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Chair: Mr. Peter Schiefke



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• (1530)

[English]

The Chair (Mr. Peter Schiefke (Vaudreuil—Soulanges, Lib.)): I call this meeting to order.

Welcome to meeting number 95 of the House of Commons Standing Committee on Transport, Infrastructure and Communities.

Pursuant to the order of reference of Tuesday, September 26, 2023, the committee is meeting to resume clause-by-clause consideration of Bill C-33, An Act to amend the Customs Act, the Railway Safety Act, the Transportation of Dangerous Goods Act, 1992, the Marine Transportation Security Act, the Canada Transportation Act and the Canada Marine Act and to make a consequential amendment to another Act.

Today's meeting is taking place in a hybrid format, pursuant to the Standing Orders. Members are attending in person in the room and remotely by using the Zoom application.

Colleagues, to help us once again with the clause-by-clause consideration of Bill C-33, I'd like to welcome back our witnesses.

Joining us once again from the Department of Transport, we have Sonya Read, director general, marine policy; Heather Moriarty, director, ports policy; Rachel Heft, manager and senior counsel, transport and infrastructure legal services; and Amy Kaufman, counsel.

Also, once again, we have our legislative clerk, Monsieur Philippe Méla. Welcome back.

Colleagues, we left off with new BQ-5.

I see a hand raised by Ms. Zarrillo.

Ms. Zarrillo, if you would like to get us started on that discussion, by all means, the floor is yours.

Ms. Bonita Zarrillo (Port Moody—Coquitlam, NDP): Thank you, Mr. Chair. It's nice to see you again, and thank you for welcoming me back to the committee. I'm standing in for Taylor Bachrach today.

Yes, it was my understanding that the discussion was on amendment BQ-5. I know there was some discussion in the last meeting about an amendment to that and I did want to propose, after some legal consultation, a subamendment.

I think that the Bloc and the NDP are on the same page here. We want to hold the government to account to ensure that the export of thermal coal they've promised to prohibit by 2030 becomes a reali-

ty, while still ensuring that the rights of workers are respected in the transition. I understand that in the previous meeting there was some concern over the wording of "must" and what has come back is that "may" is a standard way to address the bit of—

The Chair: My sincere apologies, Ms. Zarrillo; I just want to confirm if you are presenting the same subamendment that was put forward by Mr. MacGregor at the last meeting. Is that the case, or is this something new?

Ms. Bonita Zarrillo: It's similar, but it's new. We've had legal counsel, so it's new in that the wording is new.

The Chair: Before we do that, we would need to ask for consent to get rid of the previous subamendment before we can entertain the new subamendment that you're putting forward.

Ms. Bonita Zarrillo: I guess when I say the new subamendment, I'm just looking at the words "must" and "may". I understand that it caused a little bit of discussion at last meeting, so I'm not sure that it's the full....

I'm hearing that it was withdrawn in the last meeting. That subamendment was withdrawn in the last meeting.

• (1535)

The Chair: It wasn't withdrawn, but just to be clear, you'd be presenting the same one but replacing the word "may" with "must". Is that correct, Ms. Zarrillo?

Ms. Bonita Zarrillo: Well, there's also a date change, so let's just withdraw the whole other one, and I'm going to be tabling another one.

The Chair: Do we have unanimous consent to withdraw the amendment put forward by Mr. MacGregor at the previous meeting?

Some hon. members: Agreed.

The Chair: It is withdrawn.

Ms. Bonita Zarrillo: That's great. Thank you so much.

The Chair: You would like to put this one forward, Ms. Zarrillo. Is that correct?

Ms. Bonita Zarrillo: Yes, and I think everyone should have a copy.

Do they, Mr. Chair?

The Chair: I'm just confirming that, Ms. Zarrillo. I'll be right with you.

We've received it, and we are going to distribute it to all members right now.

Ms. Bonita Zarrillo: Can I go ahead and read it, Mr. Chair?

The Chair: Please do in the meantime.

Thank you, Ms. Zarrillo.

Ms. Bonita Zarrillo: BQ-5 proposes that clause 120 of Bill C-33 be amended by adding subsection (3) after line 30 on page 77. They propose that it be amended by—and my dog wants to get into this today—replacing “Regulations made under paragraph (1)(a) must prohibit” with the following: “the Governor in Council may make regulations” respecting the prohibition, and adding the following after subsection 1.1....

I'm sorry, Mr. Chair; I'm going to mute.

The Chair: We're fine with it, Ms. Zarrillo, as long as you tell us what the dog's name is.

Ms. Bonita Zarrillo: I am so sorry; there's no one else home.

All right. Can I continue?

The Chair: Yes, please.

Ms. Bonita Zarrillo: Is it very loud there?

The Chair: It's not that loud, Ms. Zarrillo. I think we're okay.

Ms. Bonita Zarrillo: To continue, “(1.2) In making regulations under subsection (1.1) the Governor in Council must consult with relevant trade unions on ways to protect port workers who will be affected by the regulations, including by providing for continued collective bargaining, for the respect of collective agreements, for the creation of alternate opportunities in the marine transportation sector and for pension bridging”—

The Chair: I'm sorry, Ms. Zarrillo; I have to cut you off once again. I don't think you're reading the version that we have. I just want to confer with the clerk.

It's the old one, so just give us one second here.

My apologies, Ms. Zarrillo. The NDP sent the wrong version to the clerk, and it was distributed to all members. Therefore, you're reading the wrong one. Give us a second here while we make sure that the right version is distributed to all members, and then you can read that off and we can have the discussion.

Thanks for your patience. The clerk tells me it may take a couple of minutes, so we're going to suspend for five minutes.

This meeting is suspended.

• (1535) _____ (Pause) _____

• (1540)

The Chair: I call this meeting back to order.

Ms. Zarrillo, we do have the correct version distributed to members, so I will turn the floor back over to you to read the new version of the subamendment.

Ms. Bonita Zarrillo: Thank you so much, Mr. Chair, and I thank the committee for their patience on this one.

Amendment BQ-5 proposed to amend clause 120 of Bill C-33 by adding subsection (3) after line 30 on page 77. I move that this amendment be amended by replacing “Regulations made under

paragraph (1)(a) must prohibit” with the following: “That the Governor in Council may make regulations respecting the prohibition of”, and the following after subsection (1.1): “(1.2) In making regulations under subsection (1.1), the Governor in Council must consult with relevant trade unions on ways to protect port workers who will be affected by the regulations, including by providing for continued collective bargaining, for the respect of collective agreements, for the creation of alternative opportunities in the marine transportation sector and for pension bridging; (1.3) regulations made under subsection (1.1) must provide for the prohibition of the loading and unloading of thermal coal to and from ships in a port no later than December 31, 2030; (1.4) if no regulations are made under subsection (1.1) within 48 months after the day on which this section comes into force, the minister must cause a report stating the reasons that no regulations have been made and establishing a schedule for making regulations to be laid before each House of Parliament on any of the first 10 days on which that House is sitting after the expiry of that 48-month period.”

As I was saying earlier, Mr. Chair, I think the NDP and the Bloc are on the same page on this, and this is an opportunity to provide fairness for workers and still allow the government their obligation to phase coal out by 2030.

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

I'll turn the floor over to Mr. Badawey. Mr. Badawey, the floor is yours.

Mr. Vance Badawey (Niagara Centre, Lib.): Thank you, Mr. Chairman.

Thank you, Ms. Zarrillo. I think that's a great subamendment.

I have a question, through you, Mr. Chairman, to the team over at the end of the table.

I have two things. First, isn't this already happening?

I'll ask my second question right away, because in fairness, there might be a connection between the two. Why does it say the Governor in Council “may” instead of “shall” in the original part of it? Is there a difference? Is that standard? I'd like to get some clarity on that as well.

Thank you, Mr. Chairman.

The Chair: Thank you, Mr. Badawey.

Go ahead, Ms. Heft.

Ms. Rachel Heft (Manager and Senior Counsel, Transport and Infrastructure Legal Services, Department of Transport): With respect to your question on the reason for the use of “may”, “The Governor in Council may make regulations” is a standard formulation for regulation-making. It empowers the Governor in Council to make regulations specifically respecting a general area or subject matter, which will include potentially more than just the prohibition. It could include elements to lead to the prohibition or address potential unintended consequences that are within the scope of the prohibition itself or within the other subject matters that are listed under the Governor in Council's responsibility in the Canada Marine Act specifically. It's a standard formulation.

Ms. Sonya Read (Director General, Marine Policy, Department of Transport): In respect of the first part of Mr. Badawey's question, I would just note that the regulatory development process requires a robust consultation as part of its development process, including the development of a regulatory impact analysis statement that is included in the Canada Gazette. All interested or normally impacted groups would be included as part of that process.

In respect of the particular amendment that was read out, I would just note that there are some elements of that amendment that I am not sure Transport Canada would actually be able to address in respect of regulation towards collective bargaining or pension, as these are private sector employees under a collective agreement with the private sector employer, although the Canada Labour Code does govern that relationship as part of a federally regulated sector.

That would be our commentary on that particular amendment.

● (1545)

Mr. Vance Badawey: Just to be clear on this, although the subamendment states that this must “protect port workers who will be affected by the regulations, including by providing for continued collective bargaining”, that would not be under the purview of Transport Canada. That would be under the purview of the group that's actually bargaining—the private sector organization or company, or whoever it may be—and the union. To be clear, Transport Canada would have no part to play in that process. It wouldn't play the part of the facilitator or mediator or anything like that unless it was actually looked at in terms of the minister bringing it forward, such as bringing a mediator in. It might be even the Minister of Labour that would be doing that, not the Minister of Transport.

The second part of it is with respect to “collective agreements, for the creation of alternative opportunities in the marine transportation sector and for pension bridging”. Just to be clear, this is not an area that Transport Canada would involve itself in. It would be more between the union and the folks the union is bargaining with.

Ms. Sonya Read: Yes, that is my understanding, subject to any requirements of other federal legislation, but it would be outside the purview of Transport Canada. It may be raised in the context of a consultation process. However, Transport Canada would not necessarily have the legislative authority to actually address any of those issues.

Mr. Vance Badawey: Thank you.

Finally, through you, Mr. Chair, during the consultation process a lot would be said, obviously, and a lot would be learned between

the two groups discussing the different issues. How would Transport Canada then play a part in bringing that message to the actual collective bargaining process? Would they include the folks? Would it be all-inclusive in terms of who's around that table, or would it be a communication that Transport Canada would send out to the different groups that may not be at the table?

The bottom line is this, Ms. Read: How would they actually communicate the consultation they're having with the union to those the union is actually bargaining with?

Ms. Sonya Read: I think that would depend on the nature and the process that is undertaken in respect of consultation. Generally speaking, once a regulatory amendment is in draft form, there's a regulatory impact assessment. It goes through a first stage in terms of Canada Gazette, which gives all other implicated parties an opportunity to provide additional input in respect of the outcome of that regulatory impact analysis.

The Chair: Thank you, Mr. Badawey.

Go ahead, Mr. Strahl.

Mr. Mark Strahl (Chilliwack—Hope, CPC): Thank you, Mr. Chair.

To quote Mr. Badawey, isn't this what's already being done? I think that's the point we've been trying to make now for several meetings. It's that the government has made this commitment to phase out thermal coal by 2030, however you want to define that, whether January 1 or December 31, 2030. I note the new date now.

Again, the concern continues to be that by putting an amendment.... Also, we just heard that Transport Canada doesn't have the authority or isn't the right government department to ensure that workers are protected, etc., which is why, I think, we've been arguing that this Bill C-33 is not the right piece of legislation to try to shoehorn this prohibition into.

This work is being done. The negotiations are taking place. The consultations are taking place among the affected groups to ensure that there is a transition plan and that they are working with Environment Canada and the natural resources department to develop plans that will respect contracts, respect workers, respect international contracts and law and trade agreements and all the things we've raised in the last number of meetings.

This subamendment talks about “(1.4) if no regulations are made under subsection (1.1) within 48 months”. It's essentially saying that the Governor in Council, the cabinet, must do it. If they don't, there's this accountability function. If they don't do this within four years, we're now advancing the transition by a number of years. If this law comes into force in 2024, which we assume it will, by 2028, according to this amendment, there must be regulations in place or the cabinet or the government of the day will have to table in the House and the Senate the reasons that they have not got the job done, so we're talking now about 2028 being this accelerated transition phase again.

Then going back to (1.3), it says it must be done by 2030. With this prohibition tacked onto this bill, as I read it, we are talking about any time between royal assent and 2030, with a slap on the wrist, a public humiliation or an explanation before the House and Senate as to why it hasn't already been banned. Once again, we are talking about accelerating the phase-out by a number of years with this amendment. It doesn't force the government to do it within 48 months, but it does create an incentive to accelerate it faster than had been laid out by the government.

I think it's a nice try to try to let the workers know that they will be consulted, which is part of the regulatory process already, so I would say that this is redundant in parts and certainly doesn't provide the protection that workers are actually looking for, which is that they will be given the time frame that has been promised to them to make that transition from thermal coal. In the case of Westshore Terminals, as we've talked about, it's to potash.

My first concern is that this subamendment is pushing this forward and accelerating it by a significant percentage. Going from six or seven years to four is not insignificant.

The second point is that there appear to be several other amendments that are going to deal with the first part of this. I'm not sure how to handle this, Mr. Chair, and how it works when an individual who has proposed an amendment that is now being subamended has now proposed more amendments.

● (1550)

Perhaps Mr. Barsalou-Duval can chat about his plan here. It appears as though we're now subamending an amendment that itself may be withdrawn or amended. By the end of this, I think we're going to really have to pause for a moment and get a very clear picture of what we're actually considering at this point, given the flurry of back-and-forth that it appears will happen on this section.

We continue to believe that the amendment and the subamendment are unnecessary and that this work is already under way. We've been told it's under way by both the union and the company. I have no reason to doubt them on that.

We are now into I don't know how many meetings in discussing this. I think it's misplaced to try to insert this ban into a transport bill when it should be dealt with by Environment and Climate Change Canada or NRCan.

The Chair: Thank you, Mr. Strahl.

[*Translation*]

I now give the floor to Mr. Barsalou-Duval.

Mr. Xavier Barsalou-Duval (Pierre-Boucher—Les Patriotes—Verchères, BQ): Thank you, Mr. Chair.

So far, we've had a lot of discussion about amendment BQ-5. Much has been said, and I don't intend to add any more. However, I would like to commend the NDP, who have put forward a subamendment with the aim of achieving the maximum compromise possible, in order to gain the agreement of many members of the committee. I would therefore like to salute this approach.

What I see is that amendment BQ-5 is weakened. Personally, I consider it urgent to deal with the coal issue. In my opinion, the

2030 deadline mentioned in the roadmap is too late. Nevertheless, we must ensure that the government keeps its promises. I'm fully convinced of the relevance of amendment BQ-5, as originally tabled, and of the modified version, if any. It's better than nothing at all. As long as it remains a promise, it won't be enough. At least, if it's enshrined in law, it will have a little more force. It will be a step in the right direction.

As for the subsequent amendments that have been submitted to the committee, these are not subamendments, but amendments, and they will have to be debated. In my opinion, unless our legislative clerk says otherwise, the committee will be able to debate them at the appropriate time. I'm realistic about the outcome, but I think everyone wants to move the bill forward. We need a better framework, and it will be essential, it seems to me. We need to be sure that other measures will eventually be taken. It remains to be seen what the opinion of the committee members is on these amendments.

Right now, we need to discuss Mr. Bachrach's amendment, which was introduced by Ms. Zarrillo. It's time we discussed it so that we can finish studying Bill C-33. That said, for my part, I still see this as a weakening of amendment BQ-5.

I don't intend to drag out the discussion on the subject forever, but I wanted to mention that it would be better to keep the original version, in my opinion.

● (1555)

The Chair: Thank you, Mr. Barsalou-Duval.

[*English*]

I have Mr. Muys, followed by Ms. Zarrillo.

Mr. Dan Muys (Flamborough—Glanbrook, CPC): Thank you, Mr. Chair.

We've seen over the course of a number of meetings now this whole discussion, and various subamendments, and there have been a number of versions of new amendments today. I think, as we've said from the outset on Bill C-33, that this bill is the wrong place for the intended policy being put forward in this amendment.

This is a bill that's about ports and about supply chains. We have here an effort to accomplish something that the Government of Canada has said it's already going to accomplish by the end of the decade. The players who are involved in that are already working towards it in an orderly fashion. We're proposing an abrupt change to that or an accelerated change to that. Pick any of the amendments or subamendments; I don't think any of them bring any clarity.

Mr. Badawey asked some good questions to the witnesses, who confirmed that a lot of this stuff is already taking place under other auspices. It's like we're changing the rules of the game in the seventh inning with 350 union jobs on the line at Westshore Terminals, ILWU jobs. We don't know the number at Prince Rupert. We don't know the number at the port of Thunder Bay. We have 400 workers in Hinton, Alberta, who are impacted by this. I learned over the weekend there are another 150 to 250 direct jobs in Edson, Alberta, that are impacted by this.

That's already a significant number of good, well-paying jobs in the Canadian economy. Those are the direct jobs, not the indirect jobs, for something that doesn't belong in this bill and that is already being pursued by Environment and Climate Change Canada.

We're saying we should stick to the rules of the game as they were set out. Let's work towards an orderly transition for 2030. Let's leave it at that.

Thank you.

The Chair: Thank you, Mr. Muys.

Go ahead, Ms. Zarrillo.

• (1600)

Ms. Bonita Zarrillo: Thank you so much.

I really appreciate the dialogue today, because I think that what I'm hearing is really almost a consensus. I know that there were some comments today that maybe this bill isn't the right place because this is already happening. If consultation with labour and consultation around fairness with workers is already happening, then this is the place to put it.

In another bill that I worked on that was on the Canada disability benefit, we extended a lot of trust to the Liberal government. We extended a lot of trust, but at the end of the day, we now can't seem to get the needle to move with the Canada disability benefit because it's not written in legislation.

I think this bill is a good place to put in some language around consultation and what needs to be involved in that consultation. There's been agreement by all parties that this is already happening, but we just want to have it on paper. I think that's good transparency. It's good use of legislation to make governments accountable.

It will be up to the government at any point. They can phase out any time they want to, from now to 2030. We just want to make sure that it's done in consultation with the labour groups.

I'd like to see this move ahead quickly as well, like others on this committee.

The Chair: Mr. Lewis is next.

Mr. Chris Lewis (Essex, CPC): Thank you, Mr. Chair. I appreciate it.

I just want to echo the comments from many of our colleagues here this afternoon. I very much agree with Mr. Badawey. I believe most of this work is already being done. When I look at proposed paragraph 120(3)(1.2), I have to ask the question: Doesn't the government already consult with the unions?

I'm quite sure that if we look at the last number of strikes at the port of Vancouver, of course we'll see that the government already consults with the unions. I don't know why we would infuse this legislation with something that's already happening. It doesn't make a lot of sense to me.

In all my conversations with the ILWU on the 350 jobs, and that's not talking about the jobs in Thunder Bay and Alberta and so on and so forth, not that those aren't important jobs.... I don't see why this subamendment is going to make a whole lot of impact going forward. I think the conversation needs to be about 2030 and ensuring that these folks with the good-paying jobs have security through until 2030. I think that's what needs to be the conversation. Accelerating the phase-out, I think, is an issue. I believe it to be an issue.

Let's get a plan to ensure that thermal coal is phased out by 2030, but let's not accelerate it. Let's ensure that folks can have some kind of job security going forward.

Mr. Chair, in my opinion and my opinion only, I believe most of this work either has been done or is being done as we speak. I don't think we need a subamendment to this effect.

Thank you, Chair.

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

We'll now go to a vote on the subamendment. We'll turn it over to the clerk.

The Clerk of the Committee (Ms. Carine Grand-Jean): Ms. Zarrillo has her—

The Chair: Yes, go ahead, Ms. Zarrillo.

Ms. Bonita Zarrillo: Very quickly, before we go to a vote, I want to be sure that we.... The language does not say "must". The language says "may". I just wanted to clarify that.

The Chair: Yes, Ms. Zarrillo. We're voting on the revised version.

Ms. Bonita Zarrillo: I just wanted the committee to know that we're not forcing anything in these consultations. Thank you.

The Chair: Would you like the reference number, Ms. Zarrillo, or are you fine?

Ms. Bonita Zarrillo: I'm fine.

The Chair: Okay. Thank you.

(Subamendment agreed to: yeas 6; nays 5 [*See Minutes of Proceedings*])

• (1605)

The Chair: Thank you.

Now we'll go to a discussion, colleagues, on the amendment as subamended.

Seeing none, we will go to a vote on BQ-5 as subamended.

(Amendment agreed to: yeas 7; nays 4 [*See Minutes of Proceedings*])

The Chair: We'll now address BQ-5.1.

[*Translation*]

Mr. Barsalou-Duval, you have the floor.

Mr. Xavier Barsalou-Duval: Thank you, Mr. Chair.

Given the passage of amendment BQ-5, as amended by the NDP, the new version is a weakened version of what was originally intended. The original intention was to ban the export and import of thermal coal from Canadian ports within four or five years at most, depending on when the regulations came into force. Now, according to the amended version of the BQ-5 amendment, it appears that the government's promise to ban the export of thermal coal by 2030 at the latest will be maintained.

However, people have made certain points during the committee's recent meetings. This led me to reflect and propose amendment BQ-5.1. Some people wanted to maintain the 2030 date to give people in the sector predictability and especially to keep jobs in the sector for as long as possible. I understand the idea behind that. However, I believe we will still have to eliminate the export of thermal coal eventually. That's what the government wants too, according to what's been indicated so far.

But if we wanted to eliminate coal exports, logically we wouldn't increase the volume. At the very least, we'd have to maintain current levels. Since this was included in our mandate in 2021 and was also added to the Liberal Party's election platform in 2021, the elimination of coal exports became predictable from 2021 onwards, in my opinion. Logically, we could therefore expect that, from 2021 onwards, we would have stopped launching new projects to increase exports or imports of thermal coal. It is for this reason that I propose amendment BQ-5.1, which aims to limit these volumes so that they do not exceed those established in 2021 between now and the complete ban.

The Chair: Thank you very much, Mr. Barsalou-Duval.

Are there any questions or comments?

[*English*]

Go ahead, Mr. Strahl.

Mr. Mark Strahl: The year 2021, like that election, was in the middle of a pandemic. I think we need to be careful that we aren't picking a number.... If we want to have a number that doesn't increase going forward, I think we have to respect what the volumes are since the pandemic ended.

Maybe I can ask the witnesses if they have current information. Do they know if the volumes for Westshore or the port of Vancouver in 2022 or 2023 increased, decreased or remained the same?

I believe I know the answer to that. I think they have increased their throughput since 2021, which is not unexpected. We saw unprecedented congestion and problems at the port of Vancouver that

year, which caused them to be ranked near the bottom of the global performance indexes in terms of dwell times, wait times and port congestion. I think it's unfair to go back to a time that was not normal in terms of the business cycle.

Once again, we could get into the discussion about the impact on workers at the port. If their volumes for 2023 are significantly higher than they were in 2021, as was their right.... There's no reason why they wouldn't try to increase their volumes, despite the fact that a 2030 phase-out is in place.

To suddenly cap it at 2021 while telling them, as the committee has just voted, that we're accelerating the phase-out of thermal coal faster than what we said we were going to, is strike one against them. Then, by the way, while we are accelerating this phase-out, we're going to force them to reduce their throughput as well. We're going to hit them once, and then, while they're down, we're going to kick them.

I realize the ideological discussion that's happening here. Once again, you're impacting union workers. You're going to force layoffs if, through the royal assent to this, you have to go back to 2021, which will be three years in the rear-view mirror.

If we want to have that discussion about a maximum year over year, we should do it. I think picking 2021, which was an anomaly year in the middle of a global pandemic with a port slowdown and with parts of the port shut down, is once again being unfair to the workers and to a company that is not doing anything illegal. It is operating under the program that has been described to them by the government. There was no promise that there would be no increase in thermal coal exports between 2021 and 2030. There was a promise that by 2030 it would be over.

I realize that there's a desire here to signal some virtue or ensure that the government keeps its promises. Again, we're missing the target here and you're hitting the workers.

I don't know how to amend it. I think it's just unnecessary at this point. You already have your accelerated phase-out. That's what was just passed. You're using a transport bill, Bill C-33, to accelerate a coal phase-out, which will impact workers right across the supply chain across the country. We spoke against that.

Now, to say that it's not just in Vancouver but also in Prince Rupert and Thunder Bay, and not only are you going to have an accelerated phase-out but you're also now going to have to go back to pandemic-level export numbers I think is unfair to the workers. It's wrong-headed. They're already going to be disadvantaged by the amendment that just passed.

• (1610)

The idea that we would further impede their ability to do business in the very short time frame that has now been given to them—business that they are working on with the government to come up with a program that allows them to comply with the government's regulations—I think is unfair. It's unfair to working families. We can't support it.

The Chair: Thank you, Mr. Strahl.

Monsieur Barsalou-Duval is next.

[*Translation*]

Mr. Xavier Barsalou-Duval: Thank you, Mr. Chair.

I just wanted to say to committee members that, if people want to propose other reference years, for example 2022 or 2023, I'm very open to that. What's important to me is the principle. In light of the intent to eliminate coal exports, we're not going to start increasing the quantities.

Therefore, I think the principle is more important than the choice of one year or another. If a particular year allows us to have a greater consensus around the table, I can live with that very well.

• (1615)

The Chair: Thank you, Mr. Barsalou-Duval.

[*English*]

Go ahead, Ms. Zarrillo.

Ms. Bonita Zarrillo: Thank you so much, Mr. Chair.

I think this is an interesting conversation. I was just trying to find some testimony on any kind of reasonable caps. I didn't see any testimony in the quick search that I did.

Was there ever witness testimony in this committee about a reasonable cap on the thermal coal and what the expectations were on volumes?

The Chair: I'm sorry, Ms. Zarrillo. Can you repeat the question for our analysts?

Ms. Bonita Zarrillo: I was wondering if there was any witness testimony or if any experts had spoken about a reasonable cap on shipments in relation to this thermal coal.

The Chair: The analyst doesn't think so, but we can suspend for two to three minutes to give them an opportunity to have a look.

Ms. Bonita Zarrillo: I think I'll just carry on, if you don't mind, Mr. Chair. I'm pretty sure there's none.

I wanted to ask the expert witnesses who are there today about the numbers for 2021. What were the numbers in relation to shipments?

I know there is a discussion about the pandemic, but I am interested to know the numbers from 2020-21, and even from 2021-22. Do we have data about shipment totals?

Ms. Sonya Read: Thank you, Mr. Chair.

We have some data from the Canada port authorities. For Westshore Terminals, we understand the export numbers were nine million tonnes in 2020, 15 million tonnes in 2021 and 16 million

tonnes in 2022, which is the most recent year we have data available for.

For Prince Rupert, we understand that in 2020, there were five million tonnes of coal. There were one million tonnes in 2021, and then two million tonnes in 2022.

The Chair: Thank you, Ms. Read.

Ms. Bonita Zarrillo: Thank you so much.

Mr. Chair, I note that at the Westshore Terminals, the major shareholder, Jimmy Pattison, who is also the CEO of one of the largest grocery chains out here in western Canada, is a 40% shareholder in this terminal and is doubling down on thermal coal right now.

I'm wondering if there is any additional information that the markets are getting that this committee isn't getting. Why would Mr. Pattison be investing so strongly in this thermal coal? Is there a transition to other goods coming into that port, such as potash or other goods?

I wonder if the witnesses could share whether there are any plans to phase in new products and goods coming in to that port.

Ms. Sonya Read: Thank you for the question.

Our understanding is that Westshore is in the process of transitioning some of its handling capacity to potash as soon as 2026.

Ms. Bonita Zarrillo: All right.

I have one last question for the witnesses today. Is there any data around a reasonable cap on thermal coal for the government to reach their target of 2030?

Ms. Sonya Read: I'm sorry. I wouldn't be in a good position to answer that. I would have to defer to colleagues at NRCan and EC-CC in that regard.

The Chair: Thank you, Ms. Zarrillo.

I'll turn it back over to you, Mr. Strahl.

Mr. Mark Strahl: I think when you deal with this sort of thing, your consequences pile up on you. The ability to get good data or clean data or information that is not somehow skewed I think is very difficult.

In 2020 and 2021 we were dealing with the pandemic. We've already talked about that. There were also labour disputes affecting Westshore and the ports in 2022 and 2023. Who knows what will happen? We have rail contracts coming up in the next number of months. All these things can have an impact. To pick a spot in time in a transport bill that is supposed to be about improving supply chain efficiency and dealing with port governance and railway safety and all the things that we were told this was about....

Now we're getting into the nitty-gritty of accelerating a commodity phase-out and preventing a company that is being phased out, or is having their primary business phased out, from continuing to operate until that phase-out occurs. We've told them when the end date is, and no one is disputing that, but now you're further stating that this is based on a date in the middle of a pandemic. If you picked another date, such as 2022, 2023 or 2024, I think you'd find problems with each of those years. There would be anomalies in each of those years.

Again, this seems to be a solution in search of a problem. You've already secured through a transport bill an accelerated phase-out. I just don't know how much more you want to make those workers pay by reducing their hours and reducing their work in advance of putting them out of work. That's what's going to happen to them, because the potash is not going to come online until the middle of the next decade in enough volumes to offset what's happening right now with thermal coal.

Again, I just think we can go around and around about the need for this. The phase-out is happening. It's happening sooner than was promised now, because of this amendment, but why do we have to pile on those workers again? I just think this is an ill-advised amendment that adds more uncertainty. It will result in immediate job losses, which we just talked about, to workers in the ports of Vancouver, Prince Rupert and Thunder Bay. I just don't know why we would do that to those workers.

• (1620)

The Chair: Thank you, Mr. Strahl.

Go ahead, Mr. Barsalou-Duval.

[*Translation*]

Mr. Xavier Barsalou-Duval: Thank you, Mr. Chair.

I'd just like to inform committee members that, during our previous deliberations, we had the opportunity to talk about projects. In particular, we talked about a coal mine in Alberta, whose current production of greenhouse gases is equivalent to that of Quebec's entire automobile fleet, which is no mean feat. It was mentioned that the mine's directors intend to increase production by 50% in the coming years, and that they plan to continue extraction until 2049, which is really beyond the 2030 target set by the government.

The way I see it, this example, in itself, demonstrates the importance of imposing a cap. If we want to eventually eliminate the use of coal, we can't keep producing more and more of it, hence the idea of imposing a cap.

As I mentioned to the committee members, my idea is not to cap volumes and make sure they don't exceed 2021, 2022 or 2023 levels, it's to come to the adoption of the principle of a cap. I wanted to be constructive in my approach. So I'm open to proposals from my colleagues, but the need for a cap is pretty clear, given the information we have at the moment.

[*English*]

The Chair: Thank you, Mr. Barsalou-Duval.

We'll go to a vote now on BQ-5.1.

(Amendment negated: nays 10; yeas 1)

• (1625)

The Chair: Shall clause 120, as amended, carry?

I'm sorry, Mr. Strahl. Do you have your hand up?

Mr. Mark Strahl: Yes, I do.

I'm seeing that there are more amendments. Are there more amendments, or are they not being moved?

Mr. Vance Badawey: He is, right now.

Mr. Mark Strahl: No. I mean, Mr. Barsalou-Duval has another one, does he not, on clause 120? Is that not correct?

The Chair: Thank you for pointing that out, Mr. Strahl.

Actually, you are correct. There is one that was put forward by the Bloc, but it would require unanimous consent of the committee to address it because it actually goes back into the previous sections of the bill.

Mr. Mark Strahl: As did one that I put forward, I think.

The Chair: I just want to confirm with all members whether or not they have the amendments put forward by Mr. Strahl and Monsieur Barsalou-Duval. If not, please let me know so that those can be distributed to you.

I see some heads shaking, saying no.

What we'll do is make sure that we get those out. Once again, colleagues, it would require unanimous consent by the committee to address those, but I'll make sure that we have those for our discussion.

Mr. Strahl, before I suspend for two minutes so that we can get those to everyone, can you confirm that the reference number is 12707192?

Mr. Mark Strahl: You're asking a lot, Mr. Chair. It's about discharge of sewage. Is that the one that you have there?

I'm sorry, but I don't have the numbered copy in front of me.

The Chair: No, the one we have has nothing to do with discharge of sewage.

Voices: Oh, oh!

The Chair: I'm glad you clarified that, though.

Mr. Mark Strahl: I'll grab that. I'm sorry that I don't have that number right in front of me. Let me find it.

The Chair: Thank you.

We'll wait to hear back from you, Mr. Strahl, and once we do that, we'll suspend to make sure that it's distributed to all members.

Mr. Mark Strahl: Thanks. Just give me one second.

The Chair: Do you know what, Mr. Strahl? I'm going to suspend for five minutes while you get that to the clerk. We'll circulate it and then we'll reconvene once everybody has it.

This meeting is suspended.

• (1625) _____ (Pause) _____

• (1645)

The Chair: I call this meeting back to order.

Thank you, colleagues and witnesses, for your patience.

The first thing we will do is address the amendment put forward by Mr. Barsalou-Duval. It is not in order. It therefore requires unanimous consent for us to address it.

Do I have unanimous consent?

Some hon. members: No.

The Chair: I do not have unanimous consent. Okay.

We will now turn to the CPC amendment with the reference number 12793443. That amendment is in order.

Mr. Strahl, the floor is yours.

Mr. Mark Strahl: Thank you very much, Mr. Chair.

The motion, just so everyone has it here, would amend Bill C-33 in clause 120 by adding after line 30 on page 77 the following:

(3) Section 62 of the Act is amended by adding the following after subsection (1):

(1.1) regulations made under paragraph (1)(b) must prohibit the deposit of raw sewage in waters under the jurisdiction of a port authority.

I think certainly Conservatives have had the desire to ban the dumping of raw sewage. Since we've now decided that we are going to use transport bills to advance other issues, I think it's only appropriate that now we talk about the dumping of raw sewage into Canadian waters, waters that are under the jurisdiction of the various port authorities.

Certainly we were very disappointed that one of the first acts of the former environment minister, Catherine McKenna, was to authorize the discharge of eight billion litres of raw sewage into the St. Lawrence Seaway, allowing government to bypass treatment plants and to simply discharge raw sewage, which is disgusting and which no doubt has a negative impact on that waterway.

In previous campaign platforms we've called for a ban on raw sewage being dumped into Canadian waters. It's something that is not good for the environment. It's not good for Canada's image. If we're going to use Bill C-33 to advance other agendas, I think we should also make sure that we ban raw sewage discharge in waters that are under the jurisdiction of the ports. I asked about this previously in passing. Obviously, a lot of territory falls under the jurisdiction of port authorities when it comes to their activities.

To the witnesses, what is the current amount of discharge of raw sewage in waters that are under the jurisdiction of port authorities? Does a port authority have the ability to prevent that sort of activity from happening? For instance, again, with the St. Lawrence Seaway, the Liberals permitted eight billion litres to be dumped into that active seaway, which, as we know, has a very diverse marine ecosystem. A huge number of residents, millions of residents, live in Montreal and downriver from where that raw sewage was dumped.

Is there anything the port authorities could do, if this amendment were passed, to prevent this sort of dumping of raw sewage from happening again?

• (1650)

The Chair: Thank you, Mr. Strahl.

Go ahead, Ms. Read.

Ms. Sonya Read: Thank you, Chair, for the question.

My understanding is that the regulation regarding the treatment of sewage is done through Environment Canada, through the wastewater systems effluent regulations. Any authorization that was done in respect of the incident Mr. Strahl was referring to would have been through that mechanism, which is an Environment Canada regulation. My understanding is that the regulation effectively prohibits the deposit of raw sewage into waters out of treatment systems that treat more than 100 cubic metres, I think, in terms of volume. That would happen in the context of port authorities as well.

Mr. Mark Strahl: Is this one, like a thermal coal ban, that would be better dealt with at Environment Canada or at Fisheries and Oceans Canada? Would they also be able to prohibit that? Would this be a way to ensure that a minister of the environment, for instance, couldn't authorize a future discharge of eight billion litres into the St. Lawrence Seaway, as Catherine McKenna did early on when she was the environment minister?

Ms. Sonya Read: I could only speak to what the waste-water systems effluent regulations cover, which is the deposit of treated sewage from waste-water treatment systems.

Mr. Mark Strahl: Okay.

The Chair: Thank you, Mr. Strahl.

I'll turn it over to Mr. Badawey.

Mr. Vance Badawey: Thank you, Mr. Chairman.

This is somewhat in the same direction Mr. Strahl was going with the questioning, but I'll be a bit more brief.

What is officially in place, regardless of what department is responsible for it? To your knowledge, is there something in place already to deal with what Mr. Strahl is trying to present? Second, what is it, and who is responsible for it?

Ms. Sonya Read: My colleague will speak to that.

Ms. Rachel Heft: Under the vessel pollution and dangerous chemicals regulations, which are regulations made under the Canada Shipping Act, 2001, there is a prohibition at section 95 that cites:

A person or vessel must not discharge sewage or sewage sludge except in accordance with section 96 or in the circumstances set out in section 5 that apply in respect of the discharge.

Thereafter, in section 96, it limits the discharge in certain circumstances, which are specifically set out. They are fairly lengthy. I could read them if you like.

Mr. Vance Badawey: No, you don't have to. Thank you. You made your point in terms of their being in place, which is what I was getting at.

The second part of that, to get a bit more granular, is with respect to section 96 or any section that would attach itself the same. You mentioned the vessel pollution and dangerous chemicals regulations under the Canada Shipping Act. I'm assuming that would be discharge coming from a vessel.

The second part—and I think what Mr. Strahl is alluding to, based on his examples in the past—is discharge coming from a treatment plant that would bypass or just be let out of a treatment facility that would otherwise be treating that effluent.

I'll ask the same question. You mentioned the provision under the Canada Shipping Act—I want to be clear here—with respect to discharge from a vessel. However, in terms of discharge from an actual on-land, municipal and/or regional treatment facility, can you expand on that? What is currently in place?

Ms. Sonya Read: In respect of that, the regulations are found under the Fisheries Act. It's the waste-water systems effluent regulations that are in place.

• (1655)

Mr. Vance Badawey: I guess this is more of a statement than it is a question. The bottom line is that there are regulations in place through the Ministry of the Environment, through DFO and, when it comes to vessels discharging, through the Canada Shipping Act. Is that correct?

Ms. Sonya Read: Yes.

Mr. Vance Badawey: Thank you.

The Chair: Thank you, Mr. Badawey.

Next we have Ms. Zarrillo.

Ms. Bonita Zarrillo: Thank you so much.

Mr. Chair, this is a topic that I am very interested in. It's been seven years in my riding that we've been trying to get Transport Canada to have a conversation with one of our local municipalities around this topic.

I would really like to see this as a separate study. I would encourage Mr. Strahl to propose a study to this committee to look into vessel pollution and dangerous chemicals. There is no testimony on this topic in relation to the bill we're talking about today, but I would certainly like to have a deeper conversation about it. I hope Mr. Strahl will propose a separate study so that we can get testimony and hear from those who are being impacted by this practice.

Thank you.

The Chair: Thank you, Ms. Zarrillo.

I'll go to Mr. Lewis.

Mr. Chris Lewis: Thank you, Mr. Chair. I appreciate it.

This is a conversation that's very near and dear to my heart. For full disclosure, years and years ago, when I took Dale Carnegie classes, that was the last the thing that I spoke about. It was with regard to the dumping of raw sewage. It was specifically in Van-

cover. I wasn't smart enough at the time to realize that it happened in Montreal as well.

I come from a background of almost 30 years in the sewer industry. I'm very much aware of what this looks like. During my four short years as a Kingsville councillor, I also realized that sewer separation has happened across so many municipalities across this country.

I want to take it one step further if I could, Mr. Chair, and I do very much appreciate the remarks from Mr. Strahl and Mr. Badawey. They basically echo mine, but I want to take it a step further because I know we're talking about the dumping of raw sewage into the ports. I want to talk about the Great Lakes for a moment, and the vessels that come into the Great Lakes. I want to talk about the beaches that are, quite frankly, filled with used sanitary products. I know that because I walk the beaches.

Whether it's dumped from a vessel that came in from another country or whether it's dumped because of 10 inches of rain that came out of Detroit, it's still an issue. That effluent that is dumped into our Great Lakes is the same effluent that goes to the St. Lawrence River. There's only one passageway to the ocean. This is a very, very important topic of conversation.

I forget when it was, Mr. Chair, so I'm going to say two or three months ago. Pardon my ignorance for the timing. There were conversations around the orcas and the vessels perhaps suspending for 10 or 14 days off the coast of Vancouver because the orcas were, I believe, moving to the north. Well, if we're going to talk about the vessels, then we better be talking about raw sewage, because I'm sure the orcas are certainly are not overly excited about that either.

I don't know why we wouldn't continue this conversation. I certainly appreciate Ms. Zarrillo's comment that this should be a study. It could potentially be a study in and of its own. I do believe that it's prudent for us to at least have the conversation and bring this forward.

Thank you, Mr. Chair. I appreciate it.

The Chair: Thank you, Mr. Lewis.

[*Translation*]

Mr. Barsalou-Duval, you have the floor.

Mr. Xavier Barsalou-Duval: Thank you, Mr. Chair.

I must admit I'm surprised to see the Conservatives tabling this amendment today. We weren't expecting this debate. If we're going to do it, we need to take the time to do it properly. I don't think anyone is in favour of dumping sewage or untreated water into the river, into the ocean, into a river, or anywhere.

However, before we vote on this, I'd like to have a better idea of what concrete effect the adoption of this amendment would have in municipalities on a daily basis. I can see that it might have an effect, but I haven't had a chance to do an in-depth study of it.

Is there a legal expert who could shed some light on this?

• (1700)

[English]

The Chair: Go ahead, Ms. Read.

Ms. Sonya Read: I think it would require more analysis for us to understand the impacts of this versus the waste-water systems effluent regulations that are already in effect through the Fisheries Act.

[Translation]

Mr. Xavier Barsalou-Duval: On a constitutional level, I wonder if there is really no encroachment on areas of jurisdiction other than those of the federal government.

I'm just surprised to see this, because we're talking about the discharge of untreated sewage into waters under the jurisdiction of a port authority.

Who would exercise this control? Would it be the port authorities?

I'd like more clarification, unless we don't know.

[English]

Ms. Rachel Heft: The amendment is drafted so as to require the making of regulations that would prohibit the deposit of raw sewage in waters under the jurisdiction of the port authority. While the waters may be under the proper federal constitutional jurisdiction, the question of who would be responsible for them is not specified here, and there's no regulatory authority using the language we discussed earlier about how the Governor in Council "may make regulations" to allow for that to be specified or for proper provisions to be in place to ensure that we know whose responsibility it is, who would enforce it, etc.

The constitutional jurisdiction may not be the issue so much as the wording of the amendment being rather limited in terms of what could be included in the regulations and the proper responsibility of the parties, or specifically the Department of Transport.

[Translation]

Mr. Xavier Barsalou-Duval: If we're going to vote on this, I think it would be important to know which waters fall under the jurisdiction of a port authority.

Can we be provided with a map? Could it be sent to committee members?

[English]

Ms. Sonya Read: The waters under the jurisdiction of a port authority are set out in schedule A of each of their letters patent. I don't have a map right now that would be available immediately.

[Translation]

Mr. Xavier Barsalou-Duval: I have no further questions at this time.

Thank you.

[English]

The Chair: Thank you, Monsieur Barsalou-Duval.

Ms. Murray is next.

Hon. Joyce Murray: Thank you.

While I share the view of others that nobody wants to see raw sewage go into waters, my recollection of this decision that was made by former Minister McKenna is that it was based on the least of the evils. The port of Montreal had a crisis with respect to its sewage systems. It needed to clear this material in order to do the repairs and have a functioning sewage system.

The concern I have about this amendment is very simple. Are there potentially times when the prohibition of the deposit of raw sewage would actually lead to a worse environmental outcome than if that prohibition was not in place?

The officials may have some answers to that.

• (1705)

Ms. Sonya Read: I don't have information respecting the sewage outfalls for municipalities and whether they fall into port authority waters in all instances or most instances. They may; I'm not sure. It depends on where the port authorities or CPAs are located. In some instances, I think they do. In other instances, I'm not sure.

In terms of the impact of the regulation overall, we would not be able to speak to that without a lot of additional analysis.

The Chair: Thank you, Ms. Murray.

Go ahead, Mr. Badawey.

Mr. Vance Badawey: Thank you, Mr. Chairman.

I have to make this point. I wasn't going to, but I'm going to make it anyway. Ms. Murray mentioned the possibilities of challenges other than what had to happen in Montreal. The bottom line is that you have a choice: Either it's going to end up in everyone's basement or it's going to end up in the water, as was the case. They had a choice to make, based on the repairs they had to do and the time the repairs took. It's either going into your basement or it's going out. It's the lesser of the two evils. They're both unfortunate, but you have to pick the lesser of the two evils.

I wasn't going to support this because the regulations are in place already through ECCC and the DFO. The role that Transport Canada would otherwise play would be very minimal, if any. Then I started thinking about it a bit more. One of the things that we've tried to do with this government is take more of a whole-of-government approach versus working in silos, as has been the case in the past.

Mr. Strahl put an amendment forward that states that "regulations made under paragraph 1(b) must prohibit the deposit of raw sewage in waters under the jurisdiction of a port authority." I want to concentrate on "regulations made under paragraph 1(b)". The question that comes to mind is this: Besides the regulations that we have in place with both the DFO and the Department of the Environment, what would those be? What regulations more than what are already present should be put in place?

The second point that I want to make—and the point that's relevant to how I'm going to vote on this—is the point that those regulations, if any, that are outstanding to make the legislation better, in discussion between Transport Canada and the DFO and the Department of the Environment, are a positive move forward. We're going on 2024. If those regulations are a bit archaic and/or have to be updated, then I think it is productive that the ministries get together under a whole-of-government approach and deal with some issues that may still exist.

I do appreciate what Mr. Strahl is bringing forward: to find what that is. It's not necessarily through Transport Canada. It could be through the Department of the Environment. It could be through the DFO. I think, at the very least, the discussion should be had. Therefore, we will be supporting this amendment.

The Chair: Thank you, Mr. Badawey.

Mr. Barsalou-Duval is next.

[*Translation*]

Mr. Xavier Barsalou-Duval: Thank you, Mr. Chair.

There may be some things I haven't yet grasped from the discussions we've had so far. You'll excuse me if this has already been mentioned.

I would like to understand the amendment proposed by the Conservatives.

Would it apply only to port activities? Would it also cover all municipalities that might, at some point, discharge water into an area covered by a port authority?

I would like more details to better understand the effect of the proposed amendment.

[*English*]

The Chair: Go ahead, Ms. Read.

Ms. Sonya Read: With respect to the regulation-making power, because it doesn't prescribe or doesn't provide for who it would apply to and under what circumstances, we would have to develop that through the process of developing the regulation.

I'm not sure that the regulation, the way it's currently drafted, actually enables us to have that conversation, because it says “must prohibit”. My understanding is that because the regulation says “must prohibit the deposit of raw sewage in waters under the jurisdiction of a port authority”, it constrains the flexibility of the regulation-making process in terms of our ability to nuance the regulations with respect to different impacts and understanding the scope of the regulations.

• (1710)

[*Translation*]

The Chair: Does the answer suit you, Mr Barsalou-Duval?

Mr. Xavier Barsalou-Duval: What I understand is that counsel does not know. I'll tell you, I'm even more confused than I was when I asked the question.

[*English*]

The Chair: Go ahead, Mr. Strahl.

Mr. Mark Strahl: Given what the witnesses have said, I'm willing to use language similar to what Mr. Bachrach used in his sub-amendment to BQ-5, which talked about the “Governor in Council may”, or whatever that language needs to be to allow for these regulations to be developed in a way that allows Transport Canada to undertake those consultations and develop the regulations in the appropriate way.

The goal was to bring forward the issue of raw sewage deposits in areas of port authority jurisdiction, so if the if the issue is at the front end of the amendment, where it talks about "must" instead of "may", I'm happy to.... I don't know if we can suspend and get that language from the legislative clerk to ensure that it meets that goal.

I'm not going to get stuck on that "must" versus "may" language. I'm happy to have someone else amend it. I guess that is what would have to happen. I'm happy to have that discussion to make sure that the regulations that we're talking about here are productive and give the flexibility to allow for those regulations to be developed in the normal way.

I take what Ms. Read has said, and I am willing to have someone else amend that so that it's more amenable.

The Chair: Thank you, Mr. Strahl.

There's no one else on the speaking list, so we'll go to a vote on this.

[*Translation*]

Mr. Xavier Barsalou-Duval: Mr. Chair, I would like to speak.

[*English*]

The Chair: Go ahead, Mr. Barsalou-Duval.

[*Translation*]

Mr. Xavier Barsalou-Duval: I'd like to propose an amendment.

In proposed subsection (1.1), it says that regulations made under paragraph (1)(b) must prohibit the deposit of raw sewage. Here, I would add the words “from port activities.” We would therefore be talking about the discharge of raw sewage from port activities into waters under the jurisdiction of a port authority.

That would be clearer. At the moment, it's hard to understand who would be targeted by this amendment. By mentioning it clearly, I think it would be easier for everyone.

The Chair: Could you send your amendment to the clerk, Mr. Barsalou-Duval, so that it can be translated and distributed to all committee members?

Mr. Xavier Barsalou-Duval: I'll do it as quickly as possible, Mr. Chair.

The Chair: Thank you very much.

[*English*]

We will suspend and wait for Mr. Barsalou-Duval to submit that to the clerks. We'll make sure that it is translated into both official languages and distributed to all members of the committee.

The meeting is now suspended, and I think this is a great opportunity, colleagues, to use this as a bathroom break.

• (1710) _____ (Pause) _____

• (1740)

The Chair: I call this meeting back to order.

All members should now have a copy of the subamendment proposed by Mr. Barsalou-Duval.

Are there any questions, comments or concerns about the subamendment proposed by Mr. Barsalou-Duval?

Mr. Strahl, the floor is yours.

Mr. Mark Strahl: Further to Mr. Badawey's point earlier, in limiting it in this way—"regulations made under paragraph 1(b) must prohibit the deposit of raw sewage from port activities in waters under the jurisdiction of a port authority"—we then open up a whole can of worms as to what "port activities" are. Is port activity vessels? Is it the administration building? It certainly would limit the ability to have a more wide-ranging discussion about preventing the deposit of raw sewage.

I think it is already limited by saying it is dealing with waters under the jurisdiction of a port authority. We might have an idea of another amendment that would give the Governor in Council more flexibility in developing the regulations. To limit it just to port activities without defining what those are could make it completely... It wouldn't have any impact, and that's not what we want.

I appreciate what Mr. Barsalou-Duval is trying to do, but I think we are already limiting it to waters in the jurisdiction of a port authority.

We should maybe try to give more flexibility with other wording, but we can't have two subamendments on the same motion. I think that this subamendment is too limiting and won't allow us to do what we are trying to do with this amendment.

The Chair: Thank you very much, Mr. Strahl. We'll now go to a vote on this subamendment.

Go ahead, Mr. Barsalou-Duval.

[*Translation*]

Mr. Xavier Barsalou-Duval: I just want to say that, in the context of Bill C-33, which deals with the activities of port authorities, we believe that an amendment should not be passed that will, for example, prevent cities from carrying out activities that may be essential. This is despite the fact that we don't like cities discharging their wastewater into waterways and we consider that this is not the right place to do so.

We don't see what this has to do with port activities. I thought that limiting the requirement to wastewater from port activities would be more reasonable in the context of the bill that is currently being studied.

The Chair: Thank you, Mr. Barsalou-Duval.

We will now proceed to the vote.

• (1745)

[*English*]

(Subamendment negatived: nays 9; yeas 2 [*See Minutes of Proceedings*])

The Chair: Thank you very much, Madam Clerk.

We will now go to the CPC amendment.

Go ahead, Mr. Muys.

Mr. Dan Muys: It would change it to this: "The Governor in Council may, under paragraph 1(b), make regulations respecting the prohibition of the deposit of raw sewage in waters under the jurisdiction of a port authority."

The Chair: Mr. Muys, do you have it in a written format and translated into both official languages?

Mr. Dan Muys: Not currently.

The Chair: Okay.

Ms. Barron, we'll turn it over to you for a quick question. Go ahead.

Ms. Lisa Marie Barron: Thank you, Chair.

Could you provide clarification, please? I know we just voted on the amendment—or, I'm sorry, perhaps it was a subamendment—by the Bloc.

The Chair: It was a subamendment by Mr. Barsalou-Duval.

Ms. Lisa Marie Barron: Just to confirm, are we now going to be voting on the motion as amended? I guess it didn't amend. Could you just clarify, please, what we're voting on so that I have clarity on that?

Thank you.

The Chair: We were looking at what we're calling CPC-9.01, an amendment proposed by Mr. Strahl. We were going to go to a vote on that. However, Mr. Muys proposed wording changes to that amendment. His proposal needs to be in written form, translated into both official languages and distributed to all members.

While we wait to get that from Mr. Muys, this meeting is suspended.

• (1745)

_____ (Pause) _____

• (1755)

The Chair: I call this meeting back to order.

All members should have received the duly translated subamendment put forward by Mr. Muys.

Mr. Muys, I'll turn the floor over to you to speak to it very briefly. We'll then go to a vote.

Mr. Dan Muys: This is clarified based on the input from Ms. Read about the language in the regulations that exists. Really, it is similar, but hopefully it's worded better.

The Chair: Thank you, Mr. Muys.

I'll turn it over to our clerk so that we can vote on what we are calling CPC-9.01.

Go ahead, Mr. Strahl.

Mr. Mark Strahl: This was an attempt by Mr. Muys to amend my motion. I want to make sure from Ms. Read, who raised the issue of the nature of the original motion, that this language would, in fact, satisfy the concern or allow for more flexibility.

We took it straight from a previous subamendment that was moved today. It was indicated that it was the language needed to allow for a more robust or flexible development of regulations.

I'm not sure if Ms. Read or the officials there have seen it, but I would like some comment as to whether or not this does address the concern about flexibility and allowing for a more robust regulatory process.

Ms. Sonya Read: Yes, our understanding, based on the revised wording, is that it would address the concern regarding constraints around flexibility in the making of the regulations.

Mr. Mark Strahl: Thank you.

• (1800)

The Chair: We will now go to a vote. I will read out the reference number so that we're all on the same page. It's 12793443.

I'll pass it over to the clerk to conduct the vote.

(Subamendment agreed to: yeas 10; nays 1 [*See Minutes of Proceedings*])

The Chair: Thank you, Madam Clerk.

We'll now go to clause 120 as amended.

I'll turn it over to you, Madam Clerk.

Mr. Mark Strahl: I'm sorry; Mr. Chair, do we...?

The Chair: I'm sorry; I've already passed it over to the clerk, Mr. Strahl.

Go ahead, Madam Clerk.

Mr. Mark Strahl: Is this for the whole clause now?

The Chair: We're voting on the whole clause as amended, just to be clear, colleagues.

(Clause 120 as amended agreed to: yeas 7; nays 4 [*See Minutes of Proceedings*])

Shall clause 121 carry, colleagues?

Go ahead, Mr. Strahl.

Mr. Mark Strahl: Mr. Chair, I would like to move a motion that I submitted on Friday, December 8. The motion says:

That the committee undertake a study on Aircraft Rescue and Fire Fighting at Airports and Aerodromes (Canadian Aviation Regulations, Section 303) allocating a minimum of three meetings to this study to hear from—

The Chair: I'm sorry, Mr. Strahl; it's out of order, unfortunately. I have already started discussion on clause 120.

Mr. Mark Strahl: We've already voted on clause 120.

The Chair: I'm sorry, but I've already started discussion on clause 121.

Mr. Mark Strahl: Okay. I'll just put my hand up in advance of the motion on clause 121, then.

The Chair: That's fine. I just want to make sure we're following the rules, as outlined by the clerk.

Shall clause 121 carry?

Seeing no discussion, we'll go to a vote.

(Clause 121 agreed to: yeas 7; nays 4)

The Chair: Clause 121 carries.

As promised, Mr. Strahl, I turn it back over to you, sir.

Mr. Mark Strahl: Thank you very much.

I would now like to move a motion I submitted to the committee in writing in both official languages on Friday:

That the committee undertake a study on Aircraft Rescue and Fire Fighting at Airports and Aerodromes (Canadian Aviation Regulations, Section 303) allocating a minimum of three meetings to this study to hear from witnesses that include the International Association of Firefighters, the Canadian Airports Council and other interested parties, and that the Committee report its findings to the House.

Mr. Chair, this motion comes out of the debate in the House regarding another motion that's before the House, motion 96, which was introduced by Liberal MP Ken Hardie.

The purpose of the motion is to amend the current Canadian aviation regulations to adopt the International Civil Aviation Organization standards for airport rescue and firefighting. Specifically, the motion in the House is to give firefighters at Canada's major airports the mandate and resources necessary to reach the site of a fire or a mishap anywhere on an operational runway in three minutes or less, but it also specifies that a required function of firefighters be the rescue of passengers.

These changes are coming at the request of the International Association of Fire Fighters. The effect of the motion and the change proposed in it would be to increase firefighting requirements at airports so they can be met by professional firefighters.

There is some divergence of views on this issue. The IAFF has been obviously supportive of this, and for some of the major airports in our country, this will not be a major issue. They already have professional, full-time firefighters who can meet these standards and meet the definitions as laid out in the motion.

As we've been discussing here today as we're dealing with legislation, there are processes that are in place for changing regulations. These things are supposed to take a number of months and years and are supposed to hear from all sides of an issue—all interested stakeholders, all interested Canadians.

What we have heard in our discussions following the introduction of this motion, which again is up for debate very soon for its second hour, is that there are many smaller airports across the country that would be economically devastated if they were forced to change their operating model to adopt this very stringent requirement. They already do operate under the Canadian aviation regulations, which do allow for airports to have their own firefighting and rescue services, including allowing them to have airport operations staff who provide this rescue service, as opposed to having professional firefighters on call at the airport within three minutes of the middle of the furthest runway.

The costs on small airports or even mid-size international airports like Kelowna and Kamloops and Abbotsford in my province of British Columbia would number into the hundreds of thousands, if not millions, of dollars to make this change. We already know, because we've seen reports this week out of the Montreal Economic Institute indicating that the fees that are imposed on Canadian airlines and passed along to customers through higher ticket prices are already much higher than they are in the United States.

This proposal specifically calls for a charge to be added to every ticket for every passenger for every leg of their flights. That all adds up when you add all of the other charges that have been going up and up, including increased carbon taxes and increased costs for fuel. Those are all passed on to Canadian consumers.

● (1805)

We've seen, over the last number of years, that the number of incidents at Canadian airports is down. The number of incidents requiring a rescue is certainly down.

We think the best way to address this issue is to have this committee conduct more robust meetings, rather than simply having a debate that proposes a one-size-fits-all solution for all Canadian airports. That's the part of this that is the most troubling—the one-size-fits-all approach. We talked about that in discussing Bill C-33, when we were talking about the different regulations applying in different ways to different ports.

We believe this motion, which has been introduced and debated for one hour and will soon be debated for a second hour, needs a more robust discussion. Should the Vancouver International Airport have the same regulations and costs applied to it as Kelowna, Kamloops, Abbotsford or many of the other, smaller airports across the country? Can they absorb that and still meet their mandates to balance their books? The answer in the past has been no.

We've heard examples of how taking away this flexibility to provide a rescue service.... No one is talking about reducing the firefighting regulations as they are—getting to the end or midpoint of a runway in a certain amount of time and providing the ability, for instance, to put out a fire on a plane that had an emergency landing. Those requirements are still there. They are currently in the smaller airports operated by a dual-purpose staff who can provide that service to Canadians and that assurance to Canadian travellers and those travelling into our country that they are safe and secure, that they aren't in any danger because of the current regulations.

We want to make sure there are discussions and that we hear from the CAOs of those airports about what the change would do to

them, and from the larger airports, such as Vancouver, Montreal and Toronto, in order to determine what their current practices are and whether this would have an impact on them.

I think there needs to be an overall lens on this, as well as to the cost environment for Canadian passengers and airlines. As I said earlier, studies out in the last week are indicating the wide discrepancy. What happens when there is a wide discrepancy in costs is that Canadians start to look to.... There's leakage. There are jobs and opportunities lost for Canadian airports, airlines and workers, because Canadian passengers look to airports near the borders. They look for cheaper alternatives in Bellingham, Seattle, Montana and Buffalo. We've seen numerous cases of leakage in the tens of millions of dollars. This additional cost would have an impact on families, business travellers, etc.

I think we always want to make sure there aren't unintended consequences when we have motions like this coming before the House.

● (1810)

Again, there would be three meetings where we would hear from the firefighters. We're not saying that.... Perhaps they have the right approach; perhaps this is the way that things should go, but again, there should be an appropriate regulatory process.

When we were asking about what the timeline would be, for instance, to bring in regulations to ban thermal coal, we were told that it would be a three-year process and that there would be a robust discussion with affected workers, affected companies and affected industry, and that it wouldn't be done prior to those regulations coming into force. What we have here instead of that, in this motion that's in the House, is simply an imposition, calling on the government to impose new regulations without having gone through that regulatory process.

We promised we would bring this forward when we were debating this because we want to hear from firefighters, and we want to hear from airports and from airlines and from the workers who would be affected by this if this change were forced onto airports by a simple motion in the House of Commons.

We think there's a better way. We think that this issue is important and that it deserves more discussion, and the discussion should start here. We should hear from those parties and then, crucially, report back to the House. I think it is our right as members to ask for those hearings to happen, ask for that robust discussion to happen and then report back with the expectation that the government will hear from us, hear what we heard and come back with a response. Hopefully, there will then be a robust regulatory discussion and not simply the discussion happening for two hours in the House of Commons.

I note, Mr. Chair, that the bells are ringing in the chamber. I guess we have to suspend until that vote is over.

• (1815)

The Chair: Okay.

Do I have unanimous consent to continue discussion and debate?

Some hon. members: No.

The Chair: Okay. We do not have unanimous consent. I will see all of you back here in 10 minutes, promptly after the vote, as we will reconvene and continue until 8 p.m. because we have been given the extension of resources.

Thank you, colleagues.

• (1815)

_____ (Pause) _____

• (1910)

The Chair: I call this meeting back to order.

I'll turn the floor over to you, Mr. Badawey, for comments on what was put forward by Mr.—

Mr. Mark Strahl: I believe I had the floor, Mr. Chair.

The Chair: I'm sorry?

Mr. Mark Strahl: I believe I had the floor when the meeting was suspended.

The Chair: I thought you'd said, "With that, we have a vote being called, and therefore"—

Mr. Mark Strahl: The meeting has to suspend.

The Chair: Okay. I'll give you the floor, Mr. Strahl.

I'm sorry about that. I thought you were done with your remarks.

Mr. Mark Strahl: No problem, Mr. Chair. I can understand how you might have thought that.

Mr. Angelo Iacono: I have a point of order.

The Chair: Go ahead, Mr. Iacono.

Mr. Angelo Iacono: That's not how I interpreted it. We still had 30 minutes to the vote. If Mr. Strahl had wanted to finish his point, he was free to do so. To my understanding, what he was talking about was coming to an end. He could have continued talking. We still had time. He chose to stop. The option was there for him to finish.

Ms. Leslyn Lewis (Haldimand—Norfolk, CPC): On a point of order—

The Chair: I believe the rules are that if members so choose, they can choose to have the half-hour to ensure that they can be in a position to vote.

Thank you, Mr. Iacono, but I'll turn the floor over to Mr. Strahl, unless Dr. Lewis wanted to comment on that.

Mr. Strahl, the floor is yours.

Mr. Mark Strahl: Mr. Chair, I understand that a committee of the whole is happening in the chamber right now. Can I assume that we're able to operate while that committee of the whole is going on as well? Is there anything preventing that from happening?

The Chair: I'm just conferring with the clerks. I'll let you know in about one minute, Mr. Strahl.

Mr. Mark Strahl: Thank you.

The Chair: Mr. Strahl, you asked a good question. We're going to confer on it to make sure we get this right.

We'll suspend for two minutes.

• (1910)

_____ (Pause) _____

• (1910)

The Chair: Mr. Strahl, for committee of the whole we don't have to suspend until there are bells, so I'll turn the floor back over to you.

Mr. Mark Strahl: Thank you, Mr. Chair. I appreciate the clarification.

I did have the opportunity to look at section 303 of the Canadian Aviation Regulations during the bells and the vote. It is important to note that there are already stringent requirements there, including the requirement for personnel who are charged with airport firefighting to have specific training and to have specific equipment provided, right down to their personal protective equipment. All of that has to be provided and is specified by the regulations.

We're very clear that in those three meetings to hear from witnesses, we would want to hear both from firefighters....

I note that the union representing firefighters at the Montréal-Trudeau airport has indicated that they have strong opinions on this as well. They're not IAFF, but we'd certainly welcome them to come and be a part of this discussion.

There have been questions about their mandate in the past and about whether or not they can respond to incidents happening just outside the fence of the airport, etc. There was a tragic case in which they weren't allowed to respond, which I believe Mr. Barsalou-Duval brought up in this committee previously. There's a requirement to hear from individuals who have an interest in this, either from the airport management side or the firefighter protection side.

I noted that in the regulations, this applies to airports that have over 180,000 aircraft movements per year, so it's not every small airport. The Chilliwack municipal airport, for instance, would not be forced to upgrade its firefighting capacity, should motion 96 be passed and implemented, but others would. It's important to note that some of them would require new buildings, for instance, to house permanent firefighters to allow them to get to a runway in the prescribed time, as is envisioned in the motion. Others would require new, specialized equipment, which can run into the millions of dollars as well.

These are discussions that are worth having in a robust way. They should be had here at this committee. I think that we would welcome the opportunity to hear from interested parties in order to have that discussion. I'm open to discussion about whether three meetings are long enough or too much, and if we should expand the proposed witness list or whether or not we can make do with what we have here.

Given the debate in the House that's coming up again tomorrow, we wanted to move this motion. I look forward to hearing from colleagues what they think about whether three meetings are enough, whether parties should be invited and whether there are specific items that should be discussed at those meetings. I think this is a good start and a good opportunity for us to have the robust discussion that we need to have.

With that, Mr. Chair, I will turn it over to other members of the committee.

• (1915)

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

I'll turn it over to Mr. Badawey.

Mr. Vance Badawey: Thank you, Mr. Chair.

Mr. Chair, we've been here for the last couple of weeks to discuss Bill C-33. We're continuing to do that today. We're hoping to get that done prior to rising from the House on Wednesday.

With that, Mr. Chair, I would like to get back to work. I move that the debate now be adjourned.

• (1920)

The Chair: The motion has been put forward by Mr. Badawey that the debate now be adjourned.

(Motion agreed to: yeas 7; nays 4 [*See Minutes of Proceedings*])

(On clause 122)

The Chair: We will now go to clause 122.

[*Translation*]

Mr. Barsalou-Duval, you have the floor on amendment BQ-6.

Mr. Xavier Barsalou-Duval: Thank you, Mr. Chair.

[*English*]

Ms. Bonita Zarrillo: I have a point of order, Mr. Chair.

I'm sorry to interrupt the member from the Bloc, but I did actually stay after the vote, and the House has already gone into the committee of the whole. You mentioned that we have to wait for bells, but I just wonder if you could clarify why we would need to wait for bells since it's already in committee of the whole.

The Chair: I will confer with the clerk, Ms. Zarrillo.

The guidance of the clerk is that we only suspend if there are bells. If there are no bells, we don't need to suspend.

Ms. Bonita Zarrillo: Thank you for the clarity.

The Chair: You're very welcome.

[*Translation*]

Mr. Barsalou-Duval, you have the floor.

[*English*]

Ms. Leslyn Lewis: I have a point of order.

Does Mr. Barsalou-Duval have a point of order?

The Chair: He has the floor.

[*Translation*]

You have the floor, Mr. Barsalou-Duval.

Mr. Xavier Barsalou-Duval: Thank you, Mr. Chair.

Amendment BQ-6 proposes that Bill C-33, in clause 122, be amended, in item (a), by replacing line 6 on page 78 with the following:

107.1(1) If there is a

Amendment BQ 6 also proposes that Bill C-33 be amended in section 122, in item (b), by adding after line 28, on page 78, the following:

(6) For greater certainty, for the judicial review of an order made under subsection (1), the correctness standard applies to determine whether there was a risk of imminent harm to national security, national economic security or competition that constitutes a significant threat to the safety and security of persons, goods, ships or port facilities or the security of supply chains.

On page 78 of the bill, in section 107.1, it says that the minister has the power to make ministerial orders in certain specific cases. The specific cases are quite broad, and include national security, economic security, competition, and the security of persons, goods, ships, port facilities and supply chains. The scope for the use of ministerial orders is therefore very broad. What's more, in the bill, the article begins simply with "If the Minister is of the opinion that there is a risk of imminent harm [...]."

First, the amendment aims to remove the words "is of the opinion." Second, we wish to add a sixth paragraph, according to which the use of such orders is expected to be made in an organized context and according to a standard. This ensures that the minister does not have unlimited discretionary power. I think that the use of such a power requires a tighter framework than what is proposed in Bill C-33.

The Chair: Thank you, Mr. Barsalou-Duval.

[*English*]

I will begin a speaking list on BQ-6. Before I do that, I'm going to make note of Mr. Badawey and Mr. Strahl, and I have a point of order from Dr. Lewis.

I see your hand up as well, Mr. Muys.

Dr. Lewis, the floor is yours.

Ms. Leslyn Lewis: Mr. Chair, I would like to bring light to the fact that I tabled a motion that was put on notice on Friday, December 1, and that motion was for CIB transparency. I would like to present the motion at this time. It goes as follows:

Given that, after almost 7 years, the Canada Infrastructure Bank—

The Chair: I'm sorry, Dr. Lewis. You can't present a motion on a point of order. Unfortunately, you can't do that. It's out of order.

Ms. Leslyn Lewis: I would like an opportunity to present my motion.

The Chair: You can't do it on a point of order, Dr. Lewis.

I will turn the floor over to Mr. Badawey and Mr. Strahl.

You can put your name on the speaking list if you would like.

Ms. Leslyn Lewis: All right. Thank you.

The Chair: Thank you.

It's Mr. Badawey, Mr. Strahl, Mr. Muys and then Dr. Lewis.

Mr. Vance Badawey: Thank you, Mr. Chair.

This motion is presented by the Bloc. I'll state the fact that it's very similar to BQ-2. With it being similar to BQ-2, I'll give you the same comments I gave regarding BQ-2 when we voted against it and it was turned down.

Number one, the bill was created on the basis that the reasonableness standard would be used in all of these determinations. The reasonableness standard is what is generally used, and has been used, in Canada's judicial system. "Correctness" would mean that our minister of transport would essentially have no discretion to exercise the power given. The threshold would be too high, making it unusable.

Once again, Mr. Chair, it's no different from what I stated for BQ-2. With this subamendment, it would be very similar to that. Therefore, I will be voting against it and not supporting it.

• (1925)

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

Go ahead, Mr. Strahl, followed by Mr. Muys.

Mr. Vance Badawey: Now listen to their filibuster.

Mr. Mark Strahl: Thank you, Mr. Chair.

I would like to move a motion that I put on notice last week, which indicated that—

The Chair: I'm sorry, Mr. Strahl. That's not in order either. We have BQ-6 before us. Until we've concluded with BQ-6, you won't be able to put a motion forward.

Mr. Mark Strahl: Well, put me on the list to do it immediately following that.

The Chair: Okay.

Go ahead, Mr. Muys.

Mr. Dan Muys: I would like to speak on BQ-6.

I think the points Mr. Barsalou-Duval raised with this amendment are worth some scrutiny. One of the concerns overall is with the broad and vague ministerial authority that Bill C-33 gives the minister. It's an "Ottawa knows bests", one-size-fits-all approach. This amendment hopes to provide a bit more clarity to that. I think he articulates a few different areas where that needs to be applied, all of which makes some sense.

Taken individually, national security is clearly a very significant issue. Economic security is obviously important, particularly when the whole objective of Bill C-33 is to look at national supply chains, which have been tattered and stretched. The bill clearly doesn't address that. This is an attempt to put some limitation on the minister when it comes to this.

I think that's worthy of discussion. I think we should continue to discuss this.

The Chair: Thank you.

I'll turn it over now to Mr. Lewis.

Mr. Chris Lewis: Thank you, Mr. Chair.

I'm curious. Through you, Mr. Chair, how long is this meeting going for? I thought it was until 7:30 tonight. Do we have three minutes left, or do we have until 8:00?

The Chair: It's going until eight o'clock, Mr. Lewis.

Mr. Chris Lewis: Okay. We have until 8:00.

Did we vote on that, or is it something that just happens?

The Chair: We had resources until 7:30, but because of the vote, those resources were extended until eight o'clock.

Mr. Chris Lewis: Very well. I'm going to lower my hand and raise it after that.

Thanks very much.

The Chair: Thank you, Mr. Lewis.

Go ahead, Mr. Strahl.

Mr. Mark Strahl: Thank you.

Obviously, I think this was a very contentious issue. We heard from many witnesses who were very concerned about the broad powers that were given to the minister, which were indicated in proposed subsection 107.1(1). It says:

If the Minister is of the opinion that there is a risk of imminent harm to national security, national economic security or competition that constitutes a significant threat to the safety and security of persons, goods, ships or port facilities or the security of supply chains, the Minister may, by order, require a port authority or a person in charge of a port facility to take any measure, including corrective measures, or stop any activity that the Minister considers necessary to prevent that harm.

We heard, for instance, from labour. I go back to ILWU talking about the need to ensure that this wouldn't be abused, that the minister wouldn't deem that a work stoppage, a withdrawal of labour or a legal strike would be considered a significant threat to the security of the supply chain or to national economic security. This would not be the case. We heard that time and time again, from CUPE to ILWU to.... Numerous labour organizations were concerned about the broad impact that this section would have.

Obviously, when I go to the correctness standard versus providing greater accountability, I guess my question to the officials is this: Does this still allow the minister to make that determination? Is there anything preventing the minister from, for instance, declaring a legal strike at a port to be a risk to national economic security, for instance, or a risk to the security of supply chains?

Does this amendment address that sufficiently, or will there still be a way for a minister—future or current—to use or abuse that section to do what the unions were afraid of—to go outside, perhaps, what was intended? We don't draft laws based on good intentions. They have to be airtight. They have to be drafted in such a way that they are not open to abuse. I think we need to have the assurance that this type of amendment will prevent abuse by the minister.

I'd like to know what your opinion of that is. Does the current section 107.1 allow the minister to do those things that we were told were of a concern, especially to those who believed it could be used to undermine the collective bargaining process or a legal strike action?

• (1930)

The Chair: Go ahead, Ms. Read.

Ms. Sonya Read: Thank you, Mr. Chair, and thank you for the question, Mr. Strahl.

First I'll say that there are a few reasons that it could not be used in respect of labour actions. First of all, the order, as it is written, can only be used to issue an order to a port authority or a port facility. It could not be used to order, for example, a labour group or a bargaining unit to return to work.

Second, the amendment is proposed under the Canada Marine Act. The purpose of this act is to legislate matters related to shipping and navigation within the lands and applicable waters of public ports and CPAs. The labour actions would fall outside the scope of the CMA.

Third, our understanding—and this is a conversation we have had internally—is that the order is subject to the Canadian Charter of Rights and Freedoms, which protects the freedom of association, including the right to unionize and to strike. The ministerial order would be subject to any provisions in respect of the charter.

Mr. Mark Strahl: What process is required for the minister to issue an order? Even if it does have that narrow focus that you talked about, what is the process by which a minister can obtain an order, and how quickly? What is the process for the minister to request an order? What is the typical turnaround time for an order of this nature to be made?

Ms. Sonya Read: In the case of this particular order, the threshold is very high. There is a twofold threshold. Basically, there has to be first a determination that there is a risk of imminent harm to national security, national economic security or competition, and second, a determination that the risk of imminent harm poses a significant threat to the safety and security of persons, goods, ships, port facilities or security of the supply chain.

There's a very high threshold in order to be able to issue the order. The process of the order would depend on the speed with which that determination could be made.

• (1935)

Mr. Mark Strahl: Then can the minister just get his letterhead out and sign a decree and it goes into force? I'm trying to understand what protections are in place to ensure that this isn't abused by anyone. In terms of the minister being of an “opinion”, I guess there's that question, which I think you partially answered.

The other part of “the Minister is of the opinion” is this: How is that informed? Is that really as simple as it sounds? Is there a more complex matrix that's used to determine the minister's opinion? This does give the minister, based on their “opinion”, extremely broad powers. While the port authority or the person in charge of a port facility perhaps can't order somebody back to work, it seems there's an awful lot of power for the minister, based on his opinion and by his own order, to take any measure.

What, for example, would be a “corrective” measure that a minister could demand that a port authority or a person in charge of a port facility take? What is an example of a corrective measure that the minister could order a port authority to take? Do you have examples of that having been done under the current legislation in the recent past?

Ms. Sonya Read: We don't have any examples of it being done in the recent past because this is a new order-making authority that didn't previously exist.

In terms of examples of where it would be used, it would be used in the context, as I noted, of a risk of imminent harm to national security and a significant threat to the safety and security of persons, goods, ships or port facilities or the security of the national supply chain.

In that event, pursuant to the ministerial order, the minister could order a corrective action to ensure that the harm did not occur. An example that we have considered would be if a terminal operator, in certain circumstances, was refusing to accept ships or cargo from a particular country of origin, and that refusal posed a significant threat to the safety or security of persons or to the national supply chain. In that event, the minister could, for example, order that terminal to accept ships from that country of origin.

That would be an example, but it would be in very rare circumstances. The threshold would be very high. In addition, the process for the issuing of the order would be subject to judicial review.

My colleague can provide more information with respect to the oversight of the ministerial order authority.

Mr. Mark Strahl: Thank you; I would appreciate that.

Ms. Leslyn Lewis: I have a point of order.

The Chair: Yes, go ahead, Dr. Lewis.

Ms. Leslyn Lewis: With all due respect, Mr. Chair, I really do care about the integrity of this entire process.

I want to turn your attention, Mr. Chair, to section 116 of the Standing Orders. If we look at subsection 2(a), the standing order dealing with end of debate says:

Unless a time limit has been adopted by the committee or by the House, the Chair of a standing, special or legislative committee may not bring a debate to an end while there are members present who still wish to participate. A decision of the Chair in this regard may not be subject to an appeal to the committee.

Then it says:

(b) A violation of paragraph (a) of this section may be brought to the attention of the Speaker by any member and the Speaker shall have the power to rule on the matter. If, in the opinion of the Speaker, such violation has occurred, the Speaker may order that all subsequent proceedings in relation to the said violation be nullified.

Mr. Chair, this bill is a very important one, and I don't want anything to affect the integrity of the bill. I would like a point of clarification on this Standing Order and how it's been applied during this hearing.

• (1940)

The Chair: Thank you, Dr. Lewis.

After conferring with the clerk, all of the rules that you are referring to have been followed up until now. All members have been given the right to speak when they have the right to speak. There has been no attempt in any way to inhibit or prohibit any members from speaking. We can confirm that this is indeed the case.

Ms. Leslyn Lewis: I'm sorry, but on a point of order, Mr. Strahl was cut off because debate was ended, which is not permitted by the rules. It clearly says that if there is a member present who has something to say and wishes to speak, they cannot be cut off.

Everything that transpired afterwards is in peril, and I think that this is something that we must....

Remember, Chair, that you are sitting in that position and that you are a creature of statute. Your position is literally based on the powers conferred by the Standing Orders. They clearly say that if a member wants to speak and has something to say, debate cannot be ended nor can debate be voted on pursuant to the rules, because there's no provision for it. There's no exception in that section of the rules. Everything that we're discussing here can be overturned by a simple motion to the Speaker, because the rules have not been complied with.

I'm going to respectfully ask that we adhere to the rules and that my colleague Mr. Strahl be permitted to continue the discussion that he was engaged in when debate was stopped outside of the rules.

The Chair: Thank you, Dr. Lewis.

In response to that, I would simply say that when Mr. Strahl had the floor when the vote was called, I asked whether or not Mr.

Strahl and all colleagues wanted to allow Mr. Strahl to continue speaking, and it was, in fact, all members, including Conservative members, who did not want to give unanimous consent to allow Mr. Strahl to keep speaking.

I can say that there were members who I looked at who very verbally, out loud, said that they would not give unanimous consent to continue speaking. There was no attempt whatsoever to stop Mr. Strahl from speaking.

When we came back and resumed after the vote, I turned the floor over to Mr. Badawey because I thought that Mr. Strahl had concluded. He said he hadn't. I did not disrespect Mr. Strahl. I said, "Mr. Strahl, my apologies; I give the floor back to you", and I didn't even ask for any consent from colleagues, because I respected the fact that Mr. Strahl had the floor and that he wanted to continue speaking.

I think that my work thus far as chair has shown that I am fair and just. I don't know if Mr. Strahl would agree with that, but I think I was very respectful with him when we came back, and I turned the floor right back over to him without any argument. He continued as long as he wanted to speak until such time as he said that he no longer wanted the floor. The record will show that.

Ms. Leslyn Lewis: I beg to differ, Mr. Chair. In fact, what transpired was that Mr. Badawey moved a motion to end debate, and that motion was illegitimately voted on because there are no provisions in the Standing Orders to do that. It was illegitimately voted on, and then it was moved on. My colleague Mr. Strahl did not have the opportunity to finish the position he was taking on that particular issue because debate was illegitimately ended.

Since you say that this is not what transpired and that was not your intention, I'm going to give us the opportunity to resume debate. I don't think that we should allow a flagrant violation of the Standing Orders and I don't believe that there is any legal basis for us to be creating our own rules. I think that we must comply with the Standing Orders.

I'm going to ask that my colleague Mr. Strahl continue. There was an improper ruling, pursuant to Standing Order 116. Debate should not have been ended.

As you said, you did not tell Mr. Strahl that he had to stop. Maybe there was a misunderstanding. If it's Mr. Strahl's position that he had not concluded the debate, then I would like the motion that was put on the floor to end debate to be withdrawn or overruled, because it was improperly done, and I would like Mr. Strahl to rightfully have the floor and rectify this situation. That is the right and the correct thing to do, pursuant to Standing Order 116.

• (1945)

The Chair: Thank you, Dr. Lewis.

You do have the right to challenge the decision of the chair. I invite you to do so if you feel that the chair has, in some way, not followed the rules.

Before turning it back over to you to ask whether or not you do want to challenge the chair, I will state that, much to the frustration, I would say, of some committee members, I confer with the clerks as much as I possibly can to ensure that all of the decisions that I make as the chair of this committee do indeed follow the rules. That, once again, will be on public record.

I'll end there, Dr. Lewis, and I will ask whether or not you'd like to challenge the chair's decision to provide the floor to Mr. Badawey after what I believed to be the ending of Mr. Strahl's remarks on the matter. I'll turn the floor over to you to see whether or not you'd like to do that.

Ms. Leslyn Lewis: Yes, Mr. Chair, I would like to challenge your ruling.

The Chair: Okay, we'll go to a vote, Dr. Lewis.

Ms. Leslyn Lewis: Wait. I am not in any way.... I'm not finished.

The Chair: Dr. Lewis, you've confirmed that you'd like to challenge the chair.

Ms. Leslyn Lewis: Not "period".

Mr. Vance Badawey: Actually, you are finished. You're challenging the chair, so we have to go to a vote.

Ms. Leslyn Lewis: No, I actually was not finished.

Mr. Vance Badawey: I have a point of order.

Ms. Leslyn Lewis: Excuse me. I'm not your wife. You cannot speak to me like that.

Mr. Vance Badawey: I have a point of order.

Don't talk to me that way.

Ms. Leslyn Lewis: No, you don't talk to me that way. You don't talk to me that way. You don't point your finger at me and you don't tell me when I'm finished. I am your colleague—

The Chair: Okay, we're going to suspend this meeting for decorum.

• (1945) _____ (Pause) _____

• (1950)

The Chair: I call this meeting back to order.

I will now turn it over to the clerk for a vote on the challenging of the chair by Dr. Lewis.

The Clerk: You're voting on challenging the ruling of the chair. If you vote yes, you are confirming the decision of the chair. If you vote no, you are contesting the decision of the chair.

An hon. member: Could you repeat that?

The Clerk: Yes, for sure.

I was explaining that if you are voting yes, you are confirming the decision of the chair. If you are voting no, you are voting against the decision of the chair.

Ms. Leslyn Lewis: What is the decision of the chair that we're voting on—exactly what decision? I understood the chair to say that he did not shut down debate. What is it that we're voting on, please? Is it on whether the chair was correct in shutting down debate, pursuant to Standing Order 116? Is that what we're voting on?

The Chair: It's on whether or not I denied Mr. Strahl his right to speak and whether or not Mr. Badawey had a right, once I gave the floor to Mr. Badawey, to move a motion to adjourn, which is a dilatory motion that he has the right to put forward. That is what we are voting on—whether or not I was right, as the chair, to do that.

Ms. Leslyn Lewis: I'm seeking clarification. We're voting on whether or not, pursuant to Standing Order 116, you had the right to permit shutting down debate, contrary to the Standing Orders. That's what we're voting on.

The Chair: I did not shut down debate. Mr. Badawey put forward a dilatory motion to end it.

Ms. Leslyn Lewis: It's an improper motion.

The Chair: It's not an improper motion. I conferred with the clerk to ensure that it wasn't an improper motion.

Ms. Leslyn Lewis: But Standing Order 116 clearly says that it's an improper motion.

The Chair: It does not, Dr. Lewis. I have two clerks, one to the left and one to the right of me, one of whom I conferred with to ensure that Mr. Badawey was in his right to do just that. I received confirmation that he was. This wasn't something that I unilaterally went forward with, Dr. Lewis. This is something on which I conferred with the clerk before continuing.

What we're voting on right now, as per your request, is whether or not my turning the floor over to Mr. Badawey and Mr. Badawey's putting forward a dilatory motion to adjourn debate on that motion was in order. Sustaining the ruling by voting yes means that you are in favour of the rulings that I made with regard to the process that I took.

Ms. Leslyn Lewis: You took the process in shutting down debate. That's what we're voting on, whether or not that process....

The Chair: Dr. Lewis, you can try to twist it any way you want. I followed, Dr. Lewis—

Ms. Leslyn Lewis: No, it's not twisting it. I'm asking you, pursuant to the rules if we are voting.... It's simple.

The Chair: What people are voting on is whether they think I did not follow the rules and whether what I did was not in order. That is what we are sustaining—

Ms. Leslyn Lewis: Okay, so we are voting whether or not section 116 was followed by you. That's what we're voting on.

The Chair: I—

A voice: Just call a vote.

Ms. Leslyn Lewis: What do you mean, just call a vote? I need to know what it is we're voting on.

Ms. Annie Koutrakis (Vimy, Lib.): You challenged the chair. You don't know why you're challenging the chair?

Ms. Leslyn Lewis: Right. I challenged the chair. I told you exactly what I'm the challenging the chair for.

Ms. Annie Koutrakis: You're playing with words, Dr. Lewis.

Ms. Leslyn Lewis: No, I'm not.

Ms. Annie Koutrakis: Yes, you are.

Ms. Leslyn Lewis: I'm challenging the chair on section 116, that it was improperly invoked, so I don't want to hear that we're taking a vote on whether or not the chair shut down Mr. Strahl's right to speak. You can ask Mr. Strahl if his right to speak was shut down. That is something you can ask him.

What I'm voting on is the procedural matter of whether or not section 116 was properly invoked. That's what I thought we were voting on. I don't know what's so difficult about that.

The Chair: We're voting on the ruling of the chair, Dr. Lewis. That's what we're voting on.

For that, I'll turn it over to the clerk.

(Ruling of the chair sustained: yeas 7; nays 4)

The Chair: Thank you, Madam Clerk. We will now—

Yes, Dr. Lewis?

● (1955)

Ms. Leslyn Lewis: I...

Sorry; go ahead, Mr. Strahl.

A voice: You're out of order.

Mr. Mark Strahl: Mr. Chair, I believe that the witness was going to talk to me about judicial oversight—

Ms. Leslyn Lewis: Did I say I was the chair? You're out of order yourself.

The Chair: Colleagues, colleagues, I would just like to remind everyone that the only person who is permitted here to give the floor to anyone is the chair.

I would also like to remind you, Dr. Lewis, that the only person who can give the floor to anyone is the chair.

With that, I will turn it over to Mr. Strahl, who had his hand up waiting patiently.

Mr. Strahl, the floor is yours.

Mr. Mark Strahl: Thank you, Mr. Chair.

Perhaps before the witness answers, I want to give a verbal notice of two motions.

The first is,

That Transport Canada provide the Committee with all documents relating to the cost estimate for the TGF project and for a possible project allowing high-speed trains to run, free of any redactions; that these documents be sent to the Clerk of the Committee, in both official languages, no later than January 12th, 2024.

The second notice of motion is that,

That VIA HFR/TGF Inc. produce to the Committee all documents relating to the cost estimate for the TGF project and for a possible project allowing the circulation of high-speed trains, free of any redactions; that these documents be sent to the Clerk of the Committee, in both official languages, no later than January 12th, 2024.

I just wanted to give verbal notice of those.

Then I wanted to go back to the witnesses. I believe we were just going to get an answer as to the judicial oversight provisions that perhaps constrain...

Sorry; I kind of forget where we were there. Ms. Read was going to turn it over to a colleague who was going to expand on her answer about the constraints on the minister's power or the minister's order-making power under this section.

The Chair: I'll turn it over to you, Ms. Heft.

Ms. Rachel Heft: Thank you.

Thank you for the question.

As with any ministerial order power, it must be exercised by the minister. Therefore, the threshold that's indicated, which in this case is that “an imminent harm to national security, national economic security or competition that constitutes a significant threat to the safety and security of persons, goods, ships or port facilities or the security of supply chains” is the threshold that has to be met.

That's a determination that is made by the minister based on the facts available at the time and based on expert evidence if necessary, and it's made in accordance with the interpretation of the law at that time, given the facts that have arisen to require the potential use of the ministerial order power.

Once the ministerial order is issued, if any affected persons were to take issue with whether that threshold was met, for example, then on judicial review, a court would review whether the power was properly exercised by the minister. We've previously discussed the thresholds at which judicial review takes place, meaning these two thresholds are court-established standards of review: reasonableness and correctness.

On judicial review, a court looks at the minister's decision in light of the power in the act, and that would include the threshold and the facts available to the minister at the time the decision was made.

A “correct” decision is the only right answer in light of the law and the facts, and a court will find that the decision meets the correctness standard if the court would have made the exact same decision in the same circumstances, whereas a “reasonable” decision has to be logical in light of the law and the facts. A court will find that a decision is reasonable if the decision is one of a range of potential decisions that could have been taken under the circumstances, based on the law and the facts known at the time, even if there's potentially another reasonable decision that also might have been taken by the court.

● (2000)

Mr. Mark Strahl: In the review and with the correctness standard in the judicial review, is the minister's authority here absolute? If the port authority or the person in charge of a port facility disputes the minister's order—for instance, if they say that a ship needs to be allowed to dock or unload....

The example that was given would be a port authority saying, “You cannot unload”, and the minister saying, “Oh yes, they can”. Does the legislation allow for an immediate appeal mechanism, or is the only appeal then to seek a court order outside of the legislation to overturn the minister's authority? Is that the only way that a port authority or a person in charge of a port facility could dispute a ministerial order?

Ms. Rachel Heft: Yes, that's correct, Mr. Strahl. It would be by way of judicial review, so the port authority or facility in question, if they disagreed with an order to take a corrective measure, would have to seek judicial review of that order.

The Chair: Mr. Strahl, my apologies. I don't mean to cut you off once again, but we have reached the eight o'clock mark, and I just want to respect everybody's time. Also, we have no resources past 8 p.m.

Colleagues, we will resume on Wednesday.

Before we do so, I just wanted to ask whether there was any objection to providing our four witnesses with the same ability that we have to join us virtually. There are extenuating circumstances. For those of you who are not aware, there's a strike in Quebec that is affecting hundreds of thousands of parents. I don't know which one of our colleagues or witnesses appearing here is affected by this situation, but I would like to award them, if possible, the ability to join us virtually with no objections from members of this committee.

I don't know if that'll happen. I don't know exactly if they're allowed to do that, but I just wanted to state categorically that we are in favour of your joining us virtually if at all possible for Wednesday's meeting.

With that, we are adjourned.

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