basis for this? Does the government plan to have consultation, since it doesn't appear to have done so thus far?

Ms. Brenda Baxter: My understanding is this is with regard to Bill C-5, not Bill C-4.

Hon. Geoff Regan: I presume you're going to have the same definition for both, but maybe you can tell me that. If you're changing the definition for both, then I'm concerned about whether or not there has been consultation.

Ms. Brenda Baxter: Bill C-5 speaks to provisions under the proposed amendments under the Canada Labour Code. This is with respect to the offshore accord act, which is a separate piece of legislation.

Hon. Geoff Regan: Yes, but are you planning to use the same definition in both, because that's my understanding; but either way,

will you consult employees and employer groups before proceeding with that?

The Chair: Ms. Fortin, go ahead.

Ms. Anne-Marie Fortin: I don't think the decision has been made as to whether a definition would be adopted by regulation or whether it would be the same, but definitely no regulation can go forward without having consulted with the province and obtained their consent. There would be a mandatory prepublication. I do believe there are some consultation processes for all the regulations that are done for the offshore area.

• (1605)

Mr. Jeff Labonté: There is the requirement in the two pieces of legislation to ensure consistency between them.

The question of the consultation would be should the government invoke the authority to make regulations if there is a requirement for there to be consultation through the *Canada Gazette* process, which we recognize would occur. Certainly in this instance, given the mirror legislation we spoke to earlier, there's a natural, if you will, consultation dialogue that happens with both of the provincial governments involved currently, and potentially in the future with the Province of Quebec.

I recognize your point of the need for consistency, and certainly in this particular case the authority here requires that consultation would take place.

Hon. Geoff Regan: I gather on the other bill in relation to the definition of "danger" there has been testimony that the current definition is very ambiguous, and the proposed one is aligned with case law, and yet there are some things in the current definition that are very clear, very explicit. For example, it says "and includes any exposure to a hazardous substance that is likely to result in a chronic illness, in disease or in damage to the reproductive system".

I guess if your plan is to take those out, surely a court would assume you have a reason for changing the wording and for taking things out. I'm wondering what kind of background there has been to try to assess what the impact of that would be, of removing words of that sort.

Mr. Jeff Labonté: You're talking about Bill C-4.

Hon. Geoff Regan: The point is, if you're making changes to the definition of "danger", where is it going to end in relation to both bills, particularly this one?

Mr. Jeff Labonté: This bill seeks authority to be able to potentially change the definition of “danger”. Clearly that will have to be consistent with the amendments proposed for the Canada Labour Code under Bill C-4, but I'm not an expert in that particular set of amendments.

The question of how one exercises that authority is expressed in the bill, which is that it will go through a regulation-making phase or a step, that it would be provided for comment and consultation.

The Chair: Thank you, Mr. Regan.

We'll start the first five-minute round with Mr. Allen, Ms. Crockatt, and the New Democrat member, Ms. Duncan.

Go ahead, please, Mr. Allen, for up to five minutes.

Mr. Mike Allen (Tobique—Mactaquac, CPC): Thank you, Chair, and thank you to our witnesses for being here today.

Just to get to a little higher level, if I understand correctly, we're talking about, roughly, a 264- or 270-page bill. If I recall correctly around 200 pages of this is devoted to things we would typically see in an occupational health and safety act. It reads with the setting up of the committees, the processes, the meetings, the identifying of the dangers, and all the appeal mechanisms. That's generally what this is for the majority of the bill.

Is that correct?

Mr. Jeff Labonté: It's correct. It's incorporating existing practices.

Mr. Mike Allen: It's occupational. That's great.

With that in mind, we have gone through 10 years of this process, and you have indicated quite a number of things we have had to do, and we have gone a long way. I appreciate your comments with respect to being open to the ideas in the Wells report and having that discussion.

However, as a committee I guess we would have to be very thoughtful and very conscious of making any substantive amendment to this, because I would suspect that anything that would have to be amended in this bill would have to go back to the provinces.

Mr. Jeff Labonté: Correct.

While I won't debate the will of Parliament to determine what is legislation, any amendments in the bill that are of a substantive nature will have to be reflected in the provincial bills for them to take force and then for the new regime to be in place, if you will, for the occupational health and safety in the workplace in the offshore.

Mr. Mike Allen: Thank you.

I appreciated your comments when you said that the chief safety officer can shut down something if there's a dangerous operation. My experience on construction projects was always that way, even though the safety officer reported to the project manager who was on any specific site. Essentially, they had a tremendous amount of power. If there was a danger out there, they could actually shut the installation down. I'm glad you said that, because that can happen here.

This bill also clarifies that role. As you pointed out in your comments, it can't be the CEO and it can't be any other officer. It has to be a stand-alone officer. That increases the transparency.

How would the person be selected, and roughly how long would a person serve?

Mr. Jeff Labonté: That's actually a question that my colleague who will be following me will be able to best lay out, in terms of the tenure of the safety officer. Each of the boards is slightly different in their composition.

• (1610)

Mr. Mike Allen: Okay. We can ask them that.

You did say one thing, though, in your comments. You said, “an operator satisfies”...“also be granted the power to allow regulatory substitutions”.

Do you have an example of what one of those substitutions could be in that case? Has there been any case previously where not having this power caused some issues offshore?

Mr. Jeff Labonté: One of the examples I could speak to is when a worker arrives and punches the time clock and begins, if you will, on the job. They're physically standing in St. John's, and they are then transported, frequently by helicopter, or by ship, to the operation. When they get on that helicopter, they fall under the jurisdiction of the Minister of Transport, who is responsible for the safety of passengers while in transit on any vehicle in Canada, whether it's by air, ship, rail, train, you name it.

For most of us when we get on a helicopter, we may not need an underwater breathing apparatus. We may not need very special training. We may not need special circumstances that would allow us to be a passenger in that aircraft. But in the offshore, it has been established that there's a requirement that people have the appropriate training, that there is appropriate equipment. There are special requirements that are different from the regulations that support a person in transit in a helicopter.

This is an example where the layering of additional requirements has occurred. Should there be a new technique for survival, or breathing, or any other aspect that would be provided that's better than, or at least as good as, the existing one, then the chief safety officer may, in that instance, choose to accept the substitution.

There are really two things at play here. One would be adding to something, so allowing that more can be done. The other example would be changing from one thing to another, to accept it for being equivalent.

Mr. Mike Allen: The CSO is someone who could actually make that decision. Before, I guess it would have been a haphazard type of thing as to who would have made that decision.

Mr. Jeff Labonté: If I could be more upfront about it, I think it's more that regulations and regulation-making take a fair bit of time. Frequently new techniques and new technologies emerge, and you want to be able to accept things when they occur, long before perhaps the regulations catch up to spell out that you need a certain piece of equipment.

The chief safety officer would know by common practice and by standards technologically that are used in different countries in different circumstances that a new technique is there. Even though the regulation spells out that you have to wear a certain vest, a new vest is on the market and is actually safer. They may make that substitution without waiting for the regulations to be amended to accept the new vest, if you will.

Mr. Mike Allen: That's very helpful.

Thank you, Chair.

The Chair: Thank you, Mr. Allen.

Now to Ms. Crockatt for up to five minutes.

Ms. Joan Crockatt (Calgary Centre, CPC): Thank you very much, Chair.

I want to thank the officials for coming. It's always great when we can have you here to ask questions directly. I appreciate that.

First, I want to follow up on Ms. Block's comments earlier on the development of Canada's offshore resources being essential not only to residents of Newfoundland and Labrador and Nova Scotia, but to all Canadians. The public needs and wants to be assured it's being done with appropriate regulations so they know it's being done safely.

I think this is a critical piece of legislation. You talked about Bill C-5 having the most strident workplace and environmental standards. I'm wondering if you can tell us how the standards that are included in it compare to those in other countries.

Mr. Jeff Labonté: I'd have to say that we compare in a number of ways.

One of the ways that Canada sets itself among the appropriate peers globally, and we would consider those to be Norway, the United Kingdom, Australia, and others, is that much of our regulatory regime and the regime behind it is focused on safety. It's focused on the environment. It's focused on responsible resources.

It is something in which we use a lot of goal-oriented regulation, if you will. We spell out what we desire as the outcome, as opposed to saying that you must do this, you must do that, which is usually termed prescriptive regulation. Our regulatory system has the ability to evolve and to stay current. The previous comment on substitution is an example of that.

Certainly, when some of the studies and some of the reviews were done after the tragedy in the Gulf of Mexico, Canada's system was compared by a consulting firm for the U.S. department with the U.K. and Norway. Among the three other peers, we were seen to be the most substantive in what the system covered and the most thorough in terms of our approach to regulation and our approach to looking at these areas—

• (1615)

Ms. Joan Crockatt: Of the top countries in the world?

Mr. Jeff Labonté: Of the top countries in the world.

Ms. Joan Crockatt: Okay.

Is it fair to say that our health and safety regulations are superior to those of many of the countries with which we're competing and to those of suppliers who are actually supplying Canada?

Mr. Jeff Labonté: Well, I would certainly say there are certain countries that do offshore and have what appear to be less stringent regulations and regimes, but for the most part, there is sometimes a lack of transparency and specificity in their regimes, such as, for example, Nigeria and some of the countries that are producing offshore.

I'm always careful not to say that we're better than or less than, but certainly we feel very strongly that our regime stands up to scrutiny. It's transparent. It's clear. Everything is laid out. It spells everything out. There's a consultation process when we make changes. There's input and there are intervenors and processes that allow us to continue to move forward.

There's a broader community globally of all the regulators. My colleagues from the boards may speak to this. Best practices are shared among the international regulatory forums. Annually, there is an exchange between the head regulatory agencies around the world that are responsible, and they make recommendations for improvement in areas of interest to address.

Ms. Joan Crockatt: Getting back to the Wells inquiry, there is a component here whereby workers can refuse to take transportation if safety is a consideration. Is that correct? Can you elaborate on that for us?

Mr. Jeff Labonté: Yes. Workers may refuse to step onto an aircraft or a ship and be transited to work if they feel that it's unsafe.

Ms. Joan Crockatt: Do they face reprisals? How is that different from what was the case?

Mr. Jeff Labonté: Well, we're enshrining that in law.

It's certainly a practice that if there are concerns, there are committees now that look at these issues and ensure that there's a regular dialogue about the length of the flights. There is a high order of scrutiny, if you will, given the tragedy that occurred, so it's now being written into the statute as it's proposed.

Ms. Joan Crockatt: My time is probably coming short, so can I ask you about incident Nimbyism? I think that in some cases it becomes easy for someone to say, "This isn't my area and it's not my responsibility." How is that addressed in Bill C-5?

Mr. Jeff Labonté: Well, it's addressed at the simplest level by saying that the operator of the facility is responsible, period. Then there are processes that are established from a governance point of view and that allow workers to be part of the decision-making with the chief safety officer and the officials from the board, who regulate, as well as the company that operates, so it's a consultative open conversation around concerns about safety.

Those things can be, quite frankly, ideas and discussion about how to make things safer. They can be concerns about how we've seen a number of people experience muscle injuries or smaller forms of injuries and how we need to consider whether those systemic issues are to be addressed with designs of protocols, facilities, techniques, and things that are going on. Then there are broader things about what people are concerned about.

Ms. Joan Crockatt: What about the average worker?

The Chair: Thank you, Ms. Crockatt. I'm sorry, but your time is up.

Ms. Joan Crockatt: Thank you.

The Chair: We go now to Ms. Duncan, followed by Mr. Trost and Mr. Julian.

Go ahead please, Ms. Duncan, for up to five minutes.

Ms. Linda Duncan: Thank you very much.

You're likely aware that the Department of Public Works and Government Services has been convicted of violating four counts of occupational health and safety laws, including failure to have any kind of basic health and safety policy in place, failure to train, and failure to ensure that any contracting parties have been fully trained and informed.

Given the nature of this business and given the duties under this legislation to establish occupational health and safety policies and practices, what confidence can the workers have that this will be expedited in a more rapid way than Public Works did it? You had already waited 12 years.

Mr. Jeff Labonté: I'd simply say that I don't know about the Public Works case, but I'll certainly take your question as you presented it.

The workers have a regime today in which there are a number of regulatory aspects that fall under provincial jurisdiction that apply, and they have aspects that apply as contractual conditions that are established between the operator and the offshore boards, which take into account occupational health and safety issues. There is existing health and safety committee work that goes on between the workplace, the workers and the employer. The amendments proposed in the bill help clarify those things to put them clearly in the accord act so they're not falling under more than one act and under the responsibility of more than one minister, federally, for example. They provide a greater degree of certainty and provide additional authorities that would continue to strengthen the workplace.

Certainly, the two provinces have felt pretty confident that the amendments provide a stronger occupational health and safety regime and have moved forward. We're hoping that we'll continue the discussion with parliamentarians so that the bill can move forward and that it can be put into place so that those things will be put into the statute as they are evolved from practice.

• (1620)

Ms. Linda Duncan: Actually, your response goes to my next question.

In fact, the legislation appears to create the most complicated procedure I've ever seen for making decisions on health and safety.

We have the Minister of Natural Resources, the Minister of Transport, the Minister of Labour, the Government of Newfoundland and Labrador, the Government of Nova Scotia, and then we have the two offshore boards. There seems to be a lot of uncertainty in the case of a simple worker of who exactly is going to be making the decisions.

That goes to the obvious question of, why is it that provincial occupational health and safety laws were the only ones that were being exempted for application to the protection of these workers? Wouldn't it have been simpler just to incorporate by reference the respective two provincial laws into federal law, where there already are decades of experience in delivering these programs and decades of experience with already trained and employed officers?

Mr. Jeff Labonté: I think the challenge here would be to address the uniqueness of the legislative frame of shared management and the mirroring of the legislation, and the requirement that there are certain distinction points, as I pointed out. As a person steps on a helicopter, they're under the authority, in this instance, of more than one minister of the crown, whether that's the provincial context or whether it's the federal context. By putting them into the accord act, it is an attempt to simplify that the clarity and the accountability—

Ms. Linda Duncan: You still have three ministers, two jurisdictions, and many officers making one decision.

Mr. Jeff Labonté: The regulation is actually made, and it's clear and it spells it out. The different ministers who have authority to have input on that regulation depends on the expertise. I don't think that's significantly different from other workplaces of this nature across the country. I'll grant that it's actually a little bit more complicated in the offshore because we have the added element of the provincial and federal marrying together, but certainly the effort here is to try to clarify. The regulations will be clear. They'll spell it out only once.

I understand your point that there are many actors involved.

Ms. Linda Duncan: It didn't really answer my question. Why is it that provincial occupational health and safety laws are the only provincial laws that are not a continue to apply? We're dealing with a very distinct issue, some problems with occupational health and safety. There were issues to do with the *Ocean Ranger* going down. There's the issue with the helicopter crash. It seems logical that what we need is one point in time, one person who makes the decisions.

I see an extremely complicated process, where somebody says, "That helicopter doesn't look safe to get on," and then we go through I can't believe the number of authorities. It's not really clear in the legislation at what point in time a decision is made and by whom.

Mr. Jeff Labonté: The decision-maker is the offshore board. There's only one in each jurisdiction. The regulations that are established to provide the authority of the offshore board are mirrored in both the federal jurisdiction and the provincial jurisdiction. There's the federal process and a provincial process, but the board is provided the authority to make the decisions. There's only one decision-maker.

Ms. Linda Duncan: Are you saying the board will decide if the work is dangerous?

Mr. Jeff Labonté: The response is to your question of who the workers deal with when they express a concern about a situation that they don't think is safe.

• (1625)

The Chair: Ms. Duncan, your time is up.

We go now to Mr. Trost, for up to five minutes.

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

Thank you to each of our witnesses for being here.

What I'm going to do here is try to take the perspective on a practical level as a worker who is going to go out there to work and try to figure out what this would mean to him, her, me, or whoever is going out there.

Mr. Labonté, you said in your remarks that there were three basic rights that workers have: the right to be informed, the right to refuse dangerous work, and the right to participate in safety decisions. I'll admit that I haven't read every page of this bill yet. I may not get there.

What would this mean? How would this work in practice? How would I understand this? How would it relate directly to workers out there? Could you give some examples of what it would mean to be informed? How would I participate in a safety discussion if I were a worker? What would be the right to refuse?

What is dangerous or what is not can be incredibly subjective. What I'm getting from what you're talking about, you want to give the worker the benefit of the doubt because this is potentially a high-risk occupation. Could you give me a few practical illustrations of what it would mean to someone who's going out on the rig for the first time?

Mr. Jeff Labonté: I'll start and then I'll pass it on to my colleagues.

First, it is a safe workplace. Efforts are made every day by the workers, the boards, and the operators. The operators have responsibility for their workers and they take those responsibilities extremely seriously, as any good employer would.

Certainly on the rights that are being enshrined, a worker can believe that work may not be safe and can refuse to take part in that work. Then there is governance. There are worker committees that involve the work community, the safety officers of the board, the

regulator, and the operator to kind of explore whether that work is dangerous, if there should be changes made, and if the environment should be changed. There's, if you will, a mechanism to engage.

Mr. Brad Trost: Okay, so if I feel I'm not being informed, can I go to the work committee and the safety officer and say, "You've got to give me a briefing on x , y , and z "?

Mr. Jeff Labonté: About being informed, anybody who gets on an aircraft heading to one of those platforms has to go through a mandatory training program before getting on the helicopter or the boat, even visitors. If you and I go as visitors, we will go through a mandatory briefing before we even get on the vehicle.

If I'm a worker who travels regularly, there are regularized updated briefings as they go through and go on. Then there's sort of the regular literature and the materials you'll find in the workplace that are distributed to workers. Then there's a dialogue through the committee structure that allows workers in the workplace to continue to be in constant discussion and dialogue about what some of the issues are, and if there are concerns, allows those concerns to be expressed and dealt with before they become issues and before they become hazards.

Then in the instance that is fairly extreme when there is something that could be deemed or thought to be dangerous by a worker, the worker has the right to refuse to engage in that particular activity.

You would expect, and I think practice demonstrates, that it's a pretty powerful right and one that you wouldn't utilize if you hadn't gone through due diligence, informed, taken steps, and believed that you were trying to make sure that your workplace remains safe. Certainly the experience as it kind of unfolds is very dynamic; it's fairly ongoing and it's something that a lot of time and effort is put into. There are very practical, as you said, ways: mandatory training, mandatory experience, and specific tasks and techniques that have to be managed. There are committees that can review things and appeal mechanisms. There's a whole suite of things.

Mr. Brad Trost: If I'm summarizing this correctly, as much as people such as the chief safety officer and the worker committees, etc., have the duty to enforce these three rights, if I'm the individual employee, I actually have the ability to enforce these three rights for myself as well.

Mr. Jeff Labonté: Even more so, there's an expectation that it's part of your responsibility. The responsibilities don't fall only to the operator, only to the board; they fall to the worker, to the worker's union, his labour group, to all of the parties who visit the platform. It's everyone's responsibility. That's part of what this bill moves for and what some of the aspects are, to just talk about a safety culture, a culture in which safety is part and parcel of everyone's mindset at every aspect and at every turn, and in doing so, it requires active engagement of all parties.

• (1630)

The Chair: Thank you, Mr. Trost.

Mr. Julian, you have about two minutes for questions and answers.

Mr. Peter Julian (Burnaby—New Westminster, NDP): Thank you, Mr. Chair. That's very generous of you.

I'm going to take the two minutes to go over two questions that have come up, which I don't think have been fully answered. Hopefully, you can help us with that.

The first is Mr. Cleary's question around why an independent safety regulator was not put into the bill. Nova Scotia called for it and Newfoundland called for it. We really need an explanation as to why the federal government refused to accept what were clear recommendations from those two provinces.

The other thing that's very helpful for us to know, because we've had contradictions between Bill C-4 and Bill C-5, is to what extent the two ministries are actually working together so that Bill C-4 doesn't destroy any of the benefits that are in Bill C-5. If you could answer those two questions, that would be very helpful for us.

The Chair: I know that you've had these questions asked before. You have a whole minute to answer them again.

Mr. Jeff Labonté: On Wells' recommendation 29, the boards and the government have moved forward with structuring the boards and the responsibilities so that safety remains a priority. I've spoken to the role of the chief safety officer, some of the authorities the safety officer has, some of the design of the unit within the board itself, and certainly, the conflict that has been suggested here is one that doesn't exist in practice. Certainly, the legislative changes that are proposed here will further the independence of the safety officer. We believe that the process and the 28 other recommendations that have been pursued and implemented are—

Mr. Peter Julian: Excuse me, Mr. Labonté.

Is there any documentation—

The Chair: No, Mr. Julian.

There is no more time for a follow-up question.

Mr. Peter Julian: If you have any information you can share with us, e-mails, or anything internally, on the issue of the safety regulator, please do so.

Mr. Jeff Labonté: I'm sorry, were you looking for further information from e-mails?

Mr. Peter Julian: If you have any information internally on the evaluation around the safety regulator that you could share with us, it would be appreciated.

Mr. Jeff Labonté: We have a regular dialogue with our colleagues in the provinces of Newfoundland and Labrador and Nova Scotia, with the offshore boards, and with the regulatory community globally. We address the issues and try to move forward with health and safety issues around the workplace to make sure that it remains a priority. We continue to discuss with the province Mr. Wells' recommendations and the broader context around occupational health and safety, both of the workplace and of the operations.

The Chair: Thank you.

Thank you, Mr. Julian.

Thanks to all of you from the Department of Natural Resources and from the Department of Employment and Social Development Canada for being here today and helping us with the start of our examination of this legislation.

Thank you very much.

I will suspend the meeting for a couple of minutes as we change witnesses.

I would ask anyone who would like to talk to these witnesses if you could please move away from the back of the table to do that so the new witnesses can come to the table. This would allow the maximum amount of time possible with the witnesses from the two provinces.

• (1630)

(Pause)

• (1635)

The Chair: Good afternoon, everyone. I will reconvene the meeting.

We have two witnesses.

From the Canada-Newfoundland and Labrador Offshore Petroleum Board, we have Scott Tessier, chair and chief executive officer. Scott, when you make your presentation, you can introduce the person you have with you.

We also have, from the Canada-Nova Scotia Offshore Petroleum Board, Stuart Pinks, chief executive officer.

Thank you very much, all of you, for coming on such short notice. We really do appreciate it.

We're looking forward to hearing what you have to say and then to hearing your answers to the questions committee members have for you.

We will go in the order you're listed on the agenda, starting with Scott Tessier.

Mr. Scott Tessier (Chair and Chief Executive Officer, Canada-Newfoundland and Labrador Offshore Petroleum Board): Thank you, Mr. Chair.

Good afternoon. I am the chair and chief executive officer of the Canada-Newfoundland and Labrador Offshore Petroleum Board, sometimes referred to as the C-NLOPB. I am joined by my colleague, Susan Gover, legal counsel with the board. It's a pleasure for us to be here today to speak in favour of this very important bill.

The C-NLOPB is pleased that Bill C-5 has been introduced in Parliament. We see it as a very positive development in offshore safety. In particular, we appreciate that the bill reflects the following principles: occupational health and safety laws for the Newfoundland and Labrador offshore area should be at least as stringent as those for onshore; joint jurisdiction of both the federal and provincial governments is recognized; and consideration has been given to an effective and efficient use of regulatory resources.

I want to acknowledge the tremendous effort that has gone into this initiative over a number of years by our staff, in particular Howard Pike and Susan Gover, who joins me today. They've brought great value to the development of this package through their expertise and their advice to government officials.

Bill C-5 is an important piece of legislation in that it extends authority and fundamental principles of occupational health and safety to the offshore within the accord acts. These new amendments will provide a comprehensive legal framework to achieve the same protections for offshore workers that onshore workers currently enjoy.

The passage of this bill into legislation would strengthen the way in which we and our colleagues in Nova Scotia conduct offshore safety activities. These amendments create a formal legislative and regulatory framework for occupational health and safety and a more effective enforcement tool kit for our officers.

One of the significant changes proposed in the bill is on matters related to occupational health and safety. The C-NLOPB will also now report directly to the provincial minister responsible, the Minister of Service Newfoundland and Labrador. We look forward to that new working relationship.

The bill also reflects a hierarchy of responsibility in clarifying the roles of governments, regulators, employers, and employees. It recognizes that the operator is ultimately responsible for ensuring worker safety in the offshore environment.

Bill C-5 also grants the offshore petroleum boards additional authority to disclose information to the public related to occupational health and safety. The C-NLOPB is committed to the principles of openness, accountability, and transparency, and we are committed to continuous improvement in this regard. These amendments will guide the C-NLOPB in our decision-making around information disclosure on matters of offshore safety that are in the public interest.

The C-NLOPB would also welcome the establishment of an advisory council with representatives from industry, governments, and employees to provide advice on matters related to occupational health and safety.

As well, the new legislation will clarify any jurisdictional uncertainties respecting occupational health and safety matters, in particular the right to refuse and the requirement for occupational health and safety committees. The C-NLOPB currently administers the provisions of the provincial Occupational Health and Safety Act on behalf of the province. Having these principles enshrined in legislation under the accord will ensure that the board has clearer authority to enforce all occupational health and safety requirements.

In October the board held its fifth safety forum, which provided an opportunity for stakeholders in the offshore industry to share information so that safety issues can be proactively identified and discussed. Many of the issues that arose related to matters addressed in the proposed amendments. The following day we held our biannual meeting with the joint occupational health and safety committees from each of the facilities operating offshore. The committees reviewed an overview of the changes proposed in Bill C-5, and the response was quite positive.

An important feature of these amendments is that they ensure the new occupational health and safety regime clearly applies to workers in transit to, from, or between offshore workplaces. This would require that the federal Minister of Transport recommend regulations related to the occupational health and safety of offshore workers in transit. Transport Canada has regulatory responsibility for vessels and helicopters, but the C-NLOPB has an important role in passenger safety with respect to offshore workers. It's therefore important that both regulatory agencies adopt a coordinated approach to safe passenger travel to, from, and between offshore facilities.

Since the crash of Cougar flight 491 and the establishment of the Wells inquiry by the C-NLOPB, there have been considerable improvements to offshore helicopter passenger safety. The actions of the C-NLOPB following this tragedy have captured the interest of offshore regulators worldwide.

I, along with our chief safety officer, recently returned from an international offshore safety conference, where we gave an overview to a very attentive audience about our progress on helicopter safety.

● (1640)

I think it's fair to say that out of these tragic circumstances we are among the world leaders in offshore helicopter passenger safety. The proposed legislative amendments will further strengthen Canada's leadership in this area.

In response to the Wells report, the C-NLOPB established an implementation team consisting of offshore workers, operators, Cougar Helicopters, and the C-NLOPB. While very good progress has been made in implementing the recommendations of the Wells inquiry, more work remains to be done by a number of stakeholders.

I'll close by saying that the safety of offshore workers is always our top priority. The C-NLOPB welcomes these amendments, and we will be ready to implement them once they are passed by Parliament.

I want to thank you for inviting us here today and for giving us this opportunity to speak to this important legislative proposal.

I look forward to your questions.

● (1645)

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

We will go now to the presentation from Stuart Pinks, chief executive officer, Canada-Nova Scotia Offshore Petroleum Board.

Please go ahead with your presentation, sir.

Mr. Stuart Pinks (Chief Executive Officer, Canada-Nova Scotia Offshore Petroleum Board): Okay.

Mr. Chair, and members, thank you for the invitation for the Canada-Nova Scotia Offshore Petroleum Board, what we call the C-NSOPB, to appear before the Standing Committee on Natural Resources regarding Bill C-5, the offshore health and safety act.

My name is Stuart Pinks and I am the board's chief executive officer.

The C-NSOPB is the independent joint agency of the governments of Canada and Nova Scotia responsible for the regulation of petroleum activities in the Nova Scotia offshore area. In carrying out its legislative mandate, the health and safety of offshore workers is paramount, and it is with this in mind that the board is pleased to be able to communicate to this committee the board's support for Bill C-5.

While both the federal and provincial governments acknowledged the need for legislative change, the board took interim steps a number of years ago and developed its own set of occupational health and safety requirements based on a hybrid of best practices from existing provincial and federal legislation and regulations. At the heart of these requirements is an internal responsibility system which, among other aspects, promotes a positive safety culture, the use of best practices, and holds both employers and employees accountable for safety.

Our current health and safety structure ensures that petroleum activities are conducted in a manner in which hazards are properly identified, and the associated risks assessed and then appropriately mitigated and managed. The board's health and safety team is led by our chief safety officer, Mr. Keith Landra, who alongside me is appointed by and reports directly to the board. Reporting to Mr. Landra are several health, safety, and environment advisers, some of whom are also designated as safety officers under the current legislation. One of these safety officers has been designated as a backup to Mr. Landra in his capacity as chief safety officer, should he be unable to fulfill his role at any given time.

As a former chief safety officer at the board myself, I know firsthand the importance of having in place the appropriate organizational structure to assure that our decision-making process recognizes safety as paramount and environmental protection as a close second. I am pleased to say that our board has in place a governance structure to assure that this is indeed the case, and that to this end they have created a separate board committee responsible for oversight of our health, safety, and environmental, HSE, protection mandate.

This committee consists of board members with extensive offshore oil and gas experience and expertise. It meets regularly with our chief safety officer ahead of all board meetings and also on an as-needed basis. These meetings are designed to give the chief safety officer regular and direct access to the board members in support of his very important role, separate from consideration of other aspects of the board's mandate.

The HSE committee has a number of functions, which include reviewing decisions taken to assure that decision-making recognizes the paramountcy of health and safety. The committee also supports the chief safety officer in his role and provides advice as and when necessary. Another key benefit of the committee is that it acts as a

system of checks and balances to ensure that all the appropriate policies, systems, guidelines, and memoranda of understanding are in place for ensuring regulatory due diligence, and that health and safety efforts are adequately resourced.

While our current occupational health and safety system has served us well, we welcome the changes in part III.1. Board staff has been integrally involved in the legislative drafting process, providing advice on an ongoing basis. We are encouraged to see that this legislation contains the legal framework and authority for a modern occupational health and safety regime in the offshore. We are pleased to see that the compliance and investigation powers of our occupational health and safety, operational safety, and conservation officers have been modernized and made consistent in that legislation.

Another benefit of this legislation surrounds transparency. As a regulator of a high-profile industry, we are frequently challenged with the task of releasing information. These new legislative amendments will ensure that we can disclose information related to occupational health and safety should it be in the public interest.

Last, our board strongly feels that each person has a responsibility for the overall safety of the workplace. Owners, interest holders, operators, employers, supervisors, service providers, and front-line employees each have individual and shared responsibilities. Because this hierarchy is outlined in this bill, our board can make greater strides in directing and enforcing responsibility.

• (1650)

Furthermore, we are pleased to see that this bill legally enshrines employee rights to know, to participate, to refuse dangerous work, and to be protected from reprisal. It is my belief that these changes will help to foster a greater sense of safety culture in Nova Scotia's offshore.

Moving forward, our board will work with both governments to create memoranda of understanding for the administration and enforcement of part III.1 and part III of the legislation. Our designated officers will be appropriately trained, and we will make the necessary changes to our internal policies and procedures. Our HSE committee has proved to be an important function of the board and will continue to provide governance oversight as we move forward in implementing these amendments. Our staff will also work to inform operators and staff of these changes.

Overall, our board welcomes this legislation and looks forward to seeing its benefits realized.

Thank you again for the opportunity to provide the board's perspective on this matter.

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

We'll start with Mr. Allen. We need a New Democratic member, and Mr. Regan.

Go ahead, please, Mr. Allen.

Mr. Mike Allen: Thank you very much, Mr. Chair.

Thank you, folks, for being here. I appreciate your insight and input into this bill.

One of the comments you both made was with respect to transparency. Mr. Pinks, one of the comments you made was that as a regulator of a high-profile industry, you are frequently challenged with releasing information. It was the same thing with Newfoundland. You said these new amendments would provide a comprehensive legal framework to achieve the same protections.

Can you comment about that release of information and transparency? What are the benefits of Bill C-5 that you didn't have before?

Mr. Stuart Pinks: Maybe I can take the first stab at answering the question and then pass it over to Scott for any additional comments.

Just about all of the information that our board receives in its day-to-day regulation of operators is deemed to be proprietary information. It's protected under the act, as it currently is worded, from release into the public domain. It can be released to governments on request, but it cannot be released into the public domain without the express permission of the operator that provided that information.

Those provisions were put in back in the 1980s when the legislation was first drafted. In this day and age, there is an expectation that the public is better informed on occupational health and safety matters and environmental matters. The legislative amendments contained within this bill provide the ability of the board to release information specifically on the health and safety side if the key safety officer determines that the information will be of benefit to the public. This means more information can be shared in the public domain. Lessons learned from incidents can be broadcast and learned by others. We see this as a primary benefit in improving safety in the offshore.

Mr. Mike Allen: Mr. Tessier.

Mr. Scott Tessier: To reiterate, both the federal and provincial ministers are entitled to information or documents related to occupational health and safety. That's under the control of the board upon their request. The boards have discretionary power and responsibility to release health and safety information that's in the public interest. The chief safety officer may also disclose information with respect to occupational health and safety to government officials and agencies and foreign governments if it's in the interest of public health and safety.

Both boards are committed to the principles of transparency, accountability, and openness, and we are committed to continuous improvement in that regard. Certainly, in the Newfoundland and Labrador environment, because of the tragedies of the past, the *Ocean Ranger* and Cougar flight 491, which have both been mentioned here today, there is a keen interest in transparency on the part of the general public in Newfoundland and Labrador.

Mr. Mike Allen: Let's go to the chief safety officer, then. I see both of you have your chief safety officers in place. How are those people selected? For how long will they serve?

With the chief safety officer being part of the board, do you see the chance of a conflict? In my previous history in construction, the chief safety officer could pretty well shut down anything he wanted if it was dangerous, and he can shut down a developer.

I want to ask three questions. How are they appointed? For how long do they serve? Do you see any issues of accountability and transparency in respect of that role?

• (1655)

Mr. Stuart Pinks: I can start from a Nova Scotia perspective.

The chief safety officer role has a lot of defined qualification and competency requirements. Typically that individual will be a 20-plus year individual with extensive offshore experience and extensive experience at managing human resources, the people who would be assisting him and advising him.

That individual is selected through a rigorous procedure that we have in place at the board staff level. A recommendation would go to the board to appoint the chief safety officer, and the board would make that appointment.

I think in the 25-odd years our board has been in existence, we've only had four or five chief safety officers. They tend to stay in that position for an extended period of time.

Actually, I myself was a chief safety officer previously. I only relinquished that position when I became the chief executive officer.

In terms of independence, first of all, in terms of any authorization that is issued for any work or activity in the offshore, the chief safety officer must be consulted. The chief safety officer is obligated to consider safety in its entirety and to make a recommendation to the board, or the chief executive officer on behalf of the board, as to whether an authorization should be issued, yes or no. I think in the 12 years I've been at the board, the chief safety officer's recommendation has been accepted in every case.

Once an authorization has been issued, the chief safety officer then has the ultimate authority. As has been discussed, if there is an operation that is unsafe and could cause serious bodily injury, the chief safety officer has the authority, as does the safety officer, to shut down the work site. Once the chief safety officer has issued the order, or validated the order issued by a safety officer, that is only challengeable in the court. It's not reviewable by me, as chief executive officer, and it's not reviewable by the board.

The Chair: Mr. Tessier.

Mr. Scott Tessier: I'll add that following the Wells report, the C-NLOPB clarified the role of the chief safety officer. The terms of reference for that position are available online.

The board took further measures to separate the safety function within the board, consistent with recommendation 29(b) from Judge Wells. At that time there was an extensive public search to identify and recruit the chief safety officer, who's still in place, and as to the term, the longer the better, as far as I'm concerned, with respect to our current CSO.

In terms of the question of conflict, or the optics of conflict, as I mentioned in my opening statement, safety is always our top priority. I've only been in the position for about nine months, but it's hard for me to conceive of a situation wherein the word of the CSO would not be paramount in any board decision.

Mr. Mike Allen: This legislation brings the yardsticks forward. Do you see anything in here—you took me to my next question when you brought up the Wells report—that would prevent long-term discussion, or immediate-term discussion, with the provinces on Mr. Wells' recommendation on a different form of structure? Do you see anything in this legislation that would stop us from getting there someday if we wanted to?

The Chair: There's time for a very brief answer from each of you.

Mr. Stuart Pinks: No. I would say no. This deals strictly with occupational health and safety, which is alongside the operational safety that proposed part III.1 deals with. Now you have safety as an overall umbrella and that discussion could proceed.

Mr. Scott Tessier: The establishment of the advisory council, as you mentioned, does move the yardsticks forward in this regard as well.

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

We'll go to Mr. Julian, for up to seven minutes.

Mr. Peter Julian: Thank you very much, Mr. Chair. I'll be splitting my time with Ms. Duncan.

Thanks to our witnesses for being here today.

I'd like to take up a subject that we had asked the Department of Natural Resources in the first half of today's meeting, which is the whole issue around the independent safety regulator.

As I'm sure you noted, our representatives from the Department of Natural Resources did say that there were ongoing discussions with the provinces and with the offshore boards about putting in place an independent safety regulator, but it's not in the bill. That's a matter of real concern.

I want to start off by asking you if you are aware of any ongoing discussions about putting into place an independent safety regulator such as other countries have, including the United Kingdom and Australia.

As well, do you have concerns about this bill going forward without putting that into place, as was clearly, as Justice Wells said, his number one recommendation?

• (1700)

Mr. Scott Tessier: I don't have those concerns. I am aware that there are differing views concerning the idea of a separate safety agency.

I want to underscore the importance of distinguishing independence in terms of the function as opposed to independence in terms of the board. The board is fiercely independent with respect to governments, the operators, and stakeholders. We are truly an independent regulatory agency in which safety is the top priority.

The board, I think, has quite appropriately left the question of Judge Wells' recommendation 29(a) to the governments. We have a

very professional staff. Safety is our top priority. I can't say it enough times. We do it well.

The board has taken measures consistent with recommendation 29 (b) from Judge Wells. We put measures in place to strengthen the independence of the safety function within the board. There are mechanisms in place for the chief safety officer and the safety officers to communicate with the other parts of the board. We've done a gap analysis. We've got a continuous improvement process in place with respect to the safety function. We have bimonthly round tables wherein the chief safety officer comes in, meets with our board, sets the agenda, and the board members are, in turn, free to ask any questions of the chief safety officer.

We've taken it as far as we can, from the board's perspective.

Mr. Peter Julian: Just so I understand this, you're not aware of any ongoing discussions about putting into place an independent safety regulator. I understand the measures you're taking to work around the absence, but are you aware of any discussions going on?

Mr. Scott Tessier: Sure. I think it's a matter of public record that the federal and provincial governments are still discussing that matter.

Mr. Peter Julian: Okay.

I don't know if you wanted to add anything, Mr. Pinks. I have another question to ask you both, but did you have anything on that you wanted to say?

Mr. Stuart Pinks: No, I think Scott's answer would be very similar to the answer I'd have given.

Mr. Peter Julian: Yes. Thank you very much.

My next question, and then I'll turn it over to Ms. Duncan, is on the whole issue around there's only so much that you can do in the jurisdiction of safety. A lot of this is really within the jurisdiction of the federal government. I'm thinking of Transport Canada and the recommendation of the Transportation Safety Board to have the 30-minute run-dry capability. As you know, that was a crucial element in the tragedy around the Cougar aircraft. The Transportation Safety Board has said very clearly that the federal government needs to impose that. The federal government hasn't done it. We have a situation where there's pressure for night flights. The federal government hasn't put in place the ability to enforce that clear safety requirement that has to be enforced, there is no doubt.

Does Transport Canada come to you? Do they say, "Are we okay just allowing for 10-minute run-dry capability on offshore helicopters?" Is there any consultation? Is there any discussion, or is what the federal government does completely separate from any decisions that you may make?

Mr. Scott Tessier: There was fairly extensive consultation with the board with respect to the most recent suite of Transport Canada regulations. That work ended just a couple of weeks back. A fundamental point here, which you reference, is that the jurisdictional oversight of air transit does fall to the responsibility of Transport Canada. Helicopters to be used for offshore travel would fall under their jurisdictional responsibility.

Our aviation advisers, who were put in place following the crash of flight 491, tell me that we need to proceed with caution here. There's no one perfect helicopter. There are pros and cons to each type. Thirty-minute run-dry is certainly an important capability, but it's only one consideration among many if you're doing a holistic assessment of the safety of a particular model of helicopter. Other considerations would include things like seating and window configuration, ease of egress, flotation ability, one-engine inoperability capability, range, and anti-icing. We need to be careful. There are only a couple of helicopters designed to meet the requirements of our offshore, and again, there's no perfect answer in that regard.

Mr. Peter Julian: I'm not sure that answers my question, but I'll turn things over to Ms. Duncan.

Ms. Linda Duncan: How much time do I have?

The Chair: You have a whole minute and a half.

Ms. Linda Duncan: I'd just like to comment at the beginning that frankly, I find it bizarre. Alberta, of course, has had oil and gas activity for decades, and in Alberta oil field workers have the protection of a separate agency. I find it bizarre that just because this activity is on sea all of a sudden they don't need an independent agency. I haven't really heard a clear answer why workers, just because they go onto the ocean, should be treated differently.

The legislation actually provides for the appointment of special officers to avoid serious risks. Flying by helicopter, often in very precarious weather, onto an offshore installation sounds like a pretty serious risk. Operating on a rig offshore is serious risk.

What is the difference between a health and safety officer and special officers?

Do you have plans in place immediately to put in place new improved measures that weren't in place since 1986 under this legislation to avoid such major incidents?

• (1705)

Mr. Stuart Pinks: I can start with the differentiation of the types of officers.

Under this legislation, the boards, through recommending to governments, will have occupational health and safety officers in their employ who will enforce the provisions of part III.1 of the legislation.

The special officers are a provision whereby if the board reaches a very serious issue where it's basically incapacitated and not able to act, the governments would have the ability then to appoint a special officer to go over—

Ms. Linda Duncan: Which governments?

Mr. Stuart Pinks: Well, it would have to be a joint appointment between the two governments. It has to be jointly agreed between the two governments, and it would be appointed then by the provincial minister of labour, on agreement from the federal government.

I can throw out an example. We have some sort of pandemic and all of our officers are sick. We have nobody we can send offshore and there is a serious situation. The governments could step in to appoint a special officer and send a special officer out to assume that duty.

The Chair: Thank you very much.

Your time is up, Ms. Duncan.

Mr. Regan, you have up to seven minutes.

Hon. Geoff Regan: Thank you very much, Mr. Chairman.

I had questions in relation to the recommendation of the Wells commission and the question of conflict of interest, but that's been fairly well covered. Let me go on to some other things.

Mr. Pinks, the newer activity in offshore Nova Scotia in terms of Shell and BP and what they're doing is of great interest in the province and is obviously economically very important, particularly when we see the decline in terms of revenues from the Sable offshore energy project.

What is your board doing to ensure that health and safety remains a key priority in relation to that activity?

Mr. Stuart Pinks: With the prospect of drilling in deep water and drilling for oil, we started about 18 months ago with a very detailed action plan of all the additional things we wanted to have in place ahead of a drill bit turning to the right. We're looking at that from both a safety perspective and an environmental protection perspective.

You're aware, of course, of the CESD audit, and it validated a number of the plans we had already started working on to get ready for deepwater drilling.

We are looking primarily at prevention, to prevent any major incidents from occurring. We're looking at things like independent well examinations by outside experts to ensure wells have been properly designed. We're looking at the emergency response plans and spill response plans of operators. We're also working jointly with our colleagues from the Newfoundland board to make sure that both of our boards are adequately and properly resourced to respond to any major emergency around spills and the like.

Hon. Geoff Regan: How big a challenge was it, in terms of the fact that you are really adapting...you were accustomed to dealing with natural gas, and suddenly you're dealing with oil?

What kind of changes have you had to make because of that? What kind of expertise did you have to bring in to deal with a different kind of activity?

Mr. Stuart Pinks: The expertise we have been acquiring, either by hiring them on staff or having consultants who can assist us, has been around deepwater drilling for oil and oil spill response. They are the primary areas where we've had to beef up our resources and our expertise.

Hon. Geoff Regan: In relation to the fact that both Bill C-4 and Bill C-5 propose to amend section 144 of the Canada Labour Code, but they do so in different ways and for different reasons, if Bill C-4 is enacted before Bill C-5, then section 144 of the Canada Labour Code will be inconsistent with other provisions of that act.

I wonder why there is no provision that would coordinate the competing amendments to the Canada Labour Code. Do you have any information on what's happening there in terms of coordinating the two?

•(1710)

Mr. Stuart Pinks: My response honestly is that we assist the governments in providing advice on drafting of regulations and legislation, but we are not the party who actually drafts it.

Hon. Geoff Regan: Fine, I'll move on then.

Let me ask you this. What does it take for you to say "don't fly"? When do you step in and stop something from happening?

Mr. Scott Tessier: That decision is typically made by the helicopter operator or the operator who holds the authorization.

Hon. Geoff Regan: You can imagine no situation in which your board would step in and say, "Wait a minute. You have to stop."

Mr. Scott Tessier: Our authority in that regard... If you think back, let's use the example of night flights. Judge Wells in the midst of his inquiry hit the pause button and came to the board and said, "I think we have a problem with respect to night flights. I think you should hit the time-out button on those." The board in turn went to the operators, and the operators agreed.

Hon. Geoff Regan: Okay. That's an extreme example. You had a judge and a commission telling you to stop, right? Is that the only situation you can envisage in which that would happen?

Mr. Scott Tessier: The day-to-day responsibility rests with, in the case of the current regime, Cougar Helicopters and the operators.

Hon. Geoff Regan: What about activities on a rig, for example? When would you say "Stop"?

Mr. Scott Tessier: We would as soon as there was a safety or environmental concern.

Mr. Stuart Pinks: With helicopters, an example—and this has been in place in both jurisdictions ahead of the recent Transport Canada regulations—is that of restricting flights over sea states where safe ditching could not occur. In other words, a sea state has to be below a certain threshold in order for flights to occur. Those limits were worked out between the boards and the operators, and they are now ingrained in legislation for Transport Canada.

Hon. Geoff Regan: Mr. Tessier, in relation to the provisions of Bill C-5 applying to the potential drilling in the St. Lawrence basin, which wasn't under your jurisdiction, it would seem to me there might be concerns raised, for instance, by other provinces—Quebec, Prince Edward Island, Nova Scotia, New Brunswick—and of course there's no agreement at the moment that's been adopted between the federal government and these provinces in relation to this activity.

Do you see any problems with implementing this bill in the gulf in view of this?

Mr. Scott Tessier: I see no specific problems with respect to the gulf. On the broader question of drilling or proposals to drill in the gulf, we're in the process of completing an update of the strategic environmental assessment looking at that part of the world, what we call western Newfoundland and Labrador. The final report from the strategic environmental assessment update should be available to the public sometime next month.

With respect to the specific proposal to drill Old Harry and the project-specific environmental assessment, the board will turn its attention to that once the strategic environmental assessment has been completed in January.

Hon. Geoff Regan: You don't see a role for your board in having any discussions with any other provinces, for example.

Mr. Scott Tessier: No. The authority that's been granted to us by the federal and provincial governments is in our Newfoundland and Labrador jurisdiction. It's for the activity in our offshore area, and that's where we issue our authorizations.

Hon. Geoff Regan: Thank you.

The Chair: Thank you, Mr. Regan.

We go now to five-minute rounds starting with Mr. Trost, followed by Ms. Block, Mr. Julian, and Monsieur Gravelle.

Please go ahead for up to five minutes, Mr. Trost.

Mr. Brad Trost: Thank you, Mr. Chair.

Thank you again to all of our witnesses here today.

Going back to the same idea from which I approached the issues with the previous witnesses, I'm trying to figure out how this would practically make some impact. You have effectively 12 lay people around here trying to understand something that you gentlemen have been specializing in for many years, I take it.

I understand there's going to be some new legal framework and so forth that comes out, but practically speaking, if I'm one of your junior staff, etc., working on this, what's going to change the day after the final legislative *i* is dotted and *t* is crossed? How will this start to functionally make things safer for the workers out there, since I'm assuming you gentlemen are currently already trying to do absolutely everything within your powers to make it safe?

Walk me through this. How is this going to help you do your jobs better and make things safer for our offshore oil and gas industry?

•(1715)

Mr. Stuart Pinks: The preface to your question I agree with. I said in my opening remarks that in the absence of this legislation, we put in place a set of occupational health and safety requirements that really ingrain the rights we've talked about and the duties we've talked about that are ingrained in this bill.

What will change on day one when this bill goes into place? There will not be a lot when it comes to what's happening in the offshore work environment, because the principles are already there and up and running.

What does change though is legal certainty and legal clarity, and the ability of the board to enforce the requirements. Right now if we find violations of our occupational health and safety requirements from an enforcement and a prosecution perspective, there is some legal uncertainty. This will give us the legal clarity we need to definitively enforce and definitively uphold the requirements within the legislation.

Mr. Scott Tessier: Yes, that's a good answer. It puts into regulation a lot of the good practices and good working relationships that were done on a more ad hoc basis until now.

Mr. Brad Trost: Then, if I understand what you're saying, effectively now we have a responsible industry that's working responsibly with you. If the situation came in the future where we had less responsible corporate citizens, this would then allow us to deal with them in an effective manner. Have I summarized that correctly?

Mr. Stuart Pinks: That would be correct. The one struggle we would have without this legislation, or a significant struggle, is if we had that errant operator or errant employers who are supporting that operator, right now it's very difficult for us to enforce past the operator level. This legislation, because it has duties imposed on interest owners, operators, contractors, subcontractors, suppliers, etc., all of the various workplace parties that form this complex work environment in the offshore, allows us to enforce at each of those levels.

Mr. Brad Trost: Okay. I can then see, because as you get smaller companies, you get a wider variety of clients and then there's a greater potential for something to go astray.

A couple things in various presentations were emphasized. Mike asked about public disclosure, which both of you emphasized, but I noticed something else. Again this is an area that's new to me. I notice distress on the whole hierarchy culture. Could you explain to me why that is so important? Looking from the outside, it is a little bit confusing on how these things are structured, and yet I understand the idea. Even to an outsider, while it may be confusing, you're looking for something that's clear. I've also heard talk about efficiency.

Could you talk to me about the whole concept of hierarchy, what that means to someone who doesn't totally understand the industry, the safety aspect, what it means and why it's important and why this legislation is dealing with it?

Mr. Stuart Pinks: If I'm understanding the question correctly, you're talking hierarchy in terms of the way the workforce is organized. At the work site, we will issue a licence to an interest holder. The interest holder—

Mr. Brad Trost: Let me just quote from something you have here, "Because this hierarchy is outlined in the bill", and you're talking about "owners, interest holders, operators...". That's what I'm referring to and that's what I'm getting at.

Mr. Stuart Pinks: Right now, as I said in my previous answer, if the legislation or the regulations are violated or an operator operates in non-compliance, it's the operator that we primarily have to deal with because they have an authorization granted by our board. Under this bill, there are duties that are imposed for safety on the operator. The operator has a set of duties in upholding safety. Any of the

contractors or subcontractors that may be out in the workplace who are working under his direction also have duties. Those that supply goods and services to the offshore workplace have duties and responsibilities.

Let's go right down to the bottom level. Let's say a supplier of goods or services is not upholding their obligations and their duties under this legislation. We, as the board, can enforce at that level. Right now, without that hierarchy ingrained in law, we have to go through the operator and it's much more difficult to get down to that level.

To sum up, the bill has...safety is everybody's responsibility. Every employer, operator, interest holder, owner, employee, supervisor, manager, everybody has a role to play. With this legislation we are able to hold each of those parties accountable.

• (1720)

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

We go now to the parliamentary secretary, Ms. Block, up to five minutes, please.

Mrs. Kelly Block: Thank you very much, Mr. Chair.

I welcome both witnesses here. Thank you for the testimony you've given today. It has been very informative.

I am a member from Saskatchewan. In the short period of time that I have been exposed to this proposed legislation, it has been very easy to see that the Atlantic offshore is indeed a unique workplace and brings with it some challenges that other workplaces would not.

It has been noted through previous questions and answers that there are a number of players involved, partners when it comes to ensuring the safety of offshore workers. I truly do appreciate the expertise and the commitment that you bring to this discussion today. All of that highlights and underscores the need for this legislation.

I'm going to follow up on the question that my colleague asked, which circles around the hierarchy of responsibilities. I know the departmental officials spoke to that and both of you have referenced it in your talking points.

I want to drill down to the fact that this legislation establishes an occupational health and safety advisory council for each of the offshore areas. I'm wondering if you would be willing to elaborate on how these councils will be involved with helping to improve health and safety issues.

The Chair: Mr. Tessier, go ahead.

Mr. Scott Tessier: Yes. First, you spoke to the hierarchy, as did your colleague, and the number of players and the complexity. When you hear offshore regulators and regulators of the industry in general talk about safety culture, that reflects the importance of all the players understanding and living up to their responsibilities with respect to safety. That has become increasingly important in the offshore post the Macondo incident in the gulf a couple of years ago. The legislation does reflect that importance.

The mandate of the advisory council would be to advise the boards, the federal natural resources and labour ministers, and the provincial natural resources and, in the case of my jurisdiction, service Newfoundland and Labrador ministers on the administration and enforcement of the amendments and any other matters related to occupational health and safety. The makeup is spelled out in the legislation, who appoints whom.

Beyond that, I think that's as far as I can comment at this time, unless Stuart has any other wisdom to offer.

Mr. Stuart Pinks: No.

In our context, as I stated in my opening statement, our board has put together a health, safety and environment committee of the board, which focuses on safety and makes sure that safety is paramount in the organization and in all our decision-making. I would see this advisory council helping advise them in their governance oversight of our safety function within the organization.

The other thing this advisory council can do in providing advice to ministers is that ministers can jointly—and because it's federal-provincial, it has to be joint—provide directives to the board or boards to develop guidelines or interpretation notes, or to implement recommendations that might have come out of an audit. I would see that as another function of the advisory committee. If they don't see the board reacting the way they had envisioned or felt appropriate, they can go to the ministers and suggest that the ministers take appropriate directive powers.

Mrs. Kelly Block: Thank you.

The Chair: Would anyone else like to finish the minute on this side? No. Then we'll go to Mr. Julian and possibly, Mr. Gravelle, if some time is left.

Mr. Peter Julian: Thank you, Mr. Chair.

I'll be splitting the time again with Ms. Duncan, and we'd like to thank our Conservative colleagues for the gift of the minute. That's very kind of them in the spirit of Christmas.

I'd like to come back, Mr. Tessier and Mr. Pinks, to the issue of the Transportation Safety Board proposed regulation, which would oblige a 30-minute run-dry capability. I wasn't sure whether what you were saying was that for the offshore boards this wasn't an important issue or whether you were saying here's how the federal government justifies not putting in place what the Transportation Safety Board has very clearly said needs to be put in place to meet health and safety requirements.

I would like to understand whether what you're saying is that the boards themselves are saying it's not an important element or needs to be taken into consideration with other things, or whether you're responding to where you think the federal government is coming from on this.

• (1725)

Mr. Scott Tessier: I don't think I was exactly saying any of those things.

Mr. Peter Julian: That's fair enough.

Mr. Scott Tessier: I pick none of the above. Just to clarify, not Transportation Safety Board regulations, Transport Canada regulations.

Mr. Peter Julian: Transportation Safety Board recommendations.

Mr. Scott Tessier: So the Transport Canada regulations flow from those regulations. That's right.

Again with respect to 30-minute run-dry in particular?

Mr. Peter Julian: Yes.

Mr. Scott Tessier: To reiterate, the advice from our aviation advisers is to proceed cautiously down this road, because only a couple of different helicopters are equipped to operate in our offshore. Not all have 30-minute run-dry capability. Thirty-minute run-dry capability is a bit of a misnomer. One of the helicopters has an emergency glycol system that can provide a backup in the case of a failure.

There are pros and cons to each type of helicopter and the advice is that we shouldn't try to pick one based solely on 30-minute run-dry capability. A host of other factors need to be weighed into the evaluation of a helicopter to service our offshore.

Mr. Peter Julian: Is the concern cost? I still don't understand why that would not be when the Transportation Safety Board clearly recommends that be put in place. Why would there be opposition? The only element I could imagine would be that costs might be involved in ensuring that every helicopter does have that 30-minute run-dry capability.

Mr. Scott Tessier: Yes, it's a question probably better put to Transport Canada officials, but the advice is that there's no perfect helicopter. If you're going to mandate 30-minute run-dry capability, you run the risk of hand-picking a helicopter that again isn't perfect for our offshore environment.

Mr. Peter Julian: Okay, but the problem here was that it wasn't enforced, as you recall.

I know you're well aware of the Cougar tragedy, but there the helicopter involved was supposed to have the 30-minute run-dry capability. It was exempted by Transport Canada. The pilots thought they had run-dry capability, and after 10 minutes, tragically, 17 people died.

I'm still struggling to understand whether this is the perspective of the board or whether there's a concern around costs. I don't understand why the recommendation wouldn't be enforced. That's on the Transport Canada side. For the boards themselves, I would just assume the safety boards would be saying, "Yes, we need to make sure that we have this 30-minute run-dry capability because that is a requirement for health and safety."

Mr. Scott Tessier: Yes, we obviously have a keen interest in the safety of passengers and workers in our offshore. Again, you can't look at 30-minute run-dry capability as a sole criteria in evaluating the safety of a helicopter.

Mr. Peter Julian: But you're not opposed to having it, or are you?

Mr. Scott Tessier: I think it's one factor in a series which you'd use to evaluate the capability of offshore helicopters.

Mr. Peter Julian: Okay.

I'll turn things over to Ms. Duncan, but I do think that makes the case for an independent safety regulator, because an independent safety regulator would be able to put aside issues of cost and say that this is what's needed for health and safety in the offshore.

Mr. Scott Tessier: An independent safety regulator would not... [Inaudible—Editor]...conclusion that I just outlined.

Mr. Peter Julian: I'm not sure you could say that.

Ms. Linda Duncan: Are you giving it to me, or are you not giving it to me?

Mr. Peter Julian: To Linda—

The Chair: On a point of order, Mr. Regan.

Hon. Geoff Regan: Mr. Chair, on a point of order, he should probably say it again because his microphone wasn't on until the very end of his statement. For translation, that's important.

The Chair: Perhaps you could just repeat the last part of your answer.

• (1730)

Mr. Scott Tessier: An “independent safety regulator” in the context which the member is suggesting would not come to a different conclusion with respect to 30-minute run-dry capability in our offshore.

The Chair: Thank you.

Ms. Duncan, there is no time left in Mr. Julian's allocated time.

Ms. Linda Duncan: You included the clarification?

The Chair: Ms. Crockatt, for up to two minutes—

Ms. Linda Duncan: Point of order.

The Chair: Yes, a point of order.

Ms. Linda Duncan: The point of order took up part of my time. That's not correct.

The Chair: No, the time was up already before that even happened.

Ms. Crockatt, go ahead, please.

Ms. Joan Crockatt: Thank you very much.

Witnesses, thank you again for being here and helping us to clarify a lot of these issues.

How many recommendations were there from the Transportation Safety Board?

Mr. Scott Tessier: In the most recent suite of Transport Canada—

Ms. Joan Crockatt: In the Wells inquiry.

Mr. Stuart Pinks: The Wells inquiry had 29 recommendations.

Ms. Joan Crockatt: How many were implemented?

Mr. Scott Tessier: Sixteen have been fully implemented to this point.

Ms. Joan Crockatt: How many are on track to be implemented now, including with this legislation that we're discussing today?

Mr. Scott Tessier: This legislation does not flow from the Wells inquiry. It predates the Wells inquiry. Sixteen have been fully implemented, let's say, twelve and a half are well under way, and the outstanding one being the one that was discussed earlier with respect to the recommendation for a separate safety agency. That's what the government's—

Ms. Joan Crockatt: I was hoping we might be able to clarify that. How many in total of the recommendations have been fully implemented or are on their way to being implemented?

Mr. Scott Tessier: Sixteen are fully implemented, and twelve and a half are on their way to being totally implemented.

Ms. Joan Crockatt: So, twenty-eight and a half of twenty-nine recommendations.

Mr. Scott Tessier: That's right.

Ms. Joan Crockatt: Good. I was hoping to put that into some sort of perspective, seeing how we seem to be on the far margins of this.

You testified today that there is quite a bit of a grey area and lack of clarity about whether that final recommendation would have been effective in being able to make helicopter transportation safer. Is that correct?

Mr. Scott Tessier: Again, I'm aware of the different views around the idea of a separate safety agency. The board hasn't weighed in on that debate. It has left it to the government to assess and decide. Again, I'll reiterate that the independence of the board should not be cause for concern by anybody. We have a very professional staff; safety is our top priority, and we do it very well. We have taken measures consistent with Judge Wells' recommendation 29(b).

The Chair: Thank you very much, Ms. Crockatt.

Ms. Linda Duncan: I have a point of order.

The Chair: Go ahead, Ms. Duncan.

Ms. Linda Duncan: I'm disappointed that neither board chose to bring any of their occupational health and safety officers here. I had a whole series of questions I wanted to ask about the delivery of their responsibilities. I would like to make the request that we add them into another panel, at least one officer from each of the two boards. They're the key officers under this legislation, and we haven't had a chance to ask them directly about how this is going to improve or vary the delivery of the responsibilities. I think that's pretty important.

The Chair: Okay. I've heard your request.

The time being up for this meeting, I want to thank our witnesses: Mr. Scott Tessier, chair and chief executive officer of the Canada-Newfoundland and Labrador Offshore Petroleum Board, along with Ms. Gover; and Stuart Pinks, chief executive officer of the Canada-Nova Scotia Offshore Petroleum Board. Thank you very much for

helping us get good background information on which to start our study.

We will continue the study over the next three meetings.

The meeting is adjourned.

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