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• (1650)

[English]

The Chair (Mr. Francis Scarpaleggia (Lac-Saint-Louis, Lib.)): The 13th meeting of the House of Commons Standing Committee on Environment and Sustainable Development is hereby open. As we all know, we are having a meeting today pursuant to Standing Order 108(2) and the motion adopted by the committee on Monday, November 2, 2020. In this regard, the committee is resuming its study of the enforcement of the Canadian Environmental Protection Act.

Today's meeting is in hybrid format pursuant to the House order of January 25, 2021. Again, if you're not speaking, either as a witness or as a member of the committee, you can put your mike on mute.

I welcome our witnesses today. Today is our last meeting on the topic of Ms. Collins's motion. Everyone is from Environment and Climate Change Canada. We have Michael Enns, the director general of the risk analysis directorate; Sheldon Jordan, director general of wildlife enforcement; Donald Walker, director general, environmental enforcement; Anne-Marie Pelletier, chief enforcement officer, enforcement branch; Hannah Rogers, executive director, environmental enforcement; and Stéphane Couroux, director, transportation division, energy and transportation.

I believe we have only one opening statement and it will be Madame Pelletier who will speak to us for about 10 minutes. That will be followed by the usual rounds of questioning.

Madame Pelletier, the floor is yours.

[Translation]

Ms. Anne-Marie Pelletier (Chief Enforcement Officer, Enforcement Branch, Department of the Environment): Thank you very much.

Good afternoon, members of the committee. It is a pleasure to be here.

Since the chair has already named the members of my team with me today, I'll move on to my presentation right away.

[English]

Thank you for giving us the opportunity to have a conversation about our commitment to the enforcement of the Canadian Environmental Protection Act, CEPA.

CEPA is an important part of Canada's federal environmental legislation aimed at preventing pollution and protecting the environment and human health.

ECCC administers a broad range of laws and regulations designed to prevent pollution, protect the environment and human health as well as the conservation of wildlife species, their habitat and biodiversity. The role of the enforcement branch is to serve Canadians by carrying out inspections to verify compliance with these laws and regulations, but also by investigating and taking measures to compel compliance when violations are uncovered.

The enforcement branch consists of about 400 employees, of whom 249 are uniformed officers. These officers are highly trained with backgrounds in chemistry, biology and other specializations along with significant law enforcement skills and experience.

The branch consists of a national office in Gatineau, Quebec, which is our headquarters, and offices in five regions: Atlantic, Quebec, Ontario, prairie and northern, and Pacific and Yukon. Enforcement officers are designated to enforce CEPA and its regulations across Canada in large and small communities. With our regional offices, we also have approximately 25 officers.

In the course of their duties, enforcement officers conduct inspections to verify compliance. The enforcement branch works hand in hand with the different programs in the environmental protection branch, which is responsible for the development and administration of the many regulations under CEPA. This work includes regulatory administration and testing. Cases of non-compliance identified by program staff are referred to the enforcement branch.

When a violation is found, the enforcement branch will choose the appropriate response from among the enforcement tools at their disposal. These tools, designed to achieve compliance, include warnings, directions, compliance orders, tickets and administrative monetary penalties, AMPs. When the environmental harm, risk of environmental harm, or the factual circumstances warrant it, officers conduct investigations and collect evidence to support the laying of charges.

To this end, enforcement works closely with the Public Prosecution Service of Canada. This results in a relationship that is very successful in working with the prosecution in order for us to be able to successfully endorse environmental violation.

Enforcement is not just about the individual party or parties that are fined or charged. It's also about conveying to the regulated communities that there are real costs to non-compliance with environmental laws and regulations. We address the wrongdoing and ensure the return to compliance. Along with effective outreach from our colleagues from across the department, enforcement actions communicate to polluters that they will be held accountable for their actions. Successful prosecutions that lead to fines and other penalties send the message that the cost of non-compliance is high. In so doing, enforcement creates an even playing field for companies and sends the message that respect for Canada's environmental law is a basic tenet of doing business in our country.

Achieving those results starts with thorough investigative work. Over the past five years, the enforcement branch has enhanced its capacity for conducting large-scale, complex investigations. We have put in place a major case management protocol and have equipped enforcement officers with advanced investigative tools, a computer forensic unit, resources for evaluating the economic impact of environmental harm, forensic accounting and more.

The enforcement branch and the relevant programs have taken to heart the recommendations of this committee as well as reports from the commissioner of the environment and sustainable development. We continually strive to improve our methods and to modernize the branch and its activities.

One of the most important ways we have undertaken to advance our work is to base our activities on a rigorous risk analysis. A risk-based approach to enforcing laws and regulations means that we are conducting analysis to identify where we find the greatest harm to the environment, human health and biodiversity; the level of non-compliance present; and where inspections and enforcement action can be expected to reduce the risk of harm. This approach provides a systematic and data-driven means to allocate our enforcement resources and improve compliance.

We have made investments in better tools for data management and connectivity. This allows for the centralization of critical departmental data in a single location. This integration will continue to transform our data into strategic assets in order to enhance innovation, performance and measurement, decision-making and, ultimately, accountability.

We are also developing the enforcement officer mobile office, which will allow officers to have the necessary information at their fingertips while out in the field to retrieve and upload information from the enforcement database, increasing the effectiveness of their inspections. Mobile tools also allow officers to report observations, and information that will further bolster our intelligence gathering.

• (1655)

ECCC's enforcement branch officers have also been using a novel approach to continue enforcing Canada's environmental laws during the pandemic, while keeping themselves and Canadians safe. Officers are encouraged to use innovative inspection methods and tools, where possible, and complete administrative tasks from home. Where necessary, due to the nature of the incident or non-conformity, our officers continue to conduct in-person inspections. To this end, they follow strict standard operating procedures to en-

sure that both their personal health and the safety of the public are taken into consideration.

Environment and Climate Change Canada is taking steps to align its planning and operations with federal, provincial and territorial counterparts by launching a working group. We have already cooperated on a number of activities, such as inspections at the borders, joint law enforcement operations and some cross-designation of enforcement officers. We know that by working together with the provinces and territories, we can become even more efficient and effective.

Finally, we continue to adapt our operations as new regulations come into force, and as our mandate and the suite of enforcement tools continue to evolve.

Members of the committee, thank you for your attention. I will be happy to answer your questions.

Thank you.

[*Translation*]

The Chair: Thank you, Ms. Pelletier.

I forgot to mention at the beginning that the meeting will end at 6:45 p.m. because we started late due to the two votes. As for next Wednesday, I doubt very much that we'll meet, given all the votes that are scheduled. It will be for another day. We'll now move on to questions.

Mr. Albas, you have six minutes.

[*English*]

Mr. Dan Albas (Central Okanagan—Similkameen—Nicola, CPC): Thank you very much, Mr. Chair. I'd like to thank all of our witnesses for the work you do for Canadians every day. I do appreciate your presence.

I'm going to begin with Ms. Pelletier. Could you let us know if any of your team worked on the Volkswagen "Dieselgate" file directly?

The Chair: Otherwise known as the Volkswagen file.

[*Translation*]

Ms. Anne-Marie Pelletier: Thank you for the clarification.

[*English*]

If you're asking me if members of the team that are present worked directly on the file, I believe we have one person present. The persons who worked directly on the file at the time have moved on; however, members who are part of the witness list and attending are fully aware, and are ready to answer all your questions.

Mr. Dan Albas: Could you please identify who worked directly on the file?

Ms. Anne-Marie Pelletier: Michael Enns was the director general. He was the executive director of environmental enforcement at the time.

Mr. Dan Albas: My question is to Mr. Enns. Could you describe the role you played in the Volkswagen Dieselgate file?

Mr. Michael Enns (Director General, Risk Analysis Directorate, Department of the Environment): My role was executive director of environmental enforcement at the time. I wasn't directly involved in the case. There were officers assigned to work the case in the Ontario region. There were supporting people from the lab that did testing of the engines, and so forth. My role, as an executive, was supervising the officers who were actually conducting the investigation.

I should note that my role at the time, in the same way that it is now, was not part of the chain of command. The director general of environmental enforcement, my boss, was the person in the chain of command most directly responsible for the case, but I did have a role, as an executive, during the entirety of the investigation.

Mr. Dan Albas: Your name is attached to it, but you did no direct work specifically on the Dieselgate file, is that correct?

Mr. Michael Enns: That would be fair to say, yes.

Mr. Dan Albas: Could you please share what activities you did do, and some of your observations?

Mr. Michael Enns: My role was to ensure that the investigating officers had the support they needed to conduct the investigation, so I was aware of the investigation as it moved through the steps. I made connections with laboratory services, and made sure those resources were available at the time.

In terms of my observations, I observed a case being worked according to the policies and procedures of the department in a way that is typical of this enforcement branch.

• (1700)

Mr. Dan Albas: Were you able to get all the necessary resources for your colleagues to be able to do their job?

Mr. Michael Enns: We had all the necessary resources to complete a thorough and comprehensive investigation and to subsequently make a recommendation to the Public Prosecution Service of Canada.

Mr. Dan Albas: Did they observe at any time any irregularities or any kind of imposition on any of their duties?

Mr. Michael Enns: I know of no irregularities or impositions.

Mr. Dan Albas: Thank you, sir. I appreciate your contribution today.

Ms. Pelletier, could you please explain in general? First of all, it seems to me that you and your team who are largely here had no hands-on, direct role when it came to the Dieselgate scandal, or Dieselgate case, pardon me.

What do you believe you could offer this committee today? Are you just here to discuss the activities you would do on such a file, or have there been any specific briefings you would like to bring to the committee because I notice in your presentation you didn't really touch on it.

Ms. Anne-Marie Pelletier: People who are in front of you have not directly participated. I arrived in 2018, and others arrived after me. However, we do have in-depth knowledge of the file. We have been fully briefed, and we are prepared to talk about the intricacies of CEPA and also the legislation around it.

We are enforcing the law. That is our role. We can talk about how we are enforcing the law and how we went about it. There are certain aspects of how we do inspections and the context around them. Those are the kinds of things we are prepared to speak to. If you have questions regarding CEPA, that is one of the reasons we're here today on the application of the law.

Mr. Dan Albas: I do appreciate that.

When it comes to the actual prosecution, in terms of some of the questions that some people have had in regard to the fines themselves, are you prepared to speak to them?

Ms. Anne-Marie Pelletier: As you know, when it comes to determining the level of fines, the prosecution itself goes directly to PPSC.

Mr. Dan Albas: Is there anyone from Public Prosecution here today?

Ms. Anne-Marie Pelletier: No. There isn't.

Mr. Dan Albas: Why is that?

The Chair: Please be quick.

Ms. Anne-Marie Pelletier: We have been asked to attend. We were named to attend this meeting today.

The Chair: Thank you.

Mr. Longfield, you have six minutes, please.

Mr. Lloyd Longfield (Guelph, Lib.): Thank you, Mr. Chair.

Thank you to the witnesses.

Clearly, we're not here to relitigate something that has been through the Prosecution Service and the courts, but we're looking at the processes involved in the enforcement of CEPA and the role your department plays and also the role that our committee can play.

Madam Pelletier, you mentioned in your presentation the role the environment committee played in 2017, bringing forth some recommendations. Are there any of the key recommendations that came from this committee that you could comment on that have improved the operation of your organization?

Ms. Anne-Marie Pelletier: Yes, we can. Michael Enns, who already spoke, can speak very heavily on this because he is leading some of the key results on the risk assessment part, which is transforming and modernizing the enforcement branch.

Michael, if you would like to take the lead.

Mr. Lloyd Longfield: Thirty to 40 seconds would be great. I have a few more questions.

Thank you, Mr. Enns.

Mr. Michael Enns: We're aware of all the recommendations that were made by this committee, and then there was the report that responded to those recommendations, noting in particular that many of them would involve a fairly fundamental change to how we enforce and work under CEPA.

Those recommendations are being considered under a broader review of the Canadian Environmental Protection Act that was launched just recently and is being considered as part of a comprehensive set of recommendations that were made at that time.

• (1705)

Mr. Lloyd Longfield: I'm sorry I haven't given you enough time to adequately answer.

Mr. Michael Enns: That's okay.

Mr. Lloyd Longfield: I'm thinking of the interaction between your office and the office of the commissioner of sustainability and climate change as an example.

Mr. Michael Enns: There were a number of recommendations made by the CESD on how we do priority setting and where we choose to focus our enforcement efforts.

In response to that, we implemented, and have been implementing over the last two years, a risk-based approach, which includes a comprehensive analysis of all the laws and regulations we're responsible to enforce, including those under CEPA, to look at the harm that is done incrementally by offences when they occur. We do life-cycle analysis of toxic substances, for example, to determine how much damage is done to the environment by a particular pollutant, and then we combine that with in-depth analysis of the likelihood of those offences occurring.

Those two pieces go together to form a risk-based approach.

From a likelihood perspective, we look at prior criminal history, at operations of an organization—financial profit and those kinds of things—to create models that, together with the harm, target those offences that are the most likely and most severe from an environmental standpoint. So that—

Mr. Lloyd Longfield: Sorry, go ahead. You had one more comment.

Mr. Michael Enns: We started that process two years ago, so we're well advanced with it. We've done our analysis and have implemented inspections on the basis of that analysis, which will allow us to field test what is really going on and continually modify those models that we've built, so that we're always targeting the worst forms of environmental non-compliance.

Mr. Lloyd Longfield: Perfect.

As an outside-of-government approach, or reporting to Parliament outside of the minister's office, the office of the attorney general, through the commissioner's office, gives third party oversight. Would that be a fair statement?

Mr. Michael Enns: I would think so, yes.

The commissioner of the environment and sustainable development has audited us, and will again in the future, I'm sure, and that provides strong oversight that we respond to directly.

Mr. Lloyd Longfield: In those audits that result in action items, timelines, review and re-review....

I sit on the public accounts committee, so I pick up the audits on the other side of these discussions.

It's a non-partisan committee. Well, it's partisan because we're all members of political parties, but we try to ask our questions on behalf of efficiency of government.

Mr. Michael Enns: Right. The two most recent audits were on CEPA enforcement itself, as well as some of the enforcement that we do under the Fisheries Act with respect to mining in particular. The recommendations from those audits were remarkably similar, that we needed to put in place a strong, risk-based prioritization process, as well as a policy on reinspection, to make sure that when we do undertake enforcement actions, we go back to verify compliance.

Both of those things have been done and implemented. We reserve a certain percentage of our inspections every year for the purpose of reinspection to verify compliance, which is in direct response to audit recommendations in both audits. The risk-based directorate that I run is probably the flagship response to both audits, and it provides the comprehensive, detailed risk assessment process that those audits recommended directly to us.

The Chair: You have 30 seconds.

Mr. Lloyd Longfield: The other interaction is with provincial and municipal governments. How does that take place?

Mr. Michael Enns: I can speak to that, and perhaps turn it to my colleague, Donald, if he has anything to add.

Mr. Lloyd Longfield: You may have to pick that up later. I'm running out of time quickly.

Mr. Michael Enns: I'll just talk until someone tells me to stop.

We have extensive interactions with provincial and territorial enforcement organizations at the officer level, and that is really well functioning. At the higher levels, the chief enforcement office, for instance, we held a working group session of all her counterparts over the last year to talk about joint planning, resource efficiency, etc.

[Translation]

The Chair: We must give the floor to Ms. Pauzé.

[English]

Mr. Lloyd Longfield: Thank you very much.

[Translation]

The Chair: Go ahead, Ms. Pauzé.

Ms. Monique Pauzé (Repentigny, BQ): Thank you, Mr. Chair.

Good afternoon, Ms. Pelletier.

Your work is extremely important, especially when it comes to the health of the public.

You mentioned in your speech that the Enforcement Branch has enhanced its capacity for conducting investigations. However, one witness told us that Environment and Climate Change Canada has conducted fewer investigations under the Canadian Environmental Protection Act and that there has been a decrease in the number of inspections.

For example, in 2014-15, there were 4,915 inspections, while in 2018-19, there were 1,608. In addition, there were 60 investigations in 2014-15, compared to 16 in 2018-19, which were therefore conducted prior to the pandemic.

What explains this significant drop in the number of investigations?

• (1710)

Ms. Anne-Marie Pelletier: Our current risk assessment makes the issue much more complex. A decrease isn't necessarily representative of the magnitude of what we're doing.

We also have other tools. We've talked about monetary penalties and tickets, for example. We use tools that the numbers don't show, but they have a big impact. The numbers don't tell the whole story.

I'd like to ask our director general, Donald Walker, to provide further clarification on this matter.

Ms. Monique Pauzé: I'd ask Mr. Walker to provide a quick response, since I have a limited amount of time.

[English]

Mr. Donald Walker (Director General, Environmental Enforcement, Department of the Environment): Absolutely.

There are a variety of factors to look at here, the critical one being the types of inspections and investigations that are undertaken in a given year. There can be some fluctuation, particularly as we move to a more risk-based approach, so looking at specific industries to determine levels of non-compliance as a baseline, and where we should be focusing our efforts. Some that are more straightforward to investigate will naturally move faster, particularly if they're all located in urban areas, whereas others will require more legwork, more collection of evidence, longer periods of time to analyze the evidence, as well as additional effort in terms of where we send resources in order to collect samples and the like.

[Translation]

Ms. Monique Pauzé: Do you consider your human resource capacity to be sufficient, given the distance you have to cover to gather the evidence?

[English]

Mr. Donald Walker: That's an interesting question.

What I would say is that our responsibility as an enforcement branch is to make sure we're making the most effective use of the resources we have. That's why we have moved to a risk-based approach. We're looking both at the impact of non-compliance and at

the likelihood of non-compliance when we're determining how we use the human resources we have.

I might turn to Michael Enns again to describe a little bit more on how that works in terms of our planning process.

Mr. Michael Enns: Sure.

The main concern of any enforcement branch, in my view, trying to make effective use of resources is twofold: recruitment and training. We want to get the right people in, and we want to train them in the best possible way.

We've made investments over the course of the last few years to make that training the best it can be in terms of understanding the detailed requirements of the CEPA regulations, the nature and extent of non-compliance, and all of the possible tools to bring back conformity.

In terms of recruitment, again, we invest heavily there to bring in people who have backgrounds that are diverse and scientific in nature, combined with good and detailed knowledge of policing techniques.

That's how we make the most effective use of resources. Recent investments in the enforcement branch have allowed us to double down on those efforts to make even more improvements, which is a big priority for our branch.

[Translation]

Ms. Monique Pauzé: Since you're offering more training, do you think you'll be able to increase the number of investigations in the near future?

Have you developed a plan to do this?

Ms. Anne-Marie Pelletier: Yes, we've developed a plan for priorities.

I can't say whether it will increase the number of investigations. However, it will certainly help us to target the investigations to be conducted.

The plan will target situations that correspond to a high level of risk, which is often much more complex. The regulations will be improved over time, and they will become much more complex. This means that our officers will have to be trained to comply with the new regulations.

As I said, the number of investigations isn't always an accurate reference. We have different mechanisms for receiving requests for investigations or inspections from the public. Perhaps Mr. Walker mentioned this. Our data isn't necessarily limited to what we find. It's another situation that illustrates how difficult it is to put a dollar figure on what we do.

• (1715)

The Chair: Thank you.

We'll now give the floor to Ms. Collins.

[English]

Ms. Laurel Collins (Victoria, NDP): Thank you so much.

Mr. Chair, my motion specifically indicated “in light of the recent charges brought against Volkswagen in December 2019 under the CEPA, following this investigation by Environment and Climate Change Canada”. That was the language in the motion. I have to admit I'm feeling a little bit disappointed that we have witnesses who were not there at the time and cannot necessarily speak to the direct experience of what happened. Being briefed on what happened is different from actually being able to question someone who was involved in the investigation.

With that said, I think the Volkswagen case has been referred to as one of the worst environmental crimes committed in Canada, and Canada's response to it has been characterized as hesitant, weak, inadequate. One of the criticisms was around the length of time it took. In the U.S., the EPA issued a notice of violation to Volkswagen in September 2015, and about a year and a half later the company pleaded guilty—actually less than that, in January 2017—to three criminal felonies, whereas Environment and Climate Change Canada began investigating in September 2015, and charges were only laid four years later, December 2019.

We've heard testimony that the agreed statement of facts from the U.S. would be legally admissible in Canadian courts, that the testing done in Canada was used as evidence by the U.S. government, so why did it take four years to charge Volkswagen here in Canada?

[Translation]

The Chair: Who wants to answer the question?

Ms. Anne-Marie Pelletier: I'll ask Mr. Walker, director general at the Department of the Environment, to speak to that.

The Chair: Okay.

Mr. Walker, you have the floor.

[English]

Mr. Donald Walker: With a case of this magnitude, it's not unusual for the investigation to take multiple years. It's certainly correct that, as Ms. Collins mentioned, under section 23 of the Canada Evidence Act, records of proceedings from certain foreign courts, including the United States, can be introduced as evidence in Canadian courts.

However, that doesn't vitiate the need for Environment Canada to conduct its own investigation under Canadian law—

Ms. Laurel Collins: I'm sorry to interrupt. Could you please speak to the comparison. It took a year and half, less than that, a year and a few months, for the U.S. to complete this, and they actually laid criminal charges, whereas it took us four years, and the charges were in no way comparable. What was the difference between our investigation and theirs, especially given that they had already completed theirs and we could use their statement of facts? You'd think that would speed it up.

Mr. Donald Walker: Absolutely, while it is possible to enter their statement of facts as evidence for a Canadian prosecution, the fact is that the charges laid in the United States were under U.S. law and weren't the same as what was pursued in Canada under the Canadian Environmental Protection Act.

The testing of vehicles is certainly one component. There's also the investigation of the defeat devices themselves, which actually

required some level of reverse engineering in Canada because it was not to simply demonstrate that the vehicles were not performing the way they were expected to, but to show that there was a device that was designed to do this.

I may actually turn it over to Monsieur Couroux to speak a little bit about the technical aspect of testing, as well as the facts about the co-operation with the U.S. on testing.

• (1720)

Ms. Laurel Collins: In the interest of time, I'll move on to my second question, which is around the proportionality of the Canadian side. Even adjusting for population and the number of vehicles sold, the \$196-million fine paid by Volkswagen Canada is much smaller than the \$4.3 billion in civil and criminal penalties paid in the U.S.

I'm curious about the recommendations that the enforcement officials made to the Crown prosecutor with regard to Volkswagen and the rationale behind those recommendations. I'd specifically like to know, because the recommendations are made on behalf of the minister, what input, if any, did the minister's office have on those recommendations? What input, if any, did the Prime Minister's Office have on those recommendations? Under CEPA, compliance and enforcement policy is the responsibility of enforcement officials, but it's on behalf of the minister and they made recommendations to these Crown prosecutors around penalties, proportionality and nature or gravity of the offence, etc.

Mr. Donald Walker: That's a really interesting question.

I think this goes back to the creation in 2005 of the enforcement branch, which was designed to create an independent and impartial investigative body that could undertake enforcement activities under CEPA.

To the best of my knowledge, there is no interaction with the minister's office or the Prime Minister's Office to influence the work of the Public Prosecution Service of Canada in the discussions of the actual penalty amount.

I would, however, go back to Justice Rondinelli's reasons associated with his accepting the plea agreement. They indicate that this is a new era, in terms of the scope and size of penalties. He recognizes that this penalty of \$196.5 million, which goes back into environmental projects in Canada, is 26 times the next highest amount that had previously been collected.

Ms. Laurel Collins: Thank you, Mr. Walker.

The Chair: This discussion is very interesting, and I hope it will continue along these lines as we go into our second round, which includes five minutes from Mr. Redekopp.

Mr. Brad Redekopp (Saskatoon West, CPC): Thank you.

Thanks to all the witnesses for being here.

I'm going to ask Mr. Couroux a question.

In her opening remarks, Madam Pelletier said that the enforcement branch and the relevant programs have taken to heart the recommendations of this committee, which I assume is a reference to the 2017 study by this committee on CEPA.

In the government response, then-environment minister McKenna wrote to the committee saying that “some of the...recommendations would be best realized through implementation rather than statutory change”. Then Madam Pelletier listed some of the changes that have happened.

Mr. Couroux, with these changes and these tools in place as they are now, would your enforcement officers have been able to uncover what Volkswagen was doing?

Mr. Stéphane Couroux (Director, Transportation Division, Environmental Protection Branch, Department of the Environment): To clarify one thing, I'm not with the enforcement branch; I'm part of the program that supports enforcement when they are conducting investigations. I can, though, certainly answer the question of what we have implemented since the Volkswagen situation to improve our testing and finding of those defeat devices.

First, we have implemented a risk approach to selecting test specimens to ensure that we have the broadest scope and that we focus on those vehicles or engines that could provide more likelihood of having exceedences.

We've also increased the funding for what we call the enhanced compliance verification approach. In that regard, we are conducting more testing than we were before Volkswagen. Also, we are conducting testing that is different—testing that we do while trying to be unpredictable and find issues such as what we found in the Volkswagen situation.

We're thus no longer only conducting laboratory testing but are also moving ahead to conduct on-road testing using portable emission measurement devices. We're also conducting testing, on an unpredictable cycle, whereby we monitor all of the computer systems and other parameters to try to ensure that the vehicle is always operated in the same way it would be in a laboratory.

Mr. Brad Redekopp: In your opinion, then, would there have been a much higher chance that you would have caught VW in this case?

Mr. Stéphane Couroux: What I'm saying is that with the resources we have at our disposition we're working towards ensuring that we are as efficient as possible to test the widest spectrum of vehicles and also trying to find evidence as much as we can.

Mr. Brad Redekopp: Okay.

Thinking back to the situation with VW, you understand the amount of work and things that were done in your department to get to the bottom of the situation with VW. Do you folks who work in that area consider that the amounts VW had to pay in Canada were too low, too high, or just about right? What are your thoughts?

• (1725)

Mr. Stéphane Couroux: That's something I cannot comment on. My role is to conduct the required testing to find out whether there are cases, with vehicles and engines, of non-compliance.

My team administers six vehicle and engine emission regulations that look after the emissions of pretty much all on-road vehicles and off-road vehicles that are operated on the road. We select test specimens every year, based on our risk analysis. We conduct the testing, and if there's evidence that these vehicles are non-compliant, we turn them over to enforcement, who work with the prosecution and can talk more about the way the follow-up work happens.

Mr. Brad Redekopp: I'm more curious about the coffee room talk among the folks who work in your area. What do they think of the way this turned out?

Mr. Stéphane Couroux: Obviously, that's something we don't discuss.

Our role is limited to obtaining the proper test specimen and conducting the testing. Then we basically follow through with those that are non-compliant by providing those files to our colleagues in enforcement to bring them forward.

Mr. Brad Redekopp: Madam Pelletier, do you expect that Canadians would have more confidence in enforcement of CEPA when big companies like Volkswagen get essentially a slap on the wrist, compared to other jurisdictions like the U.S.A. and Germany? Why should Canadians have confidence in the changes you've made?

The Chair: You have 25 seconds, please.

Ms. Anne-Marie Pelletier: I believe that Canadians do have confidence. This has been the largest fine in our history. We're setting a baseline now for the companies out there. We're setting the tone. The message was very clear. It is a historic fine and the investigation was well conducted. With all the collaboration we've had within our department, Canadians can be proud of this investigation and the results.

[Translation]

The Chair: Thank you, Ms. Pelletier.

Mr. Saini, the floor is yours.

[English]

Mr. Raj Saini (Kitchener Centre, Lib.): Thank you, Chair.

Thank you to all the witnesses for being patient and for being here today.

I'm going to start off with a general question because, as you know, we're going to be reviewing CEPA shortly. What do you think some of the shortfalls are to the act? How would you like to see them addressed in improved enforcement?

This can be for anybody.

Ms. Anne-Marie Pelletier: Donald, go ahead.

Mr. Donald Walker: As the enforcement branch, we work closely with our colleagues in the environmental protection branch, who are responsible for developing regulations and working on any legislative changes. Our goal there is to make sure that any envisioned changes are workable from an enforcement perspective, that at least the resources required with respect to enforcement are considered, and that we have the appropriate tools and training to make sure that our officers are out there and able to enforce the law.

However, our role here is to enforce the law as written. Where we do identify gaps—and I am not sure that is something we would necessarily speak about—we do identify them to our colleagues within ECCC, so they can be addressed as quickly as possible and enforcement can continue.

Mr. Raj Saini: The next question I have is about the damages fund. As you know, the damages fund allows for fines levied under CEPA to be used to restore the environment.

Currently, it's the court that directs those funds to be used to repair the specific damage that the fines were levied for. Do you think this is the proper way? Should that decision be made somewhere else in the department?

Ms. Anne-Marie Pelletier: The environmental damage fund works very well. The public prosecutor makes a recommendation, but it is still through the courts that these recommendations are made. The decisions are made by the courts and they're working very well.

Mr. Raj Saini: Okay, that's good to hear.

Much of the conversation around enforcement is about what to do after an infraction has been committed. At that point, it's sometimes too late to prevent the environmental damage from happening in the first place.

What measures do you think could be taken to help enforce CEPA before there is an infraction and before the damage is done?

• (1730)

Ms. Anne-Marie Pelletier: We have a compliance promotion program within the department that works very well in tandem with the enforcement officers. This is the prevention side of the equation, where that education part with the regulatees is happening. That is where you want to prevent an environmental incident from happening.

We do have tools to work with the regulatees. We have directives. There are some tickets and some AMPs. There are smaller enforcement abilities that we can put in place that trigger the compliance of the regulatee, rather than going into a full-fledged investigation.

We do have tools to be able to do the prevention side of it within the department.

Mr. Raj Saini: You mentioned AMPs in your opening remarks and you've mentioned AMPs now.

Is there any thought being given to expanding the AMPs—raising those levels or expanding the scope—as an alternative to prosecution for non-compliance or for addressing non-compliance?

Ms. Anne-Marie Pelletier: Donald, would you like to answer that one?

Mr. Donald Walker: Sure.

I think that's really well framed in terms of the goal of the enforcement program, which is to address non-compliance and reduce non-compliance. Administrative monetary penalties certainly are one tool that's been available to officers since 2017. What you'll see is that with the implementation of the administrative monetary penalty system, there has been a reduction in other types of en-

forcement activities. It's a more straightforward means to address non-compliance in a reasonable time frame.

Officers also have the opportunity to issue written warnings, if they feel that the situation merits it, as well as environmental protection compliance orders. Other measures that are short of prosecution still take steps to actively address the non-compliance and reduce or mitigate or limit damage to the environment.

The Chair: Thank you.

[*Translation*]

Ms. Pausé, you have two and a half minutes.

Ms. Monique Pausé: I'll come back to a testimony by Mark Winfield, who worked to strengthen the Canadian Environmental Protection Act. When he appeared in 2016, he said that some regulations appeared to target sectors with significant pollution potential, but that there was little enforcement activity.

Do you have an order of priority for your inspection efforts?

Ms. Anne-Marie Pelletier: Yes, we do have one. It's actually the exercise we've been doing for years in terms of risk assessment. I'm going to ask Mr. Enns to talk to you in detail about how we prioritize the files and the planning around that process.

[*English*]

Mr. Michael Enns: There are a couple of issues here. In terms of the priorities we set, we absolutely take a look at the entirety of our mandate to judge the risk on the basis of the harm that's done and the likelihood of those things happening.

[*Translation*]

Ms. Monique Pausé: I'm sorry to interrupt, but there's no interpretation.

The Chair: We'll stop the clock for a moment.

Is the issue resolved now?

Ms. Monique Pausé: Mr. Enns needs to say something.

[*English*]

The Chair: Madam Pausé, can you hear me?

[*Translation*]

Ms. Monique Pausé: Yes, thank you.

The Chair: Okay. We'll resume.

[*English*]

Mr. Michael Enns: As I talked about earlier, the risk-based approach to setting priorities is really at the centre of answering your question. We look at the entirety of our mandate. That includes such regulations as the environmental emergencies regulations, which require organizations to have a plan in place to prevent the big-scale catastrophes you mentioned, as well as the entirety of our other mandate. We combine that with proactive sampling of various parts of the country. We do targeted inspections on the basis of the risk work and cast a net through random inspections to make sure we're continually keeping our dataset relevant. We're continually focusing on where we can do the most good in terms of risk reduction.

• (1735)

[*Translation*]

Ms. Monique Pauzé: How much time do I have left, Mr. Chair

The Chair: You have 30 seconds.

Ms. Monique Pauzé: To ensure that inspectors and enforcement officers have the proper tools to deter offenders, wouldn't it be necessary to define new penalty mechanisms in the legislation to facilitate compliance?

The Chair: I would ask the witnesses to answer briefly.

Ms. Anne-Marie Pelletier: The act needs to be revised, which will allow us to thoroughly study the elements that should be added to it. We'll then be able to take a second look at it.

The Chair: Ms. Collins, you have two and a half minutes.

[*English*]

Ms. Laurel Collins: Thank you.

Following up on the question I asked Mr. Walker, I guess what I heard from you was that it was to best of your knowledge. It sounds like you don't have direct knowledge of what kinds of recommendations were put forward at that time, or who might have had input into it.

Maybe I'll move to Mr. Enns on the same question.

Mr. Chair, I want to confirm that we'll have another round of questioning after this.

The Chair: Yes. We're doing quite well.

Ms. Laurel Collins: My question is on those two pieces, the irregularity and the length of time, especially in comparison to the U.S. prosecution, and then also the proportionality of the Canadian fine, which to me seems kind of embarrassing. This is the largest one we ever got, and it is a fraction; it is such a small portion of what the U.S. was able to get. I just wanted to get your first-hand account.

Mr. Michael Enns: Sure. On the proportionality of the offence, I think it's important to note that penalties in Canada are based on precedent in Canada and not in any other country. On that basis, we're pleased that it was more than 25 times the size of any previous penalty. To our way of thinking, that showed the seriousness of the offence and the seriousness with which the court took it.

That's based on Canadian precedent and, as you know, the United States has a different system and it includes different elements in the offence than are included just for what was the fine under CEPA, which you're talking about and was \$196.5 million. There were a number of elements to the U.S. fine that make it very different.

Ms. Laurel Collins: I guess they did bundle these fines differently. The decisions made around how to bundle them were quite different, which resulted in a lower fine and just the fact that...

I'm just curious. Do you have any direct experience around the recommendations that the enforcement officials made to the Crown prosecutor and on the rationale behind those penalties? Would you have any kind of first-hand knowledge on any input that the minister's office might have had on the recommendations for Volkswagen or any influence the Prime Minister's Office might have had?

The Chair: We are well over time now. Maybe Mr. Albas would be gracious enough to let Mr. Enns answer that, but he might have his own questions.

We will go to Mr. Albas.

Mr. Dan Albas: Please, if you wouldn't mind, Mr. Chair, let that happen.

Mr. Michael Enns: In terms of the minister's office and the Prime Minister's Office, I can tell you that in my experience throughout the case there was no discussion with the minister's office or the Prime Minister's Office about the case itself in terms of what we would put forward to prosecutors and so forth. We did not get guidance directly from the minister's office or the Prime Minister's Office at any point that I'm aware of.

In terms of the length of the investigation, which you also referenced, we needed to establish that an offence took place in Canada, which required an in-depth investigation that had to look at all of the elements. As the presiding judge noted, what took place in the United States was very different in terms of the offences that were pursued, and the admission of guilt by Volkswagen in the United States did not carry any specific weight in terms of a finding of guilt or innocence in Canada. Certainly, everyone was aware of it and considered it, but there was no rubber-stamping of U.S. decisions in Canadian courts.

We needed to conduct our own investigation. We needed to establish the facts that were both the offence in Canada and the relationship with the United States in terms of the vehicles that were tested there and then brought into Canada, as well as the international scene, which took into account Volkswagen the international organization and its relationship with its Canadian and U.S. counterparts.

It's important to us to do a comprehensive investigation, and that is what we put forward in our report to Crown counsel, which is standard practice for any law enforcement organization. It detailed the offence in Canada. It detailed the severity of the crimes. Then the Public Prosecution Service of Canada took that information and pursued the best possible outcome according to what they believed was in the public interest.

• (1740)

Mr. Dan Albas: Just on that point then, can you confirm this to me? There is something called "Crown discretion" and, of course, there are only so many resources that are available at any one time. You've just said they made the decision that they felt was in the public interest of what they could pursue. Can you answer as to whether or not the Public Prosecution Service had enough resources to be able to take the evidence and the recommendations you handed over and prosecute a fair case?

Mr. Michael Enns: I'm not in any position to comment on the resources or capacity of the Public Prosecution Service.

Mr. Dan Albas: Well, it seems to me, sir, that you have lots to say about the risk management. You've said lots about your own capacity and how there are resources, but when it actually comes time to hold the laws—and we are a rule-of-law country—you, and it sounds like probably everyone else, cannot comment on a critical area. Is that correct?

Mr. Michael Enns: What we can comment on is the enforcement of CEPA, and we can comment on the investigation that we conducted and the report to Crown counsel that we issued.

Mr. Dan Albas: But you cannot comment one iota about the re-sourcing of the Public Prosecution Service. Who would be able to do that?

Mr. Michael Enns: I don't have a name in mind, but someone who works for the Public Prosecution Service of Canada would be where I'd start.

Mr. Dan Albas: But they're not here today.

By the way, who in your department suggested that you and Ms. Pelletier and everyone else come? Who made that decision?

Mr. Michael Enns: I'm going to have to refer that to Ms. Pelletier to answer.

Ms. Anne-Marie Pelletier: We do have a group within the department that actually asks who is responsible for certain files, and we are the current staff on hand for these files.

Mr. Dan Albas: Was there any discussion about inviting the Public Prosecution Service so that it could speak to Crown discretion and whether or not it had the resources to pursue the case?

Ms. Anne-Marie Pelletier: No, we have not, because the conversation was about the enforceability.

Mr. Dan Albas: How much time do I have, Mr. Chair?

The Chair: You have about 45 seconds.

Mr. Dan Albas: I would simply say that I'm very disappointed, because we can't have a proper discussion on whether or not there was compliance and whether it was prosecuted. We do know a law was broken. We do know that the facts say that. We've had questions about the proportionality. We've had questions about the length of time. To me, four years is an indication that perhaps it was not resourced.

Mr. Chair, I have to say I am terribly disappointed by the choice of witnesses today. That is not a reflection on the expertise or the service of these public servants, but I have to say I'm disappointed because it doesn't speak to the motion that was put forward to this committee.

The Chair: That is noted. Thank you.

Mr. Schiefke.

Mr. Peter Schiefke (Vaudreuil—Soulanges, Lib.): Thank you very much, Mr. Chair.

I'd also like to add my thanks to the witnesses for being here with us and for sharing their thoughts as well as their expertise. I'd also like to thank them for all the work that they do every single day behind the scenes, which perhaps goes unnoticed by Canadians, in their efforts to protect Canadians and protect our environment.

My first question will be for Madam Pelletier, and perhaps could also be applied to all of the witnesses who are joining us this evening.

Do you think that the current laws, penalties and all the tools at your disposal are effective at protecting the health and safety of Canadians at large, and also in incenting actors not to break those

laws? If yes, why? If not, what can we do as a government to assist you and your team in the invaluable work that you do? Madam Pelletier, as you know, we are looking into how we can reinforce and strengthen CEPA.

● (1745)

Ms. Anne-Marie Pelletier: Thank you.

In the current situation, do we have the proper tools? I believe we do have the proper tools. The court cases actually show that we do have the proper tools and we're bringing the regulatees back into compliance through the diversity of tools that the enforcement officers do have.

There is the CEPA review that is coming—and we've talked briefly about that—which will provide us with an opportunity to really engage with the community, but also we work hand in hand with the branch that does the CEPA review and we will have an opportunity to bring our comments on board.

Donald, would you like to further that discussion, please?

Mr. Donald Walker: Absolutely. The penalties associated with CEPA enforcement serve multiple purposes, one of which is deterrence, not only to the individuals or companies that were the subject of non-compliance but also to others in the same industry.

As you know, the Environmental Enforcement Act review was begun in December of last year as part of the regular cycle. Perhaps I can turn to my colleague Ms. Rogers to provide a little bit more detail on that.

Ms. Hannah Rogers (Executive Director, Environmental Enforcement, Enforcement Branch, Department of the Environment): In 2009, Bill C-16, which was known as the Environmental Enforcement Act, made a number of changes to the enforcement scheme of CEPA, and a number of other pieces of legislation.

We are now 10 years past that point. There was a requirement to do a review, to make sure that fine amounts and sentencing provisions are effective, and consistent with public values, the economy and other relevant circumstances over time.

We have to do this on a periodic basis. We are at that time right now. That review was launched in December, and it's going to take about a year. We're gathering input from stakeholders, indigenous partners and the public. Once that has been completed, and there is a report, there will be an opportunity for the government to consider its findings, and look at it in tandem with the committee's 2017 recommendations. It can then make some recommendations in terms of whether there are changes that should be made as we go forward.

That's a quick summary of what is coming over the next year on the EEA review.

Mr. Peter Schiefke: I have another question regarding audits.

We know that the Office of the Auditor General conducts audits on the enforcement of the Canadian Environmental Protection Act. Can you please explain what Environment and Climate Change Canada has done to respond to these audits over the years? Are they effective, and are there any key findings or results from these audits when they are done?

Mr. Michael Enns: The CESD audits and the audits of the Auditor General are a key part of helping us to prioritize what we need to do with our programs.

Over the last couple of years, the main thing we've done is implement the risk assessment directorate, which is going to provide for the comprehensive analysis of all laws and regulations as a baseline to direct our resources to where they can do the most to stop the most severe crimes against the environment. The reinspection piece was also a point raised by the CESD. We've since increased the number of reinspections we do, particularly in the highest risk areas.

Those are some of the measures that we've put in. I would also note that we have investment coming in to the department for enforcement, to modernize its approach, including on risk-based enforcement, so that we can expand the degree to which we target those worst-case offences. We have the infrastructure, training and the recruitment to put our best people forward for that purpose.

[*Translation*]

The Chair: Thank you.

We'll now go to the third round of questions.

Mr. Albas, you have five minutes. Go ahead.

[*English*]

Mr. Dan Albas: Thank you, Mr. Chair. I would like to begin with Ms. Pelletier.

Ms. Pelletier, I described earlier the issue of whether or not the Public Prosecution Service had adequate resources. Can you confirm to me that no one from your team will be able to speak to whether or not they have adequate resources to hold the recommendations your department made to them?

• (1750)

Ms. Anne-Marie Pelletier: I am not in a position to determine the resources of the Public Prosecution Service. That is not in our purview. It's something it will have to answer.

Mr. Dan Albas: Would you say that any compliance, any proper system of compliance, must not only have the front end in terms of detection, investigation and enforcement, but also needs to have the successful prosecution component for there to be seen to have been justice and to see our laws honoured?

Ms. Anne-Marie Pelletier: It's a continuum. Absolutely, we need good public prosecution.

Mr. Dan Albas: Would you say that we are getting a full view of that spectrum here today?

Ms. Anne-Marie Pelletier: No, you do not have the full view. You are viewing the enforcement portion.

Mr. Dan Albas: Do you think that is allowing members of Parliament to say to their constituents that there is a strong process from A to Z in terms of enforcement of CEPA?

Ms. Anne-Marie Pelletier: When it comes to the CEPA mandate, the departmental mandate for enforcement, you do have the proper team available to you today to discuss enforcement under the Environment and Climate Change Canada mandate.

Mr. Dan Albas: That is a critical component, because if we don't hear from the Public Prosecution Service as to whether or not it is properly resourced, we're not able to review your information as well as the information provided by the Americans.

Mr. Lloyd Longfield: Mr. Chair, I have a point of order.

The Chair: Go ahead.

Mr. Lloyd Longfield: We don't have the witnesses on trial, especially when we're asking questions about another department. I don't think it's fair to the witnesses.

The Chair: I understand, but the witnesses can answer for themselves in that regard if they wish.

Ms. Anne-Marie Pelletier: I can only speak to the mandate of Environment and Climate Change Canada today.

Mr. Dan Albas: Mr. Chair, I have to just again raise my concerns here that we cannot do our job as parliamentarians. I've seen this happen on this committee a number of times. This is not reflective on our committee witnesses here today or yourself in your chair, Mr. Chair. We've seen where we wanted to have the deputy minister come in, and I've said specifically that I wanted to ask questions in regard to her role as an accounting officer. MP Collins has put forward a motion endorsed by this committee so that we could get a full spectrum of questions on the efficacy of the CEPA regime starting from detection all the way through to successful prosecution or not, and unfortunately, that is not happening today.

I just want to register that, Mr. Chair, in the strongest of terms, and I am not a member of Parliament to throw these terms around lightly. I am deeply disappointed by the government's regard for our committee. I do hope that the other vice-chairs are listening, and I do hope ultimately the minister and his staff are listening. To be treating members of Parliament, specifically the committee that is charged legislatively, statutorily, with the scrutinizing of his department and the government's general approach.... I just want to register my frustration and my disappointment, and quite frankly, I'm getting to the point of anger, because this committee is being shown time and time again a lack of regard.

Thank you.

Ms. Ya'ara Saks (York Centre, Lib.): I have a point of order, Mr. Chair.

The Chair: Yes, Madam Saks.

Ms. Ya'ara Saks: As the newest member of the committee and having stepped into this study, it was my understanding that this study was really about CEPA enforcement, not relitigation of the Volkswagen case per se, but to see how we can improve the CEPA commitments that were made at the throne speech even in 2020 of last year.

That being said, can you clarify for me: Did my colleague Mr. Albas at any time ask for a member of the public prosecution to be a witness just so we can clarify between enforcement, which is what we're focused on here, versus their procedural process in a court case that has already been decided upon?

Thank you, Mr. Chair.

• (1755)

The Chair: Thank you, Madam Saks, for that question.

Mr. Albas has about 30 seconds. The clock is stopped.

Mr. Dan Albas: I wasn't going to continue, Mr. Chair, but now that you've given me the floor again, I'm taking it. Perhaps the MP should consider that part of a justice system is a properly funded justice system. We've seen in the past few years questions of the independence of that prosecution, and now we see questions about resourcing the ability for them to be able to hold companies accountable. I think 100% that this is not relitigating something; this is us holding the government to account for its resourcing.

Mr. Chair, I would appreciate it if the member would allow me to have my piece and raise legitimate points of order in the future.

The Chair: I'm going to take some time out and speak to Madam Clerk so that I may have some answers to some of the points that have been raised.

You still have your 30 seconds, Mr. Albas, but I'm going to put myself on mute and get back to the committee in a couple of minutes.

Thank you.

• (1755) _____ (Pause) _____

• (1800)

The Chair: I just have a bit of background. The idea was to have departmental officials appear last. Normally the departmental officials appear at the beginning, but Ms. Collins thought it would be a good idea, and the committee agreed, that they appear last.

The clerk deals with someone in the department, a public servant, to determine who will appear for the department. The excellent witnesses we have today were suggested by the department. To my knowledge, nobody invited anyone from the Public Prosecution Service of Canada. I don't think any member of the committee suggested that we do that.

There was someone by the name of McCready—I forget the first name and I apologize—who was basically replaced here today by Ms. Pelletier. Ms. Pelletier has been briefed. Ms. Pelletier, I imagine, was in the office all along.

You weren't brought in by an outside department, were you? Have you always been working in this office?

Ms. Anne-Marie Pelletier: I have a correction. Heather McCready was the director general for environmental enforcement. She was replaced by Donald Walker.

The Chair: Okay, Mr. Walker, but Mr. Walker, you didn't come out of the blue. You have been in the department for a while?

Mr. Donald Walker: I joined the department in 2020.

The Chair: You joined in 2020. Do you feel you have a good perspective on things? Do you have the same perspective more or less as Ms. McCready?

Mr. Donald Walker: I believe I'm able to speak to the issues.

The Chair: Okay.

Then Emile Boudreau, who I guess was in the department at the time of the case, has been replaced by Mr. Enns?

Mr. Michael Enns: Emile Boudreau was the investigating officer, so I wouldn't have directly replaced him.

The Chair: So the only person whose perspective we would not have 100% or 95% would be Mr. Boudreau. Is that correct?

Mr. Walker has Ms. McCready's perspective.

Mr. Michael Enns: Emile Boudreau was the investigating officer, but he was in touch with me. I received regular updates from him through the entirety of the case. On that basis, I understand the key aspects of the investigation and can relay them here.

The Chair: Okay. What it boils down to is the witnesses we have today were recommended by the public service as the most relevant, and we were never asked to bring in anyone from the Public Prosecution Service.

Mr. Albas.

Mr. Dan Albas: Thank you, Mr. Chair.

Directly to that point, if you look in the motion it says, including the investigation and charging of Volkswagen. I asked very specific questions about charging, and we know that the Public Prosecution office is responsible for that.

ECCC gives their investigations and recommendations, but ultimately the Public Prosecution office charges.

The Chair: I understand that.

Mr. Dan Albas: Mr. Chair, by not submitting anyone who had direct responsibility between investigation and charging shows contempt for this particular setting.

Ms. Ya'ara Saks: I have a point of order, Mr. Chair.

Mr. Dan Albas: Every time someone disagrees with me, Mr. Chair... I hope it's a real point of order.

The Chair: Yes, there's a point of order.

Ms. Saks.

Ms. Ya'ara Saks: Mr. Chair, I'm a new committee member clarifying. Since joining the committee I have been asked to submit witness names for upcoming studies and recommendations and so on. Also, in line with the motions for the proposed studies, we can offer whom we want.

Just to clarify that the member didn't specifically ask for PPSC—

• (1805)

Mr. Dan Albas: This is debate, Mr. Chair. It's not a point of order.

Ms. Ya'ara Saks: I'm just trying to be clear here.

Thank you, Mr. Chair.

The Chair: I have to agree that we talked about having departmental officials. A representative of the PPS would not be a departmental official. Nobody pushed to have us invite someone from the Public Prosecution Service.

If there isn't anybody from that service today it's because there was never a request, as far as I can see.

Mr. Dan Albas: We did, Mr. Chair. I do appreciate we're in a debate stage here, but again the motion itself said, investigating and charging of Volkswagen. One would simply say that as a matter of course you would need to have people who were on the case, both from an ECCC side and public prosecutions. It's right in there.

The Chair: We have people who were on the case in some way.

Mr. Dan Albas: But I have specifically asked questions about the charging and the ability to deal with.... We have asked questions about successful prosecutions, Mr. Chair.

The Chair: I understand that.

Mr. Dan Albas: They told me no. We can't speak to that.

The Chair: I understand that, but as I said nobody ever mentioned, that I can remember, that we should invite the Public Prosecution Service.

Mr. Dan Albas: It's not up to the opposition, Mr. Chair, to tell the government whom they should send to speak on their behalf.

That is from the department. Mr. Chair, it seems that ECCC from the deputy minister.... We have made suggestions before, and they have not honoured them. In this case, we have no one who has direct experience working on a specific case.

I will let MP Collins speak to her own motion, but Mr. Chair, it's the government's decision whom they send. By not sending someone from the Public Prosecution Service there are questions the study is unable to contemplate because we just don't know. They have said time and time again they don't know.

That doesn't mean they are not responsible public servants, but this could be by design, or it could be a simple oversight. I'm saying how frustrated I am that we can't get answers on those things.

The Chair: I understand, and it's noted.

You have 30 seconds left.

Mr. Dan Albas: No, I'm feeling pretty vented.

The Chair: Okay, good.

We'll go now to—

But your point's been—

Mr. Yvan Baker (Etobicoke Centre, Lib.): I have a point of order, Mr. Chair.

The Chair: Yes, Mr. Baker.

Mr. Yvan Baker: Mr. Chair, in our last meeting, I tried to raise and propose that the committee adopt a witness for a different study who I thought would add value to the study. Before the pros and cons of that witness were considered, Mr. Albas dismissed it outright because he said that that's a decision of the subcommittee. Now Mr. Albas wants to have it the other way, and he's criticizing the choices that were made by the subcommittee and the chair in the context of that process.

I would suggest, Mr. Chair, that we can have it one way or we can have it the other way, but we can't have it both ways. I think we have some excellent witnesses here. I think if we're genuinely interested in looking at the enforcement of CEPA instead of debating this issue and venting, as Mr. Albas said he was doing.... Let's hear from the witnesses.

Thank you.

The Chair: I've noted your comments, Mr. Baker, and I've noted Mr. Albas' comments.

Mr. Albas said that he doesn't need any more time, so—

Mr. Dan Albas: Well, you know, Mr. Chair, if you give me 20 seconds, I'll just say to Mr. Baker exactly—

The Chair: Go ahead. You have 20 seconds, though.

Mr. Dan Albas: You know, again, venting can be good for the soul, but it's also important for us all to recognize that it's not the steering committee that chooses which government representatives will come to committee. It's the government that chooses to do that. I understand his point, but it's not matching means with ends. This was a decision about who was sent by the government, not by the committee.

The Chair: By the department, yes.

We'll go now to Mr. Baker, as it happens, for five minutes.

Mr. Yvan Baker: Wonderful. Thank you.

I'm looking forward to asking some questions of our witnesses.

I have to be frank. As I think about this issue, the enforcement of CEPA, and put myself in the shoes of many of my constituents, this is something that they may not be very knowledgeable about, and this may not be something that touches them every single day. I'm wondering if you could help me understand a little bit—and please consider that some of our constituents may be watching at home. I'll direct this to whoever wants to answer it. When you talk about how you prioritize what you're going to study, when you talk about a risk-based approach, what does that mean? Could you give some examples as to how that might touch my constituents?

• (1810)

Ms. Anne-Marie Pelletier: There are two things. We will answer your question, absolutely, but also, in an effort to clarify our process—if the committee chooses to do so—we can walk you through an investigative process until we turn the report over to the prosecutor, if this could help the committee better understand how we function as an enforcement body. That is an offer that I put on the table.

I will turn to Michael Enns to answer the current question.

Mr. Michael Enns: Thanks.

In terms of how we prioritize and what it might mean for your constituents, the worse the chemical, the worse its interactions with other chemicals and the greater its impact on the environment, the more likely we are to target businesses, people or groups of businesses that would release that substance into the environment. We use life-cycle analysis to determine that, which means that the receiving environment is taken into account, which means the impact of these things for years and generations to come are at the centre of what we choose to prioritize—bioaccumulation and so forth.

It also means that we target the businesses that we believe are the most likely to be non-compliant. This means that legitimate businesses that are not engaging in behaviours that would cause us to target them are less likely to see an enforcement official and have greater span to do what it is that they do to employ people and to bring jobs into your community.

That is what is at the centre of it. Looking at the chemicals and the pollutants and their relationship with one another and targeting businesses on that basis is not a simple matter, but we do it, and I believe we do it as well as anybody else in the world does.

Mr. Yvan Baker: Thank you very much for that.

If you don't mind, I'm going to go on—if we have time, I'll come back—because I want to ask a couple of other questions, time permitting.

Mr. Walker, in response to an earlier question, you said that you don't rely on.... I'm not quoting you, but you said something to the effect of this: that you don't rely on U.S. enforcement decisions and penalties as a blueprint for your own decision-making. You can correct that statement if that was incorrect. That, to me, sounds like common sense. Can you explain why that is?

Mr. Donald Walker: Certainly. I didn't mean to give the impression that we don't work with our U.S. counterparts or that we would ignore the U.S. enforcement action in terms of the activities we would undertake ourselves towards pursuing an investigation.

We have regular communication with the United States Environmental Protection Agency. We share information where appropriate and where permitted under the respective protections of information in each country.

The issue I was attempting to address earlier was simply the fact that the U.S. charges were under U.S. law. They weren't the same charges as those that were being pursued under the Canadian Environmental Protection Act, and we don't have perfectly mirrored legislation in terms of our two approaches to protecting the environment.

The other component would have been the fact that, as Mr. Enns mentioned, the penalties assessed in Canada are based on precedent in Canada. Twenty-six times the next largest environmental penalty ever is a recognition of the serious nature of the offence pursued in Volkswagen.

The Chair: Thank you.

[*Translation*]

Ms. Pauzé, you have the floor.

Ms. Monique Pauzé: Thank you, Mr. Chair.

The fines imposed on Volkswagen were paid into the environmental damages fund. I'd like to know who determines where the money paid into this fund goes.

Do you have a plan to determine if this money is going to one area rather than another?

[*English*]

The Chair: Who would like to take that?

Ms. Anne-Marie Pelletier: I can start the conversation.

The environmental fund from the Volkswagen fine, for example, is going towards climate change impacts. With any fund, there is a set of criteria. I do not have them on hand, but they are publicly available. Provinces, private companies and interested parties can apply to this fund and have to meet certain respected targets for this fund to be able to access the funding.

Every time a fund is allocated to this pool, there has to be a set of criteria that meet Environment and Climate Change Canada's objectives. It's all under that chapeau. In this instance, it's about air quality and climate change.

• (1815)

[*Translation*]

Ms. Monique Pauzé: Thank you.

I would have liked the answer in French. I wouldn't have needed to use the interpretation, and it would have been quicker.

Ms. Anne-Marie Pelletier: I'm truly sorry. It's an occupational hazard.

Ms. Monique Pauzé: Given the amounts discussed here, wouldn't it be appropriate to impose more fines? One witness told us that inspectors are more inclined to issue warnings than to prosecute. If there were more prosecutions, there would be more fines. You know what I mean. There could be funds to compensate for errors and breaches of the act.

Ms. Anne-Marie Pelletier: I'll ask Mr. Walker to elaborate on the enforcement of the act and the terms and conditions of the tools we have available to us. It's important to understand that it's a matter of diversity. For the offences we have to deal with, we need all of these tools. It's not necessarily the amount that has an impact. What we want is to get people to correct the pollution issue. We want it done as soon as possible to prevent the risk from increasing.

The Chair: Unfortunately, that's all the time you have.

Ms. Collins, you have the floor.

[*English*]

Ms. Laurel Collins: Thank you, Mr. Chair.

I just wanted to echo some of the disappointment and frustration, not at the witnesses themselves, but really about not being able to ask questions of someone who directly worked on this case.

I don't want to repeat Mr. Albas's comments, but at this point I'd like to move a motion, as follows, that the committee report to the House that it is disappointed and frustrated that the committee was sent witnesses that are not aligned with the motion on Volkswagen's CEPA compliance.

The Chair: Okay, you're going to have to let me pause here for a moment, Ms. Collins. I'll get right back to you.

• (1815) _____ (Pause) _____

• (1820)

The Chair: Ms. Collins, maybe you could repeat your motion slowly so that the clerk can write it down so that we can be sure what it is you would like to be voted on.

Ms. Laurel Collins: The motion is, that the committee report to the House that it is disappointed and frustrated with the Liberal members' decision to send witnesses that are not aligned with the motion on Volkswagen CEPA compliance agreed upon by the committee.

Mr. Dan Albas: Did she say “Liberal government” or “Liberal members”?

The Chair: “Liberal members”—but we can debate that.

Mr. Dan Albas: No. I just wanted to make sure I heard her correctly because I think it would probably be “government”.

The Chair: Well, that's part of the debate, I guess.

Ms. Laurel Collins: I'd be happy to have a friendly amendment.

The Chair: Okay, Ms. Collins, go ahead and speak to your motion.

Ms. Laurel Collins: Thanks, Mr. Chair.

I really want to stress that this is no way a reflection on the witnesses themselves. I deeply appreciate your spending your time and sharing expertise today. This is really about the decision that was made by the government to send witnesses today who don't have direct experience. There have been numerous questions that we've asked where we've had the answer that they can't speak to it, that to the best of their knowledge...and also acknowledging that no one here was actually working on that file directly at the time. So, yes, I want to express to the House our disappointment and our frustration with this.

The Chair: Ms. Saks.

Ms. Ya'ara Saks: Thank you, Mr. Chair.

I feel like I need to ask this question again. If any of our members asked for the PPSC as a witness.... There seems to be a lack of clarity here in understanding the various roles among government, enforcement and prosecution. They are three separate branches of this process. The purpose of this specific study, from my understand, was to be about CEPA itself and the enforcement process, and to bring witnesses forward for that purpose. We're eating up that time. We're eating up my question time on this. We've debated this over and over again. Your disappointment has been raised repeatedly on camera for everyone to hear, and you'd like to waste more time now bringing this to the House. You have other means to bring this to the House if it is such a contentious issue for you. It's really not the best use of the committee's time.

The Chair: Mr. Schiefke.

Mr. Peter Schiefke: Thank you very much, Mr. Chair.

I'm just going to echo the thoughts of my colleague, Ms. Saks, on this one, as well as my colleague, Mr. Baker, who previously pointed out that you can't have it both ways.

We wanted to go through an exercise where we could have discussions on different witnesses who we would invite to committee. That was shot down by one of the Conservative members who said no, it's not our job to do that. Now we're in a situation where the witnesses have been brought forward. They were asked by the department to directly respond to questions as outlined in the motion itself, and were brought forward. The department made their decision to bring the experts forward who they thought could best answer these questions.

This is my personal opinion on this, Mr. Chair. They came here; they answered the questions. I don't think the questions were responded to in a way that was very helpful to the point that the honourable NDP member was trying to get across. She was looking for information that would be helpful to try to show in some way that there was a mishandling of this particular case, that in some way the government tried to get involved and let this corporation off easy.

• (1825)

Mr. Lloyd Longfield: On a point of order, Mr. Chair, is this a debatable motion?

The Chair: Yes. My understanding is yes.

Mr. Peter Schiefke: Then, as the meeting went on and the responses weren't in line with the direction the NDP member was hoping this was going to go, at that point, both the Conservatives and the NDP decided that they would start showing frustration. I think the frustration they're expressing towards the inability to answer certain questions is actually more so an expression of the questions being answered but not to the liking of those members.

I would go even further, Mr. Chair, to say that I think it's embarrassing to conduct this kind of an exercise in front of the witnesses we brought forward, who are giving us their time on taxpayers' money, who have done their very best to answer these questions in the most professional manner possible—and I think they've done that very well—only to be witness to this debacle that is being put forward by both the Conservative member as well as the NDP member.

I don't think this is something that Canadians want to see us do. If they were going to approach this, I think it could have been handled differently, by perhaps asking for the witnesses to be excused and for us to have this discussion offline. However, they opted to do it in public, so here we are.

I would go so far as to say that this is something that I think the opposition has strained to do from the beginning, Mr. Chair.

There were witnesses who were brought forward by the opposition members, so we added on another meeting to discuss this and now we're having that meeting. Even with that meeting that was agreed to, which was put forward by the Conservatives and the NDP, now they're not happy with the way that the questions have been responded to.

Once again, I'll end by saying that I think this is incredibly disrespectful to the witnesses we've invited here, and I don't think it does justice to the work that we need to be doing on this committee.

I'll end it there.

The Chair: Well, given all the hands that are up, I'm going to let the witnesses go at this point, because it's not fair to them.

I want to thank the witnesses for the time they've taken and the effort they've put into giving their answers.

Please feel free to go about other business that you have. Thank you for coming. We really appreciated your insights.

Mr. Schiefke, if you could take your yellow hand down, it would make my life a bit easier.

We will go now to Mr. Longfield.

Mr. Lloyd Longfield: Thanks, Mr. Chair.

In terms of process, the clerk has done a good job of bringing the witnesses to us, has given us advance notice of who those witnesses would be. We've had days with that in our inbox, knowing who was coming before us. It's not fair to the clerk to have her read our minds to figure out whether she has all the witnesses who may have been on other people's minds who weren't on her mind. I think the direction she followed was to get the right department in here so that we could talk about the enforcement of CEPA.

I was hoping to have a question come in about the relationship between the witnesses and the public prosecution services. It's important to see the separation there. I think Ms. Collins was going to this with her questions about whether the Prime Minister's Office was involved or whether ministers' offices were involved.

In terms of the identification of cases and then the prosecution of cases—to make sure that's done independently—that was being established by our witnesses today. They were setting forth a recommendation for prosecution for a case.

Now, the prosecution of the case has happened. Committees aren't prosecutors. We're not juries. We're a partisan group of people. This wouldn't be the place to get an impartial viewing on a case that Volkswagen is already being prosecuted for.

I think the process has been followed. We could have intervened at some point in the last several days to say, wait a minute, we wanted to hear from—

• (1830)

Mr. Peter Schiefke: I'm in the middle of doing something really, really—

Mr. Lloyd Longfield: I would say in future if you get your meeting notice and if people aren't on the notice that you wanted to see, maybe you could get back to the clerk and make that suggestion or “Reply All” so that we see that suggestion being made. I don't see this as short shrifting any of our study. I think we were getting to the right points. Also, having the commissioner of the environment and sustainable development have a second overview to make sure this wasn't a politicized process, which might have been the risk that Ms. Collins was looking at at the beginning of this study.... Having the department come at the end of the study was an unusual step that we took. The Conservatives and the NDP both agreed to shortening the study by a meeting, and we voted against that.

I'm at a loss. It's good the witnesses aren't here because it is a bit embarrassing. It looks like we weren't doing our job, when in fact I think we did our job. And the clerk did a great job of bringing the people forward. We had a lot of witnesses here today we could have heard from instead of doing this debate that we're now doing.

With that, I'll turn it back over to you, Mr. Chair. I'm just disappointed in the way politics is playing out in this committee. I know it's playing out in other committees. I know people are frustrated. I know that we're going through a lot of things with the pandemic. And here we are at committee trying to do the best for our constituents, but this is not doing the best for our constituents.

The Chair: Thank you, Mr. Longfield.

Ms. McLeod.

Mrs. Cathy McLeod (Kamloops—Thompson—Cariboo, CPC): Thank you, Mr. Chair.

Two things. First of all, I want to make sure we're talking government. That was adopted as a friendly amendment. We don't need to discuss that. That would be my first point.

The second thing is I don't know that I'll argue with Ms. Saks, but I think we're both pretty new to the committee. I'm in meeting two. My real understanding of this issue, of course, came from what I saw in the press. There are outstanding questions clearly the public is looking at. Why did it take four and a half years? Why were the charges different? Why was the money different? To me, those are clearly some of the critical nubs of this issue that remain unanswered. Certainly, from my perspective, this is not a generic motion. It was a specific motion about a specific issue that did identify who we needed to talk to. Contrary to what Mr. Baker said, this is very different, when you have government departments and officials invited, as opposed to witnesses who we put forward.

I understand this is the last meeting and we haven't answered through today, which would have been what I would hope to do...some of those critical outstanding issues.

Thank you.

The Chair: Thank you, Ms. McLeod.

Mr. Albas.

Mr. Dan Albas: Thank you, Mr. Chair.

First of all, can you just confirm what the motion is? Is it pertaining to members or is it pertaining to the Liberal government?

The Chair: That's a good question. Somebody suggested that it should be government. I think you proposed that friendly amendment.

Mr. Dan Albas: Okay, that was in force, so now we are debating the motion specifically to the Liberal government that we're disappointed as a committee. Is that correct?

The Chair: Let me just double-check that, Mr. Albas.

Mr. Dan Albas: Thank you. I really appreciate that.

The Chair: Yes, it's government because Ms. Collins accepted your amendment to the amendment.

Mr. Dan Albas: Perfect. I really appreciate that, because this makes it very clear.

The motion itself talked about Volkswagen and it talked about charging. A critical piece of what Conservative members wanted to talk about today was the whole spectrum and it seemed we only got part of it. I think it's perfectly relevant for us, as a committee, to espouse frustration and disappointment, and then to have a vote on this. I would simply point out that the government was in charge of sending which representatives it deemed relevant. Whether that was malicious by design or it was just an oversight in terms of incompetence or something in between, ambivalence, I don't know, Mr. Chair. But what I will say is I was disappointed by not being able to get critical answers to the question: was the public prosecution office supplied with the proper resources so they could confidently take on a company like Volkswagen and pursue it as successfully as what was done in the United States?

I will vote in favour of this motion specifically because I do think we need to start sending this government a message to take this committee seriously. I'm sorry some other members believe it's not in the interest of our constituents, and that we should be doing other things. That's why I want this to be settled by a democratic vote, and then we'll decide where the committee goes.

Thank you, Mr. Chair.

● (1835)

The Chair: Mr. Baker.

Mr. Yvan Baker: Thanks very much, Chair.

I have a few points I need to make.

Firstly, when I was first elected over a year ago, I was excited to be part of this committee to protect the environment. I thought that the folks who were here today were answering questions in a thoughtful way. I think they play an important role in doing just that.

I'd like to believe that the other members from all parties who are here today are here for that same reason. I think so. I think what happens sometimes—or I think has happened here—is that we've lost sight of that.

Even if you don't think the witnesses have answers to all of the questions or provide the answers that you would like to hear, you take the opportunity that you have with the witnesses and the committee's time to make the most of that time. If you don't like the scope of what they're able to speak to or the process that was undertaken, or you think that somebody somewhere in the government didn't make the appropriate decision, then you can raise that with the chair. There are avenues to raise that. The avenue is not here because we take time away from what we're here to do. We're here to learn and make recommendations to government to actually protect the environment. That is why I'm here. I didn't run for office to sit here and debate procedural motions that should be debated outside of committee time. That's where that should have been done.

That's the first point.

Secondly, the idea that there's now a motion that we're all forced to debate takes away time from what we're here to do, which is to understand how we can improve the enforcement of CEPA, which touches Canadians' lives in many ways. That's what Canadians and

my constituents would want us to be doing. That's secondarily problematic.

Thirdly, I understand that the motion's been amended to say “government”. At the end of the day, I think the fact that it was brought forward with “Liberal members” shows that there was a misunderstanding of how this process works. That to me is disappointing. It's disappointing that the Liberal members in this committee were brought out and criticized in the initial motion as though we had some sort of discretion in that decision.

Fourthly, the process for selecting witnesses—as Mr. Albas told me very clearly last time—is well established. Last time, when I had a meaningful contribution to make—not partisan or political, just somebody who could speak to something that we were studying in a way that I thought other witnesses wouldn't be able to as well—I offered that. I was told how wrong I was for bringing that forward because the witnesses were approved by the subcommittee. Now, I understand that in this particular study, that process was a little bit different.

The point I'm making is the same one that Mr. Albas reminded me of last meeting, which is that the process for selecting witnesses is well established. If we don't like the process, we don't jump up to have a debate in the middle of a working meeting where we're learning about how we can improve the enforcement of CEPA and protect the environment. We certainly don't introduce motions that cast blame upon other members of the committee who have absolutely nothing to do with that process.

All I'm saying is that this was an opportunity. I'm disappointed. I was learning a lot. I think that if we want to have procedural debates, let's have them. There's a subcommittee for that. There's a chair and a clerk. Let's have that discussion.

To have all of the members of the committee on the record debating this is disappointing, when we could be on record hearing from people who are really thoughtful, knowledgeable, affect our lives every day and protect our environment. That's why I came to this committee. That's what I would hope we would be doing.

I would urge us to learn from this experience. In future meetings, let's focus on the topic at hand. I'm happy to have debates with Mr. Albas, Ms. Collins, the chair and anybody else who wants to about how we select witnesses and ensure that happens properly.

The last point I'll make is that I think it is incumbent—as Mr. Albas reminded me last meeting—upon all of the members of this committee to make sure that the types of witnesses that they want brought forward are actually invited to speak. I hear what Mr. Albas is saying, which is that this is different than the last meeting and study. What's not different is that the process is well established, all of the members of the committee know what that process is and all of the members of the committee have an opportunity to present witnesses as suggestions.

• (1840)

In fact, what would have been a thoughtful thing to do—and that I certainly think I would have done if I were interested in the questions that some of the members wanted to raise about the prosecution of this particular case—would have been to recommend or request, through the process that is well established, that the prosecutors be invited to this meeting and that they be heard from, so that you can ask those questions.

The onus is also—as I was reminded last time by other members of the committee—on members of this committee to propose witnesses or, at the very least, departments or categories of witnesses to make sure that the right types of witnesses, with the right expertise, are brought forth.

Thank you, Mr. Chair.

The Chair: Thank you.

Go ahead, Ms. Collins.

Ms. Laurel Collins: Thank you, Mr. Chair.

Maybe to go first to Mr. Schiefke's implication that my frustration or disappointment came after the questions, I think that if he will check the record, he'll see that the first thing I said in my remarks was that I was disappointed and frustrated. I would say that the Conservative members started off their line of questioning and their comments with their frustration and disappointment at the fact that we immediately heard from these witnesses that none of them had direct experience.

I don't want to take up too much of this time. I hear Mr. Baker's and Ms. Saks' comments about wasting committee time, and I guess I would just encourage the Liberal members. You've had a number of chances to speak. If you are worried about wasting time, perhaps, let's get on with it and vote on the motion.

The Chair: Mr. Saini.

Mr. Raj Saini: Thank you, Mr. Chair.

I want to echo some of Mr. Baker's remarks, because one of the reasons that I joined this committee was that I have a degree in chemistry and I have a degree in pharmacy, so the health aspect of the environment was very important to me in reviewing CEPA and making sure that Canadians were protected from material that would be released into the environment and would have a direct impact on people's health. This is one of the reasons why I decided to join, including also combatting climate change and making sure that we leave a better environment to the next generation.

Having been involved in studies in the past, one thing I've done with my own studies is to make sure that when I propose a study, I also look at the full value and the full context of the study to make sure that I try to bring out information that I think would be relevant.

We get the list of the witnesses beforehand, so nobody is blind as to who the witnesses are when the meeting happens. There is ample opportunity for all of us—and I'm not picking on one particular person—to read the notice of meeting. It has a list of all the witnesses there, prior to every meeting.

If I'm proposing a study, obviously there is a personal interest, but I think there is also an interest for the country. I would want to get the broadest range of witnesses to make sure that my topic was thoroughly studied from beginning to end, that we had all the information and that we made sure we created a report for Canadians that would be thorough. They would be able to read the report and they would understand why this study was started, what the purpose of the study was and how it was going to affect me or my constituents.

Obviously, the CEPA review is going to have a broad effect on society as a whole. As a pharmacist and someone who studied chemistry, I think I would want to make sure that the enforcement capacity was there. If you don't have the enforcement capacity, it's not really going to be helpful.

We all know who the witnesses are. The witness list is not a surprise at any given time. When we get our notice of meeting, we have the witnesses. I try to suggest witnesses who I think can provide not only one context but a much broader view, because the environment should not be a partisan issue. What we should be debating about on the environment is how we reach the objectives that we need to get reach.

If you want to do this in a broad-based way, then I think we need the widest range witnesses. Those witnesses should be known to us all. If I suggest some witnesses and somebody else suggests some witnesses they would suggest.... If witnesses needed to be called.... The witness list was published beforehand. To blame the Liberal Party or the Liberal government or whatever you say, I don't think that's very fair, because everybody saw the witness list. This was not a surprise. For these witnesses who came today, their names were published.

You knew beforehand. We all knew beforehand who would be here, who would not be here and what would be their fulsome contribution to the study and to the committee. That's something that's known to us all. Whether that's discussed at the subcommittee or whether it's discussed after, those names are known to us all. I just want to make that clear.

Thank you, Chair.

• (1845)

The Chair: Thank you.

Ms. Saks.

Ms. Ya'ara Saks: Thank you, Mr. Chair.

I actually want to give my time over to Madam Pauzé. She did have her hand up. With the time available, I would like to graciously allow her to take the floor—she has waited so patiently—for the sake of the committee and it being a balanced debate.

The Chair: Well, just a second. I appreciate that very much, but Mr. Schiefke is next. He can give his time to Madam Pauzé if he wants, but she would follow Mr. Schiefke. Either way, Madam Pauzé will get to say something.

Mr. Schiefke, did you want to say something?

[Translation]

Mr. Peter Schiefke: I'm pleased to give my time to Ms. Pauzé to give her a chance to speak.

The Chair: Go ahead, Ms. Pauzé.

Ms. Monique Pauzé: Thank you, Mr. Schiefke. It's very kind of you.

We've heard from witnesses who have told us about the shortcomings in the Canadian Environmental Protection Act. I've asked a number of questions about it. Our witnesses were very interesting.

However, I share Ms. Collins's point of view. She would have liked to have answers from departmental witnesses, knowing what happened with Volkswagen.

I find it excessive to blame the government or members of the Liberal Party. I may be naive, but I don't think it was intentional. However, we need to point out that there is some form of disappointment to ensure that we are taken seriously next time.

In the motion proposed earlier by Ms. Collins, I would strike out the part of the motion that specifically mentions government responsibility.

The Chair: You want to propose an amendment to Ms. Collins's motion. Is that correct?

Ms. Monique Pauzé: Yes. I don't have it in front of me.

The Chair: Please wait a moment.

[English]

Ms. Laurel Collins: On a point of order, Mr. Chair, just in the interest of—

The Chair: Just a moment, please, Ms. Collins.

Ms. Collins, perhaps you would do me a favour and send your motion to my P9 address. Then we'll have something to work with. We can then pinpoint the words that Madam Pauzé wants to change and have a debate on the amendment to the motion. We would start that debate with Mr. Schiefke.

Perhaps you can send me your motion now. You already read it once, and I think you already have it written down somewhere. If you can send that to my P9, I should get that at any moment.

• (1850)

Ms. Laurel Collins: Mr. Chair, I am emailing it to your P9 right now.

I would suggest that maybe we amend it to what Madam Pauzé was suggesting.

The Chair: Oh, here it is: That the subcommittee report to the House that it is disappointed and frustrated with the Liberal members' decision....

We changed that to “the Liberal government”, right?

Ms. Laurel Collins: Yes.

The Chair: That's what Madam Pauzé wants to do.

So it ends: the Liberal government decision to send witnesses that are not aligned with the motion on Volkswagen's CEPA compliance, agreed upon by the committee.

This would be a friendly amendment, I guess.

Ms. Laurel Collins: Mr. Chair, potentially we could amend the words after “disappointed and frustrated” to read “that the committee was sent witnesses that are not aligned”. That way, it removes any—

The Chair: We're not, then, even mentioning the government.

First of all, Madam Pauzé has an amendment.

Are you withdrawing your amendment, Madam Pauzé?

[Translation]

Ms. Monique Pauzé: I think Ms. Collins has understood the meaning of my amendment. I wouldn't talk about the government. Instead, the amendment would speak to the fact that it's the committee that is disappointed and frustrated that some witnesses didn't fit the motion on Volkswagen's compliance.

The Chair: Ms. Pauzé and Ms. Collins are on the same wavelength on this. As I understand it, Ms. Collins accepts Ms. Pauzé's proposal. It's a friendly amendment, which Ms. Collins accepts.

Ms. Collins, can I ask you to send me the final version of your motion?

We'll be able to continue debate on the wording that Ms. Collins is going to send me and which takes into account Ms. Pauzé's comments.

[English]

Mr. Lloyd Longfield: I want to raise a point of order, Mr. Chair.

We would be debating the amendment. There's no such thing as a friendly—

The Chair: Well, my—

Mr. Lloyd Longfield: I'm not sure I like that amendment.

The Chair: Okay. Just a moment, please.

Mr. Dan Albas: I don't think you liked the original motion, either.

Mr. Lloyd Longfield: No, I didn't. That's true.

I'm also looking at time and wondering whether we have resources to continue with this. I know there are other committee meetings happening tonight. We called time at 6:45, and we're well past that now.

Mr. Dan Albas: Let's leave it to the chair and the clerk to decide on resources.

Mr. Lloyd Longfield: I'm just reminding the chair.

The Chair: Okay. This is how I'm told we should proceed.

Ms. Collins sent me the motion with the friendly amendment of Madam Pauzé. The motion reads as follows:

That the committee report to the House that it is disappointed and frustrated that the committee was sent witnesses that are not aligned with the motion on Volkswagen CEPA compliance agreed upon by the committee.

—meaning the original motion agreed upon by the committee.

I have Mr. Schiefke.

This is what we're debating. We're debating this motion.

Mrs. Cathy McLeod: On a point of order, could you reread that motion?

The Chair: I would be happy to.

It is:

That the committee report to the House that it is disappointed and frustrated that the committee was sent witnesses that are not aligned with the motion on Volkswagen CEPA compliance

—and then it should say, I think—

as agreed upon by the committee

—or just

with the motion on Volkswagen CEPA compliance.

We don't need “as agreed upon by the committee”, because obviously we agreed upon the motion for the study.

Is it okay to just take out “as agreed upon by the committee”? I think it's a bit clearer.

It would read:

That the committee report to the House that it is disappointed and frustrated that the committee was sent witnesses that are not aligned with the intent of the motion on Volkswagen CEPA compliance.

Does that make sense, Ms. Collins?

Okay. I see the thumbs up.

Just let me write this down.

It is:

That the committee report to the House that it is disappointed and frustrated that the committee was sent witnesses that are not aligned with the intention of the motion on Volkswagen CEPA compliance.

Now, this is what we're debating.

Mr. Schiefke has the floor.

• (1855)

[*Translation*]

Mr. Peter Schiefke: Mr. Chair, could you please repeat the motion in French for the benefit of the francophone members of our committee?

The Chair: Of course. I'll do my best, but I'm not an interpreter.

The motion proposes that the committee report to the House that it is disappointed and frustrated, that it is somewhat frustrated that witnesses were sent to the committee who did not comply with the intent of the motion on...

How do you say “compliance” in French? Can you help me, Ms. Pauzé?

In any case, the motion talks about what I'd call Volkswagen's adherence to the Canadian Environmental Protection Act. Something like that.

Ms. Monique Pauzé: It should say “*conformité*”.

The Chair: Yes, you're right. Excuse me. That's more or less what the motion in English means.

Mr. Schiefke, you have the floor.

Mr. Peter Schiefke: Thank you very much, Mr. Chair.

[*English*]

It's incredible that we're actually, first of all, debating a motion that had originally in some way implied that Liberal members or the Liberal government somehow decided that we were going to have witnesses who were not able to answer questions.

I personally find that offensive, because I worked with the honourable NDP member in trying to figure out what motion we were going to put forward to this committee to study. We both agreed on the equal importance of looking into Volkswagen as well as looking at how we can strengthen the enforcement mechanisms in CEPA.

To then somehow think that I or any other Liberal member of this committee would invite only witnesses who are unable to answer our questions makes absolutely no sense.

I am working diligently, as are many others, on looking at how we can strengthen CEPA. I want to ensure, in the best interests of all Canadians, that I get the best possible information available to me in order to look into how best to do that.

I'm very happy, at least, that

[*Translation*]

our colleague from the Bloc Québécois said it was unfair to suggest that people from the government would intentionally have invited witnesses who are unable to answer questions here tonight. This is a waste of everyone's time. So, I thank our colleague from the Bloc Québécois very much for moving this amendment.

Since we're at that point, I would add another amendment to Ms. Collins' motion to say that members of the committee had the opportunity to check, in advance, which witnesses would be present at that meeting and that they had the opportunity to say that there was a problem with the selection of those witnesses because they felt they would be unable to answer the questions. After that, the rest of Ms. Collins' motion would follow.

• (1900)

[*English*]

It's incredible that, as my honourable colleague, Mr. Baker, had said, having had the time to review who was actually going to be at this meeting as a witness, and having had a chance in advance to say, “You know what, I don't think these people are going to be qualified to answer these questions”, to then come to committee and say that...Right from the beginning, Ms. Collins pointed out...Why wait until the meeting itself to have us waste an hour and a half of everybody's time, including the witnesses who came, and then have the audacity to complain to the House of Commons that we did not get the witnesses we deserved to respond to the questions we were going to ask?

We all knew who these witnesses would be, number one. If anybody had an issue with that, we had ample time in advance to put forward any kind of objection, but that wasn't done. Instead, we are wasting a considerable amount of this committee's time, which we all agree is incredibly limited given our time slot, and the fact that votes always happen that push into our time. We have incredibly important business to get to, but now we're going to go ahead and waste the time of the House of Commons. This is what we've come to.

From the beginning, I have been incredibly proud of the work we've done on this committee. I feel we have done a very good job of keeping politics on the outside of this committee, and trying to do good by Canadians by ensuring we work together to select the best possible motions, which have been really great motions so far. We have been working together to make sure that whatever reports are sent back to the House of Commons are informative, and allow us, as elected representatives, to make the best possible decisions.

But tonight is a low point for the committee, and politics has reared its ugly head. That was evident with the implication by the NDP member that in some way Liberal members came forward, and purposefully put selected witnesses who could not answer questions.

That is simply unacceptable.

It's unfortunate that she decided to put that motion forward, because it's insulting to all of us members on the government side who want to do the good work of Canadians in getting things done on this committee.

However, the motion has been put forward, and with that, I'm going to move a subamendment, that the committee communicate to the government....

Mr. Chair, unfortunately I have to deal with a family situation here, so I pass my time to whoever is next in line.

The Chair: You're not moving an amendment, so we'll go now to Ms. Saks.

Ms. Ya'ara Saks: Thank you, Mr. Chair.

I'd like to pick up from my colleague Mr. Schiefke. If we're already expressing disappointment, as my colleague Mr. Albas said earlier, if we're going to vent, then let's vent.

I really feel it's not just that it's disappointing in terms of how the committee has gotten to this point this evening, but all of us have a responsibility, in the witness lists that come forward, in working together in determining who best to fit the study. That has all been done and that work was passed on to the clerk. To even be having this debate is really insulting to the clerk and the work that's done here.

The clerk was very forthcoming in the names that she provided and the work plan that we've all looked at. All the witness names were there. Everything was very transparent and open for all of us to consider ahead of time. I don't include myself in that because I came late to this study, but all of you were here. You knew who was coming forward and you knew how you wanted to frame this study, which is something that Canadians really want to know about. They really want to know how we're going to improve CEPA for the fu-

ture. That's really the crux of this. To rehash and re-evaluate what was and not provide Canadians and my constituents with a road map of how we ensure enforcement for the future is an absolute waste of time of being here, highly disappointing and a waste of time of the House. We have critical work to do here.

I asked to be on this committee. I felt very fortunate to be able to join this committee. I am profoundly disappointed that this is the level we've gotten to. I've been a member of Parliament and busy in my work here in this committee and other committees for barely over three months, and we can't seem to move forward and work with the witnesses we have, to garner the information that Canadians want to have in terms of how we are going to make sure they are well served in protecting the environment of our country in the future.

We're well past time. I'm sure all of us are tired and would like to go on. There is other important committee business that needs to be done. In terms of putting a motion such as this forward, I'm embarrassed that we're questioning this to the clerk. I'm profoundly disappointed.

• (1905)

The Chair: Just to let you know, there is a liaison committee meeting coming up, which the chairs have to be at, but I suppose that's my problem.

Mr. Longfield.

Mr. Lloyd Longfield: I think we're getting to the point of repetition and I would move that the debate be now adjourned.

The Chair: Okay. I think that means there's no debate on that and we would go to a roll call vote.

Madam Clerk, is that correct?

The Clerk of the Committee (Ms. Isabelle Duford): That is correct.

The Chair: Please go ahead and ask the members how they feel about that.

Mr. Longfield is proposing that we adjourn. We're not voting on the motion of Ms. Collins, as amended by Madame Puzé; we are voting on whether we adjourn at this point.

Ms. Laurel Collins: Mr. Chair, I have a point of order, for clarification, just so I'm aware of the process.

The Chair: Yes.

Ms. Laurel Collins: If we adjourn now, is this picked up at the next committee? I'm confused as to why we're voting on adjournment instead of just voting on the motion itself and then adjourning.

The Chair: We're voting on adjournment because Mr. Longfield is asking that we do that.

The Clerk: My understanding is that we are voting to adjourn debate, not adjourn the meeting. Is that correct?

The Chair: Mr. Longfield, isn't it to adjourn the meeting?

Mr. Lloyd Longfield: It's to adjourn the meeting.

The Clerk: The motion is to adjourn the meeting.

Mr. Baker—

The Chair: Could you answer Ms. Collins' question? If we adjourn, do we pick this up later?

The Clerk: We will pick it up when a member moves it at a subsequent meeting

The Chair: Okay. Does that answer your question, Ms. Collins?

Mr. Dan Albas: Mr. Chair.

The Chair: Just a second.

Ms. Collins, does that answer your question?

Ms. Laurel Collins: Just to be clear, if this is to adjourn debate and adjourn the meeting at the same time, we would have to move the motion again and restart this whole thing, rather than just voting on it right now.

The Chair: Apparently.

Ms. Laurel Collins: Okay.

The Chair: There's no time. The vote has been called, Mr. Albas. We have to vote.

Mr. Dan Albas: I know. The member has voted, so I hope we can move on to the next member.

The Chair: Okay. Good.

Go ahead, Madam Clerk.

The Clerk: Mr. Baker.

Mr. Yvan Baker: I vote in favour.

Mr. Dan Albas: He voted "no" before.

Mr. Yvan Baker: Mr. Albas, I didn't understand what we were voting on.

The Clerk: I wasn't sure either, so I asked for clarification. Thank you.

(Motion agreed to: yeas 6; nays 5)

The Chair: We'll see each other soon. I don't know if it will be next Wednesday because of the votes. It was nice to see everybody.

We are adjourned.

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