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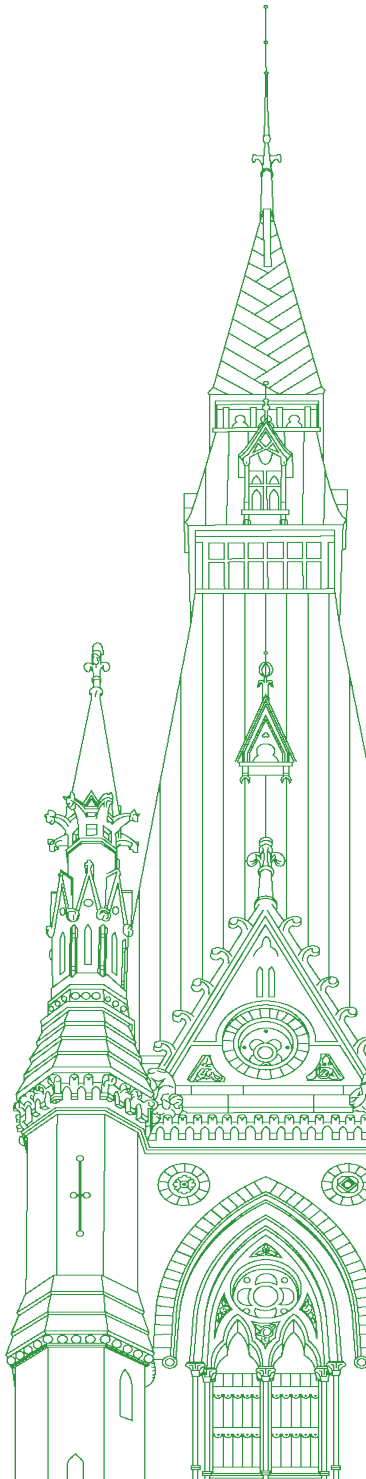
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Chair: James Maloney

Legislative Committee on Bill C-39

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● (1005)

[*English*]

The Chair (James Maloney (Etobicoke—Lakeshore, Lib.)): Good morning. I'd like to call this meeting to order.

Welcome to meeting number seven of the House of Commons Legislative Committee on Bill C-39. The committee is meeting today pursuant to the order of reference of Thursday, October 8, 2026.

I'd like to make a few comments for the benefit of the witnesses and members.

Please wait until I recognize you by name before speaking.

I will remind witnesses that there's interpretation available to you if you need it. The earpiece is there. You can push the French, English or floor button. You will be asked questions in both official languages.

I will remind you that all comments should be addressed through the chair. I will manage the speaking list along with our very capable clerk, and we will do the best we can.

I'd like to welcome today's first panel.

From Air Canada, we have Michael Abbott, vice-president, labour relations.

From Air Transat, we have Irene Chrisanthopoulos, senior director, labour relations and negotiations.

From WestJet Airlines, we have Alexis von Hoensbroech, chief executive officer.

Thank you all for being here. I will give each of you up to five minutes for opening remarks, and following the completion of all three of those, I will open the floor to questions.

Mr. Abbott, I will start with you, sir.

Michael Abbott (Vice-President, Labour Relations, Air Canada): Mr. Chair and members of the committee, thank you for the opportunity to appear today to discuss Bill C-39, particularly its proposed changes to the Canada Labour Code.

[*Translation*]

Thank you for the invitation today.

[*English*]

Air Canada recognizes and respects the importance of collective bargaining. Over 87% of Air Canada's workforce is unionized, representing more than 35,000 Canadian jobs. We deeply value the contributions of our workforce and remain fully committed to reaching fair and balanced agreements that recognize the important contributions of our employees while supporting the competitiveness and long-term growth of the airline.

We have always negotiated in good faith, and we are proud of the agreements that we have reached with the unions that represent all of our employees. For example, in September 2024, we reached a tentative four-year collective agreement with ALPA, the Air Line Pilots Association. This represented more than 5,200 of our pilots.

In addition, six new collective agreements have been ratified for 18,000 employees across our organization this year alone, offering substantial increases and improvements in working conditions. For us, concluding agreements at the bargaining table is the rule, not the exception.

[*Translation*]

Air Canada is proud of its employees' contribution and is committed to reaching negotiated agreements with the unions.

[*English*]

However, not all negotiations are successful. As you know, despite our good-faith efforts, we were not able to come to an agreement with CUPE, which represents our flight attendants, in the summer of 2025 without a major disruption.

Throughout that process, Air Canada remained actively engaged at the bargaining table right up until the very last day and hour, presenting multiple offers. Our final offer included an increase in total compensation of approximately 40%, including 25% in the first year alone. It also included an industry-leading proposal on ground pay, along with improvements to crew rest and work-life balance.

When CUPE did not respond to our final offer and proceeded with strike action, the disruption immediately affected hundreds of thousands of passengers. With the parties at an impasse, the government decided to invoke section 107 of the Canada Labour Code and referred the matter to the Canada Industrial Relations Board. CUPE subsequently advised its members not to return to work following the board's order. The board later determined that the continued strike action was illegal.

Let me be clear. Despite what you heard from CUPE, I can assure you that Air Canada negotiated in good faith until the very last minute, and CUPE unilaterally decided to leave the table without responding to our last offer. At no point were we advised in advance that the government intended to intervene. In fact, we had developed a comprehensive and orderly wind-down plan, which we methodically implemented, including cancelling flights before the strike began.

Against that background, Air Canada welcomes the special mediator framework proposed in Bill C-39. It should encourage more productive collective bargaining through greater transparency and accountability. It would have been beneficial in this situation with CUPE.

We also support the proposed consideration of the national interest. In critical sectors, a labour disruption can affect not only the parties but also passengers, employees, communities, supply chains and the Canadian economy.

As recommended by several organizations, we support retaining the government's ability to act pre-emptively under section 107 in exceptional evidence-based circumstances with appropriate safeguards. It should never replace collective bargaining but should remain a last resort when a disruption would have broader consequences.

This consideration is especially important when a bargaining agent has publicly indicated that it may not comply with a future lawful order. A modern labour relations framework must protect collective bargaining while ensuring that lawful decisions are respected and that the public interest is not left without an effective remedy.

Finally, it's important to state that the Government of Canada concluded phase one of its federal examination of unpaid work in the airline sector in July. The findings concluded that the credit-based compensation structures commonly used by airlines are compliant with the Canada Labour Code and did not identify sector-wide failure under the code. In particular, no evidence of unpaid work practice was found at Air Canada.

In closing, Air Canada supports the objectives of Bill C-39 and welcomes measures that improve transparency and expressly recognize the national interest. We encourage the committee to consider a carefully limited pre-emptive authority for exceptional circumstances while preserving collective bargaining as the foundation of federal labour relations.

Thank you. I'll be pleased to take your questions.

The Chair: Thank you very much.

Ms. Chrisanthopoulos, please go ahead.

[*Translation*]

Irene Chrisanthopoulos (Senior Director, Labour Relations and Negotiations, Air Transat): Thank you.

Mr. Chair and members of the committee, good morning. Thank you for giving us the opportunity to present Air Transat's point of view.

For nearly 40 years, Air Transat has maintained positive labour relations without a labour disruption. We respect our employees and their unions, as well as their constitutional right to strike. We also help provide Canadians with a competitive air market, affordable travel and international connectivity.

Air transportation in Canada is facing increasing cost pressures, including when it comes to fuel, labour, operations and regulatory requirements.

● (1010)

[*English*]

At the same time, turning to Bill C-39, we have seen a hardening of labour relations in federally regulated industries in recent years, including in transportation and the airline sector, which also features union concentration among the largest employee groups. We are committed to working with the government and with partners across the aviation ecosystem as we face these challenges together.

We support Bill C-39's objective of strengthening stability and resilience in federally regulated industries, including through a special mediator and a clearer public interest framework, but the bill must better reflect aviation's operational realities.

Our recommendations focus on three issues: intervention before an imminent stoppage, meaningful bargaining before a notice of dispute and longer strike notice.

First is government intervention under proposed section 107.

In aviation, disruption begins before a strike does. Aircraft, crews, maintenance and airports form a tightly coordinated international network. When a stoppage becomes imminent, we must reposition aircraft and crews, cancel flights, notify passengers and, ideally, bring as many travellers home as possible on our aircraft. Even if an agreement is reached at the last minute, those decisions cannot all be reversed. Passengers have already been affected.

We therefore recommend that proposed section 107 allow intervention before a stoppage begins, but only in truly exceptional circumstances, and the threshold must be high: Meaningful bargaining must have occurred; the code's dispute resolution mechanisms must have been used, and a special mediator must have assessed negotiations and whether a stoppage is imminent.

We recommend that the mediator also have the power to prolong the 21-day mediation period if the parties are still engaged in bargaining and working through solutions. Thereafter, the minister must be satisfied, on the evidence, that the anticipated stoppage would adversely affect the national interest.

This is not a general power to intervene when bargaining becomes difficult; it is a narrowly defined safeguard that preserves collective bargaining and the right to strike, while allowing action early enough to prevent exceptional harm.

Second is the notice of dispute.

Conciliation and mediation should help to resolve a genuine impasse, not simply accelerate the countdown to a strike or lockdown. The priority must remain a negotiated agreement at the table between the parties.

Unfortunately, we have been subject to the filing of notices of dispute by unions when no real impasse was present, in an explicit effort to time a strike to one of our peak seasons, which would cause maximal disruption to thousands of passengers daily when alternative capacity is not possible.

We recommend the creation of an expedited CIRB process that would assess whether a genuine impasse exists or whether further progress remains possible. Current CIRB procedural avenues for challenging premature notices can take longer than the conciliation and cooling-off periods themselves. Starting the clock too early can force parties to rush complex negotiations, leaving ambiguous language and unresolved issues in the next agreement. Stronger oversight when the notice of dispute is filed would give meaningful bargaining the time it needs.

Third is the strike notice.

Seventy-two hours is an extraordinarily short time to safely wind down an international network and repatriate passengers. We recommend a longer notice period for airlines, which would help us bring more travellers home on our own aircraft and reduce the risk of Canadians being stranded abroad.

These considerations also matter for competition. A prolonged disruption can threaten a small carrier's viability, with consequences for affordability and consumer choice. Aviation connects families and communities and supports tourism, trade and investment.

Our message is simple: Protect meaningful bargaining and protect the right to strike, but recognize that in aviation, harm not only to the employer but also to the public begins before the first aircraft is grounded. Bill C-39 is an opportunity to strike this balance.

[*Translation*]

Thank you very much. I look forward to answering your questions.

[*English*]

The Chair: Thank you very much.

Last but not least, we have Mr. von Hoensbroech.

Alexis von Hoensbroech (Chief Executive Officer, WestJet Airlines Ltd.): Good morning, Mr. Chair, and members of the committee.

[*Translation*]

Thank you for having us today.

[*English*]

My name is Alexis von Hoensbroech. I am CEO of the WestJet Group.

Since the pandemic, labour disruptions in federally regulated industries have increased significantly. I understand the objective of the government to be simple: to reduce unnecessary labour disruption in sectors of national interest while protecting free collective bargaining and the right to strike.

● (1015)

[*Translation*]

At WestJet, the majority of our collective agreements were reached without the use of job action.

[*English*]

This is how the system should work.

Recently, we have seen a growing tendency for union leadership to make labour action part of the bargaining strategy rather than treating it as a genuine last resort.

Our experience last summer with CUPE, the union representing our cabin crew, is a good example of this. We value our cabin crew. They are critical both for safety and for service on board of our aircraft, and they are the most visible faces of our company. We entered bargaining knowing our cabin crew deserved meaningful increases. Bargaining was progressing constructively, yet the union leadership served notice of dispute at a time that ultimately positioned a strike for the August long weekend, when it could disrupt the travel plans of the greatest possible number of Canadians. Was that coincidental? I leave that for others to judge.

Knowing what it takes to get a deal, we put forward a substantial offer, significantly increasing the total income, adding new compensation elements for work before and after flights and improvements to scheduling and benefits, yet the union leadership took us on strike.

The strike began on August 2. By early the next day, CUPE leadership had accepted a deal that was essentially what we had offered days before the strike. There were some minor adjustments, but none we would have gone into labour action for. This was not a strike over a major dispute in substance.

We need to ask a difficult question: Is it right that the union leadership can take a company and hundreds of thousands of Canadians through a strike simply because they can?

The right to strike is an important part of collective bargaining, and we respect it, but labour action should be about real disputes after every reasonable opportunity to reach a deal at the table has been exhausted.

We are thankful to the government for proposing incremental amendments to the Canada Labour Code, some of which can potentially support meaningful bargaining. However, as someone who has gone through several high-profile bargaining events and who has first-hand and real-life experience, I'm certain that the proposed amendments will not achieve the desired outcome and that frequent labour disruptions will prevail in critical federally regulated sectors. Therefore, we respectfully ask for two additional amendments to Bill C-39.

First, give the independent mediator the authority to extend mediation when they believe a deal is still achievable. Providing extension authority directly supports the objectives of Bill C-39: more negotiated settlements and fewer avoidable disruptions. It also reduces the incentive to strategically preplan labour action to maximize impact to Canadian travellers. If a negotiated agreement remains possible, it makes little sense to force the process to end just because the clock runs out. If the neutral mediator believes the parties can still reach a deal, give them the time to finish the job.

Second, retain the minister's authority to use section 107 before a strike begins. That is particularly important in aviation. For WestJet, even a one-minute strike leads to four days of labour disruption. It takes about two days to safely bring down the network and another two days to restore it. Our experience this summer showed exactly that dynamic. Cancellations began before the strike and continued after the agreement had been reached. If a strike is required to actually begin before government can intervene, this is simply too late.

These safeguards do not mean weaker outcomes for workers. Look at the United States. Their labour regulation is much tighter than what is being discussed here today. Airline strikes have consequently become extremely rare, the last one happening in 2010, yet U.S. airline employees are amongst the best paid in the world and have secured very significant increases in past years.

Strong worker outcomes and labour stability are not opposites. We can have both. That should be our objective with Bill C-39: protect the right to strike when there's a real unresolved dispute but make sure we have exhausted every reasonable opportunity to reach a deal before hundreds of thousands of Canadians are disrupted.

Thank you.

The Chair: Thank you very much.

We'll start the six-minute round with Mr. Albas.

Dan Albas (Okanagan Lake West—South Kelowna, CPC): Thank you, Mr. Chair.

I want to thank all of our witnesses for being here today.

Forgive me, Mr. Chair; I'm going to be asking for some context of the aviation environment generally. I don't have the CEO of WestJet come to transportation committee that often. I think it's fundamental, though, in getting to Bill C-39 because it does affect labour relations, which affect compatibility.

Mr. von Hoensbroech, let's start with you. You've been talking about Canada's aviation system as being overly regulated and overly expensive. Could you name the top two government costs that you would start by cutting to make Canada's aviation system competitive?

● (1020)

Alexis von Hoensbroech: This is not about Bill C-39.

The Canadian aviation sector is one of the most expensive in the world, in part due to regulation. If you just compare it to the United States, the airport improvement fees in Canada are $40. It's $4.50 in the U.S. In Canada, airlines have to pay for carbon emission offsets. In the U.S., they don't. In Canada, you have very expensive and super confusing air passenger protection regulations. In the U.S., they don't exist. In Canada, you have frequent labour disruptions. In the U.S., they never happen.

It's a comparison of a number of things in which we are significantly disadvantaged against a country that is our neighbour, and we are competing for many of the same passengers. This is a challenge.

I could go on. Navigation is 100% paid by airlines here. It's significantly subsidized in the U.S. by the government. That's why it's often more expensive to fly east-west in Canada than to fly north-south to the U.S.

Dan Albas: Thank you for that.

In regard to your recommendations.... You've said quite clearly that what the government has planned in Bill C-39 does not meet your standard. In the example that we heard last night about Air Canada, Wesley Lesosky, the CUPE representative for the flight attendants, said there were four mediators and that didn't help whatsoever. Would giving special powers and the ability to compel, for example, your company and the union to actually bargain together so they can make an informed report to the public be helpful?

Alexis von Hoensbroech: The current proposal is that the special mediator looks at the situation and then reports to the public how the parties are acting.

Dan Albas: That special mediator, sir, has no powers to compel people to meet. They could literally just write a report with the two parties on either end of the country.

Alexis von Hoensbroech: I agree with the undertone of your question, that the current proposal is certainly helpful in that it improves things because it drives transparency, but it has no teeth. The special mediator has no tools to do something to change the course of what's happening.

Dan Albas: Increasing the powers in that position to try to achieve a position....

Alexis von Hoensbroech: Yes, that is one particular thing that we are proposing that the special mediator should be able to do. It is to extend the timeline of the mediation if the special mediator is convinced that there's still a deal achievable at the table. This would significantly change the outcome because it would also achieve a second thing. It is common sense that bargaining should be happening at the table, but achieving a negotiated agreement at the table requires both parties to act in good faith. If the employer is acting in good faith and the union is acting in good faith and they can't agree, then labour action is a tool that is legitimate. If one of the parties does not act in good faith, then the special mediator should have the opportunity to extend the timeline to labour action, to let the parties keep working and motivate both parties to move back to acting in good faith.

Dan Albas: Thank you for that, sir.

You were talking about the high cost of travelling in Canada, and I cannot turn away from this opportunity to ask you about the privatization of our four major airports, as the government is proposing to do. Some have suggested that it will raise the cost because these contracts will need to have a return on investment for investors. That usually means either higher airport improvement fees, which are unregulated, or higher gate fees, which your company would then have to pay.

Could you please comment on WestJet's position on the privatization of the four major airports and any concerns you would have?

Alexis von Hoensbroech: There are many countries around the world that have privatized airports. Whether these price increases happen depends on what the regulatory framework is that the government puts around it. That's why we have asked for strong economic regulation around the fees that the airport can put out: That's where the airport actually has a monopoly. It's page 1, textbook economics that if you have a monopoly, you need to price-regulate it. As long as that's happening—that's what, for instance, the European Union is doing very successfully—then you can keep costs for air passengers low while allowing the airport to make a lot of money in other unrelated businesses such as retail, hotels, restaurants and so on.

● (1025)

Dan Albas: In Australia, when they privatized, they did see the costs per ticket go up tremendously.

Alexis von Hoensbroech: They did not put the appropriate regulations around it. If you look to the EU, it's much better.

Dan Albas: Has it been a one-way street, or has the government been giving you assurances that they are looking at that?

Alexis von Hoensbroech: They're telling us that they want to do this through concession agreements, which we believe is insufficient, because concession agreements can be renegotiated. I'm safety regulated by Transport Canada, and I'm getting the safety framework through regulation, and not through a concession agreement to run an airline. That's the right thing, because something like safety has to be non-negotiable, and the same thing should be the case with fees for airports.

The Chair: Thank you.

Mr. Kelloway, you have the floor.

Mike Kelloway (Sydney—Glace Bay, Lib.): Thank you, Mr. Chair.

Thanks to the witnesses here today.

I'm going to stick with the WestJet CEO.

You talked in your opening statement about the dispute with CUPE that was ultimately resolved with the assistance of a special mediator. Drawing on your experience there, can you speak of the value of an independent mediator who is available to work on complex collective bargaining negotiations before they reach an impasse? You talked in the last question about the special mediator, so I wonder if we could dig a little deeper and connect it to your experiences with the special mediator on the issues you were having with CUPE.

Alexis von Hoensbroech: There's already a framework, and that's the federal mediation and conciliation service. They join the table once there's a notice of dispute filed. They support, and they conciliate; however, while they're doing a great job, they have no tools. They have no tools to motivate the parties to come to a deal. If one party does not want a deal and just wants to go into labour action, regardless of what's happening, they are observers like anyone else.

The special mediator concept that's been proposed in C-39 also comes with no tools. The only tool the special mediator gets is transparency, and that is good. That's better than today; however, if a party is on a strategy to go on strike, regardless of what's happening, the special mediator has no tools to intervene, and that's our point. We are saying that this proposal falls short and will not achieve the objective.

Mike Kelloway: Let's stay on the special mediator for a second, because I've heard from labour in this room but also, in particular, outside this room, about their concerns around the individual, the experience, the background and the concern that the special mediator may favour one group over another or employer over employee.

Can the three of you give me a sense of the qualifications and the backgrounds for special mediators? I hear you around the tools, but I'm also looking at the acumen and the skill set of the special mediator. There seems to be a concern that we will get one individual who will favour one group over another, so I'm wondering if you can give us kind of a fair and balanced approach in terms of a special mediator and what that person brings.

Alexis von Hoensbroech: I've observed the conciliation service, their decades-long experience and the way they interact with both parties, and I'm not concerned. The government has incredibly qualified people, and there are people who can see through a lot of the noise that's happening, because they have seen so many bargaining events. They will pretty quickly figure out who is acting in good faith and who may not be acting in good faith. I've found them to be super neutral. I never had the impression that they were either unilaterally supporting us or unilaterally supporting the union. I recognize that the mediators may be different individuals, but if they draw from the types of people they already have in the government, I would feel reasonably comfortable that they would be very neutral.

Mike Kelloway: All right.

Do other witnesses have thoughts on that?

Michael Abbott: Sure, and thanks for the question.

To echo Alexis' comments, the FMCS, federal mediation and conciliation service, has great people, great professionals. They're quite adept in mediating, and they're subject-matter experts, not just in labour relations but also sometimes in airlines, rail and whatnot.

I can tell you that mediation is not done just in the government realm. For instance, Air Canada has used private mediators to help them solve disputes. In 2016, for the IAM deal, we paid both parties. We paid for Vince Ready, and we achieved a freely negotiated 10-year deal.

In 2025, both parties, ALPA and Air Canada, decided to go with Bill Kaplan, and we worked with Bill for five months. We proceeded to sign off on 20 or 30 different proposals, so it was quite productive. Then we went back to FMCS, and we had a freely negotiated labour deal.

The special mediator could be government, within FMCS, or it could be external. That should be up to the minister, and it should be flexible.

● (1030)

Irene Chrisanthopoulos: I agree with Alexis. The federal conciliators have the experience already. We see it when they deal with our matters.

If you're referring to mediators, outside and private.... I've been in the airline industry for 11 years. I'm a labour lawyer by practice, so I've been in many arbitrations and mediations over my career with federal arbitrators and mediators in the airline industry. There's a group of them who are getting expertise, other than Ready and Kaplan. There are others, as well, who have developed an expertise in the airline industry.

Let me tell you, I've been to mediations in which they've taken the employer side, and I've been to mediations in which they've taken the union side. They are experts in the industry. They are professionals. They will also have to render a report that is transparent on the parties, as well as on their work.

I'd like to reiterate that allowing the special mediator to prolong will solve the problem we've seen. I think Alexis and Mike mentioned it, and we lived it too, with ALPA. We were just sitting there for a day, and they were not answering our proposals because they were waiting for the clock to strike midnight and file the notice. The mediator will report, and if they see that the party is simply not responding, they can prolong and say, “You're not getting that right to strike until you answer the proposal.” That's on both sides.

There is a benefit. We have a lot of good mediators out there who would be neutral.

The Chair: Thanks, Mr. Kelloway.

Go ahead, Mr. Ste-Marie.

[*Translation*]

Gabriel Ste-Marie (Joliette—Manawan, BQ): Thank you, Mr. Chair.

Good morning to the three witnesses. I'd like to thank them very much for being here.

Yesterday, the president of the Fédération des travailleurs et travailleuses du Québec, Magali Picard, raised an issue during her testimony. Currently, only 5% of federally regulated collective agreement negotiations result in a labour dispute. She said she feared that if Bill C-39 were passed, that percentage would start to increase. She raised something that she described as dangerous: The proposed amendments would generate political responsibility in negotiations. If both parties—the employer and the union—know that the minister can ultimately invoke section 107 of the Canada Labour Code to say that the dispute will be settled in the usual way, even if the bill says that negotiations must be conducted in good faith, each party will have less interest in making concessions at the bargaining table, because that could be held against them when mediation takes place at the end.

That would lead to something that Ms. Picard described as dangerous: Political responsibility will lead to less genuine negotiation between labour and management beforehand.

This is to all three of you. I'd like to hear your opinion on this danger.

Irene Chrisanthopoulos: I could start.

First, it's counterproductive to say that the parties will have less interest in negotiating because the government could intervene. As soon as there's a potential strike, we see an impact on our sales. That means it's in everyone's interest to reach an agreement at the bargaining table, an agreement that we will live with over the next three, four or five years. I don't think it diminishes the parties' interest to have a settlement at the bargaining table.

As mentioned, there's also the mediator's report, so I think we have to distinguish between two different things. On the one hand, there is good faith at the bargaining table, which must be present at all times. Now that there will be a special mediator, there will be more transparency. On the other hand, there is the issue of national interest. Regardless of the good faith of all parties around the bargaining table, and regardless of the work of conciliators and mediators if an agreement can't be reached, the government must intervene and has the opportunity to intervene in advance to stop a strike if there is a national interest to protect.

It must be said that a strike in the air transportation sector does not affect only the employer's income. It has repercussions on the public, the transportation of goods and the economy in general. That means a different mechanism is needed.

● (1035)

Gabriel Ste-Marie: Thank you. Just before we hear what the other witnesses have to say, I would add one thing. The concept of "national interest" seems vague to me. The bill doesn't define it. Would the government benefit from defining what it means by "national interest"?

Irene Chrisanthopoulos: From what I have seen of the act and from the consultations we have had, there are now better defined criteria and scales for determining whether there is a national interest, such as if something affects the economy or the public. I think the act is well drafted in that regard and in that the legislator has included specific criteria.

Gabriel Ste-Marie: Okay, thank you.

Would either of the other two witnesses like to add anything?

[*English*]

Alexis von Hoensbroech: The way the bill is written, no party can ever rely on the government to step in—and should not because the deals should be made at the table. Therefore, there will be all the motivation for both parties to put their best foot forward to come to a deal, especially when there's a mediator or the government could potentially step in if some of the parties don't act in good faith. Therefore, I don't see that risk.

Let me again point to south of the border, where it's far more difficult to go on strike. It's far more strict than what's even being discussed here. We would never ask for what they have. However, although the last labour action in the U.S. airline industry happened in 2010, their airline workers are amongst the best paid in the world. There's no correlation between whether there can be a strike or not and the success of collective bargaining for the worker. This is just not a factual thing.

If it's being done in the right way and it's an exceptional situation in which either the minister, through section 107, or the special mediator, through extending the conciliation period, can step in—this is only in very exceptional cases—I have no doubt that employers and unions will put their best foot forward to come to a deal at the table, because this is in the best interest of both parties.

[*Translation*]

Gabriel Ste-Marie: Thank you.

What do you think, Mr. Abbott? You have 30 seconds left to comment.

[*English*]

Michael Abbott: Thank you.

I'm going to attack this from two angles very quickly.

The first is the comment early on about 5%. The statistics are that 5% of deals in federal jurisdiction go to a strike or a lockout. The reality is that you need to look at person-days lost. That's tripled over the past three or four years. What's more concerning is that every major railroad, the major airlines and all the ports have been on strike in the past three or four years, sometimes multiple times. It's problematic.

I'll flow into the national interest piece. Yes, the national interest test is broad right now, but I think that will quickly tighten itself up through the courts. The national interest test needs to be looked at from a couple of different angles, and I feel as though this is not getting out there enough. We have nine bargaining units at Air Canada. There are five or six that could shut down our entire operation. I wouldn't consider the other two or three to be national interest.

People need to realize that, and I think the unions are playing up a lot that this is just going to be no strike all over the board. That's not the case at all. It can be different within a company or within bargaining units. Companies can change in size. They might be national interest one year, and three or four years later they might not be. I think the case law will develop national interest, so we won't be having this argument in two or three years' time.

The Chair: Thank you, Mr. Ste-Marie.

Mr. Gourde, go ahead for five minutes.

[*Translation*]

Jacques Gourde (Lévis—Lotbinière, CPC): Thank you, Mr. Chair.

I'm going to speak along the same lines as my colleague Mr. Ste-Marie.

Our committee has heard from a number of union witnesses who have made their demands known. The demands often revolved around the fact that Bill C-39 would cause them to lose some bargaining leverage with management.

Right now, we have the management side before us.

Is that leverage annoying for you? Have the unions abused it when they have the option to strike and to file strike notices? As you explained, it can often lead to many setbacks, particularly in the air sector.

Do you think they're right, or does the bill instead close a loophole in the provisions that benefited the unions during negotiations?

● (1040)

Irene Chrisanthopoulos: I think that issue has been touched on a bit. Yes, bargaining leverage is important when used in good faith. However, as I was recommending, there should be a system of checks and balances in place when the notice of dispute is filed. Yes, we have seen abuses. It's a form of leverage that's there. However, there are situations where a union files a notice of dispute the day after we receive its first proposal. There is no impasse at that point, but we are already receiving a notice.

Today, there is no mechanism to verify whether things have truly reached the notice of dispute stage and whether the strike notice is ultimately justified, given what's happening at the bargaining table.

Say an expedited process such as the one we're recommending were in place when the notice of dispute is filed, as well as a mediator who could determine whether or not the parties are still negotiating at the table. The bargaining leverage would still exist, but it would be used in good faith and at the right time.

[*English*]

Alexis von Hoensbroech: Let me give you an example going back to our CUPE negotiations this summer. There would have been a deal we could have all agreed on well before the strike. The proof point is that what we agreed to in the strike was essentially what was on the table before the strike. The way things played out was as follows: Our proposal was on the table, and then the union was asking—and this was literally 10 minutes before the strike began—for a massive additional ask that they put on the table and was absolutely unacceptable to us. Then we were on strike, and 12 hours later, they pulled it back.

The big move in the strike was done by the union and not by the employer. This just tells me the union wanted to go on strike regardless, because, for whatever reason, they wanted to have a strike. They manufactured it so that we ended up on strike only to accept a proposal that had been on the table days before the strike. These are situations that are creating massive disruptions for Canadian travellers. Hundreds of thousands of people are getting stranded. I could send you emails of guests who missed a family funeral, who couldn't go to their daughter's wedding and so on because of this. This is just terrible for Canadians.

Now, if there is a legitimate dispute over content, it is a legitimate tool to go on strike or to do labour action, and this should always be protected 100%. However, if a situation arises in which it's being manufactured just for the sake of doing it, then that's something for which the government has to keep some kind of oversight and has to keep some exceptional tools in the back pocket to step in in those cases.

[*Translation*]

Jacques Gourde: Mr. Abbott, would you like to add anything?

[*English*]

Michael Abbott: To add to Alexis' point, without getting into the details, the transparency piece of this bill is quite good. With things like that example and with our example with CUPE.... I could go on forever about how beneficial it would have been if we had to have a third party put out a public report. Instead of it being a communications battle, it becomes just fact. If you're going to modernize the Canada Labour Code, given social media and whatnot nowadays, you need to have transparency, so we welcome that.

The last part about leverage is interesting, because leverage can be created in a couple of different ways. It can be created by lining up an air strike over the Christmas holidays or during peak periods. It can be lined up in rail during grain season. That's typically done to increase leverage. I think that's false leverage. It should be the prerogative, whether it's the government or whether it's the special mediator, to move around that.

It works both ways. This is not just unions taking companies out on strike. What about if you have an employer that wants to completely change their operating model and is hell-bent on getting certain changes? The union would then welcome the transparency piece, wouldn't they? It works both ways, when you really think about it.

At the end of the day, empowering a special mediator to deal with the timelines to protect the general public from real peaks, whatever industry it is, should definitely be beneficial. It is in the national interest, and it should be, for all Canadians, but that doesn't take away the leverage of a union, or of a company for that matter. No one wants a strike. The ultimate leverage of a union is taking away their work. That's something that's still retained right there. However, when it's in the national interest or when there are problems at the bargaining table, and that comes out—and it's recognized as being a problem by a third party mediator—then there need to be some checks and balances.

● (1045)

The Chair: Thank you, Mr. Gourde.

Go ahead, Mr. Louis.

Tim Louis (Kitchener—Conestoga, Lib.): Thank you, Chair. Thank you to our witnesses.

I was still taking notes from the last topic, so maybe we could continue this conversation. As we were saying, the best collective agreements happen at the table. They happen between the employers and the workers themselves. It's true. Ninety-five per cent of collective agreements in federally regulated workspaces are renewed without labour disruption.

This bill is doing what both sides seem to be asking, which is encouraging earlier bargaining, months in advance in the complex cases; giving parties more time to find common ground; providing access to the special mediator, which I'd like to keep talking about; and then helping to repair relations after a difficult dispute. We're talking about having conversations post strike too, because sometimes, after a fight, talking about it is a good thing.

The common thread seems to be giving the workers and employers earlier, stronger, more transparent tools to reach that agreement themselves. This is not about government imposing agreements. It's about having employers and labourers sitting down.

We've all talked about transparency.

Mr. Abbott, I think that both sides are interested in that transparency, having the special mediator there, so maybe I'll start with you and work my way all the way through. The idea would be that a special mediator would be there. We would start earlier. The conciliation period would last longer, all the while with notes being taken and having this report because both sides.... We've heard from ALPA, we've heard from CUPE, we've heard everyone saying that the other side is not playing fair, and they would like that to be exposed.

I have a question for each of you, because you're in a position to answer this. Would you instruct your side of negotiating not even to sit at the table, not to act in good faith? If you knew that would be in a report that would become public knowledge, would that help change the way...or do you think that would also change the way the other side handles the negotiations?

I'll start with Mr. Abbott.

Michael Abbott: Absolutely. I think transparency will moderate the behaviour of both sides for the positive, so it's a net positive.

Tim Louis: Ms. Chrisanthopoulos, I'll ask you the same question.

Irene Chrisanthopoulos: Absolutely, I agree. The framing of your question was, will it incite us to tell our colleagues and the unions to act in good faith? Actions don't always start out with bad-faith intentions. They start off as a strategy.

There was a union, and we were asking for their monetary proposal in April or May. “No, we're not going to give it to you yet”, they said. “We still have a lot to do.” In July, they said, “We're going to give it to you in August. You're going to have 30 days.”

We said, “We won't be able to...in those 30 days. We have too many people away on holidays.”

“Oh, but you have 30 days”, they said.

It was a strategy, and we knew exactly when we would get the notice.

Now, did they consider that they were acting in bad faith, or did they think they were being strategic and using a tool? I guess the answer is different depending on who you ask, but a special mediator will be neutral and will determine where that line is drawn.

Alexis von Hoensbroech: Transparency is important, and we absolutely welcome this. This will certainly improve the culture at the bargaining table.

Will it change the outcome and prevent frequent labour disruptions? I don't think so, because if a party wants to walk past this transparency for other reasons, then the party may just do it. This is why I'm saying that it requires some kind of tool whereby the government has the ability to step in.

Tim Louis: Just to follow up, that tool is not going to be the answer itself. What about that plus a longer conciliation period, plus earlier bargaining at the table?

Alexis von Hoensbroech: That's all beneficial. It's absolutely a good idea to start bargaining earlier, especially in aviation, in which the contracts are highly complex and you need to do a tremendous amount of work to go through all the articles. To start earlier is absolutely beneficial, and to have an extended conciliation period is all good, but I think it is also necessary that the government has some kind of backstop that it can invoke in case, despite all that has been said and done, the parties are not both acting in good faith. It's on both sides. The onus to act in good faith has to be on both sides of the table.

● (1050)

Tim Louis: Something we haven't talked too much about—maybe we'll go the other way in the last minute I have—is support after a dispute to help rebuild those relationships, the labour-management relationships. How can postdispute reconciliation help workers and management learn for the future to avoid further conflicts?

Alexis von Hoensbroech: First of all, we generally have good relationships with our union partners because we are both dealing with our most important asset, which is our people. We want our people to be happy, and we want our people to feel fairly compensated, so we essentially have the same interest, and as long as both parties are acting in good faith, there is no relationship to be repaired. The relationships break when one or both parties moves to bad faith bargaining. That's when the relationships break.

Tim Louis: I have limited time. I was going to—

The Chair: Please be really quick.

Irene Chrisanthopoulos: I agree with Alexis. Essentially, we have a good relationship. We can disagree at the table and have heated, healthy debates at the table and still get along.

However, in some circumstances, we welcome the help post bargaining. In situations in which the relationship has been affected, it could only be a positive addition.

The Chair: Thank you.

It's over to Mr. Ste-Marie for two and a half minutes.

[*Translation*]

Gabriel Ste-Marie: Thank you, Mr. Chair.

Mr. Abbott, at the end of our last discussion, you said that the number of person-days lost had tripled in recent years. As it turns out, it's exactly since the government invoked section 107 of the Canada Labour Code to end labour disputes.

If the government enshrines such a thing in Bill C-39, aren't you concerned that it will continue to increase the number of person-days lost?

I would like to hear your opinion on that, and perhaps that of the other witnesses as well, but I have only two and a half minutes.

[*English*]

Michael Abbott: I don't think that's the correlation. The post-pandemic increase in strikes and lockouts really started in 2021 and 2022. The 2022, 2023 and 2024 numbers are quite high. The section 107 piece is not correlated to it.

If that were the case, what we'd basically be saying is that we're enticing unions to go on strike. I don't think that was the case at all. There are a host of factors in why strike incidents have gone up. It could be inflation. It could be many things. I think they are more structural and economic types of items.

Without question, though, the reality is that it's tripled, so we need to figure out a way to get these deals done at the bargaining table. That's what we're trying to solve with Bill C-39. That's the key.

Some of the pieces that are there are better than what we had previously, but I think that there are some improvements we could make that would really improve it.

[*Translation*]

Gabriel Ste-Marie: Thank you.

Irene Chrisanthopoulos: I just want to add that I agree with Mr. Abbott that this is part of the post-pandemic context. In 2022, there was an increase in the number and percentage of strikes in all industries and sectors, at both the federal and provincial levels, that had not been seen in two or three decades. In my opinion, it has nothing to do with section 107.

Gabriel Ste-Marie: Okay.

I have 20 seconds. Do you want to add anything, Mr. von Hoensbroech?

[*English*]

Alexis von Hoensbroech: I have nothing more to add.

[*Translation*]

Gabriel Ste-Marie: Thank you, Mr. Chair.

[*English*]

The Chair: Thank you.

We have time for about three minutes each for Mr. Albas and then Mr. Kelloway.

Dan Albas: I was going to say that the Conservatives want to see this special mediator receive special powers to convene parties, establish a schedule and process, require attendance, request or require relevant information where legally appropriate, conduct conferences, facilitate negotiations and prevent abuse of the mediation process.

We also want to provide appropriate statutory immunity for acts done in good faith within the mediator's mandate.

Mr. Abbott, do you agree with that suggestion?

Michael Abbott: I didn't catch all of it, but most of what you said I do agree with, such as transparency, getting people to the table and forcing outcomes.

Dan Albas: Ms. Chrisanthopoulos, would you agree?

Irene Chrisanthopoulos: I didn't catch all of it either, but what I caught—giving more powers to the special mediator, bringing the parties together and transparency—are things we support.

Dan Albas: Mr. von Hoensbroech, would you agree?

Alexis von Hoensbroech: I agree, adding that the special mediator should have the power to extend the conciliation period if he requires it.

● (1055)

Dan Albas: Briefly, sir, because I don't get you in front of the transportation committee that often, Nav Canada has one job, and we see continued labour shortages at Vancouver, Kelowna and Winnipeg, I believe. I have a constituent who emailed me on November 1, saying that he was stuck and was missing flights. What do you have to say about Nav Canada and their inability to keep the control towers open?

Alexis von Hoensbroech: It shows a broader thing, which is how complex it is to operate airlines and how many parties have to step up to deliver consistent products.

It's airlines. It's airports. It's Nav Canada. It's border control. It's security. It's baggage handlers—and, and, and. This has to happen not just in Canada but also in the destinations we fly to. All of them have homework to do.

I will say that Nav Canada has had staffing shortages. Their performance has significantly improved over the past year, to their credit, but they still have their own homework to do, as we have—

Dan Albas: Obviously, though, the APPR are put on the airline when compensation is sought.

Alexis von Hoensbroech: Of course....

Dan Albas: On that very subject, though, what do you have to say on behalf of your airline about airplane swaps when they say it's for maintenance or for safety reasons and they swap them out for other purposes? Both WestJet and Air Canada have been called out on this practice.

Alexis von Hoensbroech: Thank you for asking that question, because to me it's a prime example of being publicly shamed for doing the right thing.

I'll give you an example. We have one flight a week from Calgary to Puerto Plata in the Dominican Republic. There will be 170 people on their vacation trip and 170 people who need to return from their vacation. This is a must-go flight, because the disruption of not getting those people there and back would be devastating.

This airplane breaks down. What do you think our team should be doing? They should be swapping—

Dan Albas: How about when you swap for commercial purposes, not for safety-related purposes?

Alexis von Hoensbroech: They should be looking for another airplane that flies people there, because the disruption would be so bad. They take a healthy plane from Calgary to Toronto, where we fly 10 times a day. We have no issues at all in getting all those passengers to Toronto on the same day, and we protect them when a cancellation of their flights would have catastrophic consequences for them.

It's the right thing for the passengers. We are one plane short, and then we have to take action, so—

The Chair: Thank you, Mr. Albas—

Dan Albas: The reason it was cancelled—

The Chair: Mr. Kelloway, it's over to you.

Mike Kelloway: Thank you, Mr. Chair.

I think I'm the last questioner of the day for you folks. I really appreciate your being here.

I have a comment and then a particular question.

So far, we've heard from many labour groups. Some of them have talked about getting rid of proposed section 107 completely. We've talked to some folks in different sectors who want to use that section much earlier. It seems to me that one of the common themes, beyond the differences that I just talked about, is the need to strike a balance, but a balance with teeth, which is really important. There's a lot on the line. We talk about how 95% of federally regulated challenges are solved in the boardroom, while 5% have been challenging. That 5% is in and around you folks and some other folks.

In the final moments that we have together here, could you talk about something that you've highlighted somewhat? I'm wondering if you can go just a little deeper on the economic impact when issues are not solved at the bargaining table and strikes or work stoppages of a variety of sorts happen, such as lockouts.

The economic impact goes beyond your companies. You've talked about your companies, but in terms of the economy writ large, I think we should extrapolate how the domino effect works here. If you have numbers or even if it's anecdotal, what is the impact on everyday Canadians and communities big and small?

We'll start with Air Canada.

Michael Abbott: We can get you some figures, but anecdotally, our wind-down is about three days, not two days, because we have a lot of long-haul flying. To spring back up from a work stoppage takes anywhere from six to 10 days, so one day of strike is almost two weeks of disruption. People are stranded as far away as Sydney, Australia, from Toronto or Ottawa, and as close as a half-hour flight.

There's anxiety. That's a personal type of thing. The economic effect is massive. We're carrying 150,000 people a day on a lot of days. A light day for us would be 100,000 people. Look at the knock-on effects of business travel, personal travel and economic ties. We're carrying cargo, precious goods and organs. It's immense, and I can give you the numbers.

● (1100)

Mike Kelloway: I appreciate that.

We can go around the horn.

Irene Chrisanthopoulos: I don't have the numbers, but for a smaller airline, you also have to understand the economic impact. A strike of the kind that Air Canada or WestJet had would likely shut us down. That's employees losing their jobs and the public being stranded and not going to their jobs.

The public interest cannot be ignored. People are not travelling just for leisure; they're also travelling for funerals, for weddings. The public component is very important.

There are people coming back to work in jobs in which they're needed, but for us, it's the viability of the company and our employees.

Mike Kelloway: Finally, we'll go to WestJet.

Alexis von Hoensbroech: Aviation is the fabric that keeps this country together and united. There are very few countries in the world that need aviation as much as Canada does, just because of its geography. I take Calgary as an example. You get to Calgary by air, or you essentially don't get there. If you cut this off, then you are cutting business, you're cutting families, you're cutting medical appointments, you're cutting all the essential things that people need to live in Canada. The economic impact—but also the non-quantifiable other impact of cutting aviation—is massive.

By the way, maybe one of the reasons it's happening in those spaces so often is because it creates so much public coverage. Maybe it's even attractive to disrupt this sector more than others because the public perception is so big.

It is important to have a national interest view on it. It's not just the people who are affected. It's also the people who look at Canada and ask themselves, “Where do I want to deploy my capital? In which country do I want to invest? Do I invest in the U.S., which has almost never had any strikes? Do I want to invest in other countries, or do I want to invest in Canada?”

Labour stability is one of the prime topics that international investors are looking at. There are lots of reasons not only to ensure that the integrity of bargaining processes is being kept in place, including the right to strike, but also to ensure that the right to strike and the right for labour action is a last resort that is only being taken up when all other opportunities to arrive at a deal have been exhausted.

The Chair: Thank you, Mr. Kelloway.

Unfortunately, that's all the time we have, but we did land this on time, so I'm grateful for that.

Thank you to the witnesses for being here and for sharing your insights. It's very much appreciated.

We'll suspend and get ready for the next panel.

Thank you.

● (1102)

_____(Pause)_____

● (1110)

● (1110)

The Chair: Welcome back to meeting number seven of the House of Commons Legislative Committee on Bill C-39.

I would like to make a few comments for the benefit of the witnesses and members.

Please wait until I recognize you by name before speaking. For those participating by video conference, click on the microphone icon to activate your mic, and please mute yourself when you're not speaking.

For those on Zoom, at the bottom of your screen you can select the appropriate channel for interpretation: floor, English or French. For those in the room, you have an earpiece and you can select the desired channel.

I want to remind witnesses that you will likely be asked questions in French and English, so please make sure you're comfortable with the interpretation device.

As a final reminder, all comments should be addressed through the chair, please.

I would now like to welcome our witnesses for today's second panel.

From the Assembly of First Nations, we have Cindy Woodhouse Nepinak, national chief; Graeme Reed, strategic adviser; and Julie McGregor, general counsel. From the Hiawatha First Nation, we have Laurie Carr, chief. From the First Nations Major Projects Coalition, we have Tim Laronde, senior adviser.

I will give each group up to five minutes for their opening remarks. Following completion of all the groups, I will open the floor to questions.

Chief Woodhouse, I will turn the floor over to you to start.

National Chief Cindy Woodhouse Nepinak (Assembly of First Nations):

[[*Witness spoke in Ojibwa*]

[*English*]

It's so beautiful to see each and every one of you.

My name is Cindy Woodhouse Nepinak. I'm the national chief.

I'd like to acknowledge that we are here on the traditional, unceded, unsurrendered territory of the Algonquin Anishinabe nation.

I want to thank the committee for the invitation to appear today on Bill C-39.

This morning, I want to tell you why the AFN cannot support Bill C-39 and what we ask of each of you.

First nations understand that this is a difficult time in Canada's history. While the trust is fragile, we have always stood for this country in difficult times. During World War I and World War II, our first nations were at the front line to protect this country, more than any other group in this country. I lift them up and I will think of them particularly next week as we honour our loved ones, all of us. We should remember them in a good way.

The federal government has called Bill C-39 the most consequential economic legislation of this Parliament, and we should expect such legislation to be matched by an equally consequential level of parliamentary consideration and public review.

When the bill was introduced on September 21, we urged the government to uphold the honour of the Crown and give first nations the time and opportunity to be heard. We cautioned the government against using its majority to cut short debate through time allocation or closure. Since then, it has become the worst-kept secret in Ottawa that the government plans to get this bill through by Christmas. We are hoping that all of you prove us wrong.

As we heard at last week's first nations and first ministers meeting, many chiefs from across Canada are concerned with both the process and the substance of Bill C-39.

Consistent with resolutions adopted by First Nations-in-Assembly, the Assembly of First Nations opposes legislative measures that weaken environmental protections, compress review timelines, limit meaningful consultation or fail to uphold free, prior and informed consent. The Assembly of First Nations therefore does not support Bill C-39 in its current state.

Bill C-39 does not meaningfully implement the Crown's duty to consult and accommodate or the United Nations Declaration on the Rights of Indigenous Peoples Act. The proposed “one project, one review, one year” approach imposes arbitrary timelines on complex projects while failing to address first nations' capacity and funding constraints. Rights holders must have the time that their own laws and decision-making processes require. The federal government cannot put commercial deadlines ahead of its obligations to first nations. Independent review mechanisms are being cast aside in this new bill to allow projects to begin before final impact assessment decisions. Simply put, this bill represents a mass dilution of environmental protection and first nation rights.

Many chiefs at last week's gathering with the first ministers also made it clear that economic reconciliation in 2026 requires that first nations be development partners when they choose to participate, yet this major projects legislation includes no requirements for first nations' ownership, revenue sharing, procurement, cogovernance or equitable participation in project benefits.

First nations have been persistent and patient, and now it's our time to lead the change that we need. Canada must respect our decisions and invest in our capacity to build lasting partnerships.

Last month, the federal office responsible for major projects told members of Parliament that first nations have “every right...to be skeptical” of them.

When confronted with legitimate concerns about the Pacific link pipeline designation from British Columbia chiefs at their fall assembly, the Major Projects Office said that first nations' frustration made it feel as though Canada was “never going to work”. As our regional chiefs from B.C., Ontario and Quebec said so well, the government needs to stop seeing first nations as barriers to Canada's economic future.

First nations are rights holders, governments and treaty partners, and we are essential to building a sustainable Canadian economy. Each first nation speaks for itself on its rights, its territory and its development decisions. The federal government can create all the project offices, consultation hubs, advisory groups and development zones it wants, but it can't put an expiry date on the rights of first nations.

When first ministers tried to exclude first nations from the process to repatriate Canada's Constitution in the early 1980s, our leaders fought to ensure that a provision, section 35, recognized and affirmed treaty rights and pre-existing inherent rights.

● (1115)

When first nations were told that section 35 was simply an empty box, we fought in Canada's court system and proved that wrong.

The rights that our leaders have fought to be recognized must be upheld in practice. That means respecting first nations laws and free, prior and informed consent before decisions are made about our lands and territories.

The truth is that first nations want this country to succeed. We have demonstrated this through our actions, most recently when first nations stood against separation and turned out in numbers in the October 19th referendum.

We understand that Canada is at a crossroads in its relationship with first nations. Our rights are under attack in new ways, and sadly, this bill is the latest example of that, but as first nations, we're not afraid—far from it.

Our request to each of you is simple. Do not support the time allocation or closure on this bill. Hear from as many first nations as you can before you go to clause-by-clause. If Bill C-39 comes back to the House in this form, vote against it.

Chi-meegwetch. It's an honour to speak for first nations before this committee. I'm so happy to take questions.

I'm so thankful that Chief Laurie Carr is here.

Also, I want to lift up the First Nations Major Projects Coalition. I know they have a member here online.

It's nice to see you.

I want to thank them for their growth.

I want to thank our former chief, Sharleen Gale, who's an absolute light in this country for all of us.

I also want to thank, of course, our staff members Graeme and Julie for being here.

For all of you, thank you so very much.

The Chair: Thank you very much.

Now it's over to you, Chief Carr.

[*Translation*]

Chief Laurie Carr (Chief, Hiawatha First Nation): *Boozhoo.*

[*Witness spoke in Ojibwe*]

[*English*]

I am from the Hoof Clan, related to the Crane Clan on my mother's side. I'm Anishinabe. My Anishinabe name is Eagle Woman. My English name is Laurie. I'm from the Michi Saagiig nation, and I'm chief of my community of Hiawatha First Nation.

I would first like to acknowledge, and give thanks to, the Algonquin peoples on whose traditional territory we meet today. I would also like to thank the committee for the opportunity to speak here today.

Chi-meegwetch.

This is important legislation, and I want to speak about something fundamental not only to who we are as first nations people but also to the future of everyone who calls this land home: our traditional knowledge, our relationship with the land and water, and why that knowledge must be central to decisions and development. This is not simply how we approve projects. It is about how we protect who has a voice in these decisions and what kind of future we leave for our next generations.

The committee has received our written submission, as well as the submission from the Michi Saagiig nations of the Williams Treaties. Today, I won't repeat what is in those documents. Instead I'll speak to the foundation of our concerns.

Our starting point must be understanding who we are and the knowledge, rights and responsibilities that we carry as Michi Saagiig Anishinabe. Our people have been here since time immemorial. Archaeological evidence of human presence in this region—in our region—reaches back at least 10,000 years. For thousands of generations, our ancestors have lived on, governed, hunted on, fished in, gathered from and cared for these lands and waters.

Our relationship with this territory is not new. It is the foundation of our identity, our laws, our culture and our understanding of how to live in balance with the natural world. Our traditional knowledge is not simply history, cultural storytelling or something to be added to a government report; it is a living body of knowledge built through generations of observation, experience and responsibility.

We know the waterways. We know the fish, wildlife, medicines, plants, wetlands and changing seasons. Our elders and knowledge keepers understand the relationships between these systems and recognize changes that may not be captured through short-term environmental studies. We know that everything is connected. When the water is harmed, the fish are harmed. When the land is damaged, the plants, animals and people suffer. These are not separate environmental concerns; they are interconnected responsibilities.

This knowledge is not just about the past; it is essential to making decisions today. As governments pursue major projects, infrastructure and resource development, we must, ourselves, understand what kind of development we are advancing and what the consequences will be for the lands and waters that sustain us all.

This brings me directly to Bill C-39. We understand the government's interest in modernizing regulatory processes, coordinating project reviews, and creating greater efficiency and certainty for major projects. However, efficiency for governments and project proponents cannot come at the expense of first nations' rights, meaningful consultation or our ability to protect our territories. Our concern is that legislation designed to accelerate development must not also accelerate the exclusion of first nations from decisions that affect us.

We are not stakeholders. We are rights holders, original peoples and governments with our own laws, governance systems, knowledge and responsibilities. Consultation cannot simply mean notifying us, giving us a deadline and asking us to provide comments after the decisions have already been shaped. Consultation must begin at the beginning. It must provide sufficient time, adequate resources and the genuine opportunity to influence decisions and develop solutions. The Crown cannot transfer its constitutional responsibilities to project proponents or regulatory agencies.

One project does not exist in isolation. Our lands and waters already carry significant effects of generations of development. We know what has changed, what is at risk and what must be protected. For Hiawatha First Nation, this is not an abstract concern.

The proposed Wesleyville nuclear generating development is located in our treaty territory—Treaty 20 and the Williams Treaties.

Our nation is undertaking its own indigenous impact assessment and traditional knowledge studies. Our council, citizens, knowledge keepers and technical advisers are investing considerable time, resources and expertise to understand what this development could mean for our lands, waters, environment and future generations.

We have a real concern about what happens to that work when legislation and regulatory processes change. Why should first nations invest the time, resources and good faith required to participate in these processes if the rules and goalposts can change halfway through?

Our responsibilities to our people do not change—

● (1120)

The Chair: Chief Carr, I'm going to have to ask you to wrap up.

● (1125)

Chief Laurie Carr: Okay. Thank you.

I want to end by saying that all of us are borrowing this land from our children—your children. That responsibility belongs to all of us, not just to first nations.

Meegwetch. Thank you.

The Chair: Thank you very much.

Mr. Laronde, it's over to you.

Tim Laronde (Senior Adviser, First Nations Major Projects Coalition): Thank you, Mr. Chair and members of the committee, for the opportunity to contribute to your study of Bill C-39.

[*Witness spoke in Anishinaabemwin and provided the following text:*]

Boozhoo. Tim Laronde Optagesic Indizhinikaaz. Nbisiing Anishnabeg indoonjbaa.

[*Witness provided the following translation:*]

My name is Tim Laronde and I am a proud member of Nipissing First Nation.

[*English*]

I am the senior adviser in project development for the First Nations Major Project Coalition, or the FNMPC. I'm pleased to appear before you today on the coalition's behalf.

The FNMPC is a national, first nations-led, non-profit organization representing more than 210 first nations committed to advancing economic participation in major projects across Canada. The coalition was founded by first nations leaders on the simple idea that first nations should move beyond being consulted on major projects and become economic partners and owners while upholding their rights, jurisdiction and stewardship responsibilities. We do not tell nations whether to support a project. We help them get the facts and the resources so that they can decide for themselves.

On Bill C-39, we share the goal of getting nationally important projects built with first nations as partners and owners. Whether a faster process gets us there depends on how the bill treats nations' rights, capacity and access to capital. Indigenous participation is central to that goal and to economic reconciliation. Speed works only when nations are at the table as owners and on fair terms. We also expect the bill to be applied consistently with the United Nations Declaration on the Rights of Indigenous Peoples Act.

The government has said it wants nations involved from the start. Its timelines can work if these conditions are in place. Without those conditions, the bill risks producing approvals that come quickly but projects that are slow to build because they end up being contested.

First, nations should be owners, not only consultees. Ownership gives nations a lasting stake in projects on their territories and a reason to make them work, and that makes projects less likely to stall. We urge the government to treat the opportunity for indigenous ownership as a central objective of national interest projects, not a side benefit. Some nations will choose other benefits, such as revenue sharing, contracts or jobs. That real choice belongs to each nation. When a nation does not want to own, that option has to be real.

Second, ownership depends on access to capital. Many nations have viable opportunities to take equity stakes but face structural financing disadvantages compared to other governments and investors. We welcome the doubling of the federal indigenous loan guarantee program to $10 billion, but with roughly $630 billion in major energy, mining and forestry investment planned over the next decade, we estimate that first nations' equity will need to be $50 billion or more in guarantee support. That is a 5:1 gap. Guarantees also need to be predictable and have consistent terms across all sectors so that every deal does not start from scratch.

Third, faster processes require funded capacity. Bill C-39 commits to federal decisions within one year, once the proponent's information is complete, and makes coordinating consultation with industry groups part of the assessment. Compressed timelines put the heaviest loads on nations. They must review technical material, negotiate commercial terms and engage their citizens, elders and youth through their own governance and often all at once. If the government wants speed, it should fund what makes speed possible: legal, financial and technical advice and the staff to manage it.

Fourth, nations should help change the process, including through their own assessments. Indigenous-led assessments, which our guide on the subject sets out, put each nation's own knowledge and values at the centre of how impacts are assessed. The government should say how those findings will inform decisions and how confidential cultural and land use information will be protected.

We offer four recommendations to the committee as it studies the bill.

Require the government to report, for each project reviewed under the bill and with the consent of the nations involved, the level of indigenous ownership or other benefit agreements and the terms behind them, not just the percentage.

Ensure that the participant funding program in the bill that allows for consultations with indigenous groups is established, adequately funded and available from the start of the process.

Call on the government to expand indigenous loan guarantees to match the scale of the projects the bill is designed to accelerate, with predictable and consistent terms across all sectors.

Provide for indigenous-led assessment within the bill's assessment process when nations choose it. Set out how its findings will inform decisions.

First nations are increasingly prepared to lead, invest and build. Give nations fair terms and the means to take part, and this bill can deliver the projects that last. We have a place in this country's success.

Meegwetch. Thank you. I look forward to your questions.

● (1130)

The Chair: Thank you very much, sir.

We'll start with Mr. Lawrence for six minutes.

Philip Lawrence (Northumberland—Clarke, CPC): Thank you.

I'll start with Chief Carr. Your opening statement got cut off. If there is anything else from your opening statement you would like to add, I'll offer my time—or are we good?

Chief Laurie Carr: Thank you.

I wanted to add that if Bill C-39 is intended to provide certainty for investors and project proponents, it must also provide the certainty for first nations that our rights and knowledge, and the commitments made to us, will not be set aside for efficiency. We're not against development, but we want to be part of it from the very beginning, especially when it's in our territories and potentially affects our lands and waters.

Philip Lawrence: Thank you, Chief Carr. I will get back to you for some further questions, but I have a quick question for Chief Woodhouse.

Last night—it was later, so I forgive anyone who didn't notice it—the Conservatives brought a motion to extend the hearings so that we could hear from more voices. Of course, these would predominantly be indigenous voices.

Is that something you would support and encourage the committee to vote for?

National Chief Cindy Woodhouse: Absolutely. Thank you for that. It's so important that we hear from people from across the country, but there are first nations that want to talk to each and every one of you. If that time can be extended to them, we're thankful for that.

I don't know if you have anything further to add, Julie or Graeme.

Julie McGregor (General Counsel, Assembly of First Nations): I'll echo what the national chief said. We went through the process of Bill C-5 last year. It was a very truncated process.

The process of providing our discussion guide remarks was a short time period. I understand that this process may be completed within 22 days. That's a very short time period.

We very much welcome the ability for rights holders to be at the table and voice their concerns or their support. Whichever way it is for them, they should be heard.

Philip Lawrence: Thank you very much.

Thank you for those comments.

Going back to you, Chief Carr, I can remember being in Hiawatha and listening to you speak about the necessity of looking through the lens of not only whether this decision is right for today or tomorrow, but also whether it's right for seven generations.

Do you believe Bill C-39, as it is right now, will be helpful to the next seven generations?

Laurie Carr: No.

Philip Lawrence: Thank you.

One of the concerns I have with Bill C-39, and I suggest you might as well, is the early works provision that allows the government to start work on a project even before final approval and even before indigenous consultation has been completed.

Do you have any concerns about that as well?

Laurie Carr: I do. There are examples of when Canada has been taken to court or gone through a judicial review. Recently, just the other day, I read that another judicial review has gone through with the first nations in B.C. or Alberta, I believe.

We have the over-the-horizon radar in our territory. We had to work with the Department of National Defence because they didn't include us at the beginning. This is why it's so important. They found one of our villages in the archaeology and we had to stop. It got to a point at which the workers on the ground were not listening to our liaisons. One worker came this close to striking one of our workers with his bucket. We had to get on that call, and we had to reach out to our local MP to get me to the Department of National Defence and have those conversations.

That's what's happening on the ground that people may not know or hear of. That's why, if you include us from the beginning, we can help with those processes, like archaeology, that are sensitive, and we can work together on them. The way it is right now, this project could be stalled for a year because we weren't brought in at the beginning.

I can't stress enough how important working together is to do it right for all our people.

● (1135)

Philip Lawrence: Thank you. I assume that was MP Harrison. It should never have gone that far.

Does the Alto high-speed route traverse the traditional lands of the Hiawatha people?

Laurie Carr: Yes.

Philip Lawrence: I put it to the minister, specifically with respect to the early works provision, and he confirmed that it could be used in the Alto high-speed project. He sort of schlepped it off, saying that it might be a hydro pole or whatever.

I don't know what your experience is with the federal government, Chief, but mine is that sometimes things get exaggerated. The income tax was only a temporary tax, but I think it's still here. Of course, your people have much worse grievances than that.

Do you have concerns with the Alto high-speed project and the early works provision being used, perhaps, to the lessening of the rights of your people?

Laurie Carr: Yes.

We are now speaking with Alto. We haven't been overly consulted on that, and a hydro pole is never just a hydro pole.

That's the important part of consultation. When we do consultation, we can say that an area is a medicine area or a site and that maybe they should move over 100 feet. That is the importance of that. I can't stress that enough. It would also save a lot of time and court hearings or judicial reviews on Canada's part if we worked together.

Philip Lawrence: *Meegwetch.*

Laurie Carr: *Meegwetch.*

The Chair: Thank you, Mr. Lawrence.

Go ahead, Ms. Harrison.

Emma Harrison (Peterborough, Lib.): Good morning, Chief Carr.

I have learned so much from you since becoming a member of Parliament, and sometimes that has been very frustrating for you, I'm sure. We've had some very long conversations about what consultation means and what meaningful consultation means. I'm learning that it is different to each nation in how we approach that and how important that's going to be in moving forward as we approach major projects.

I'd like to talk a little about this past spring at Darlington nuclear. It was a pretty tremendous day. A lot of work was done before getting to that moment when there was this big announcement. Hearing all the chiefs speak about what it took to get to that day and what it means for generations moving forward....

I wasn't around during the beginning, and it was a very long process to get to that announcement. Throughout that process, was the consultation and engagement meaningful? What did it look like? Would it be a good case to study, moving forward, when it comes to meaningful engagement?

Laurie Carr: It was a lot of work. It was a lot of understanding.

In that specific project, OPG really came to the table with regard to that understanding of what consultation looks like and how to work with our first nations. Could it be better? Yes, 100%, but it was give-and-take on this project.

We still want that accommodation. We still need to have FPIC. We still need to consult our citizens on our work. We still need to gather that knowledge. It was a little rushed. That's why, when we talk about the potential of Wesleyville, which is in another sensitive-type area that's not been developed....

Where the Darlington site is has been developed. It wasn't as much to go through, but it was still a lot of work, and there were a lot of CNSC hearings at which we presented. It was a lot of back-and-forth and a lot of reciprocity. OPG would say that it would meet 60% or 65% of its goal, and we would say, “Why 65%? Why not do 80%?” If you're going to use paper, plant a tree. It's that reciprocity piece.

Yes, it worked with a lot of back-and-forth and a lot of clarity, but it definitely needs to be better, and we need to be at the table much sooner.

Emma Harrison: Do you have any examples from throughout that process of things that were absolutely not working? Were you heard during that process with regard to what was working and what was not?

I know there's the example of the over-the-horizon radar. That was a conversation you called me about. I contacted the minister of defence. The proponents of the project were the ones who were disregarding everything that was going on with the archaeology piece of that project.

With regard to Darlington specifically, could you give a more definite example of what was working and what was not?

● (1140)

Laurie Carr: When we were talking about species at risk and the environment, we had some challenges there. There was also archaeology found there. There was a human bone found there. It was working through those challenges, and they're ongoing. I can get you specifics from our consultation team. They would have more specifics on the steps along the way.

It took time. We would have liked to have the time to do the indigenous knowledge study and to start that with the project and have it in place so that we could say, “We can share this.”

We have worked with OPG, and we do have the framework set out for that. A lot of work—two years—went into that.

There's a lot more that could be done when it comes to that piece of the indigenous knowledge study and our own impact assessment.

Emma Harrison: Thank you.

In my understanding, creating a framework is not one-size-fits-all. We can't create a framework and have it move along from project to project, because that is insufficient.

I'm having a hard time figuring out exactly how to ask this. I'm sorry. It's for Chief Woodhouse. Are there good examples of projects across Canada in which there has been sufficient meaningful engagement?

Cindy Woodhouse Nepinak: The earlier you engage with first nations and speak with first nations, the better.

Specifically for Bill C-39, we have to make sure that we're hearing from first nations across the country. As I said, a lot of them want to come and speak with all of you. I'm sure they have examples that worked and examples that didn't work. It always depends.

Of course, relationships are always so important. As Chief Carr said, it's important that we work together. The earlier we work together, even when it's just a thought with each other, the more success we're going to have that way. When first nations are left out, we see what happens.

Thanks.

Emma Harrison: Do I have much time left?

The Chair: No.

Emma Harrison: Okay.

The Chair: We'll go to Mr. Ste-Marie.

[*Translation*]

Gabriel Ste-Marie: Thank you, Mr. Chair.

Hello to all the witnesses. Thank you for being here.

My questions will be for Chief Woodhouse Nepinak.

Kwei kaskina.

First, I would like to point out that this committee will have dedicated two hours to hearing from first nations representatives. We will be hearing from you during the second hour, and that will be it; there will be no further consultations.

Chief Woodhouse Nepinak, if I have understood your presentation correctly, there are no amendments that can be made to Bill C-39 to make it acceptable. The sections you mentioned have to be removed. Is that right?

[*English*]

Cindy Woodhouse Nepinak: I'll go to my legal counsel.

Go ahead.

Julie McGregor: Yes, that's correct. That's the interpretation.

The position of the AFN is that Bill C-39 is fundamentally flawed. We did provide a technical submission, in which we made recommendations for harm reduction within the bill, but we're not putting forward specific amendments because we feel that it is fundamentally flawed.

[*Translation*]

Gabriel Ste-Marie: Thank you very much.

My next question is also for you, Chief Woodhouse Nepinak.

Bill C-39 provides that projects may be pre-approved and started even before their impact has been assessed. Do you think that is consistent with the Crown's constitutional obligations under section 35 of the Constitution Act of 1982, which you mentioned, and with the prior consent of rights holders?

[*English*]

Cindy Woodhouse Nepinak: We have to do a better job. This is worrying first nations across the country.

We have to look a lot closer at free, prior and informed consent and respect the rights of first nations.

I'm sure Graeme can add to that, please.

Graeme Reed (Strategic Adviser, Assembly of First Nations): Yes. Thank you for the question.

There is no reference to free, prior and informed consent anywhere in the 250 pages of this proposed omnibus legislation, nor are there any provisions related to upholding the standards of the UN Declaration on the Rights of Indigenous Peoples.

Therefore, proposals like early works without the protections of free, prior and informed consent are inconsistent with the protection of first nations rights.

● (1145)

[*Translation*]

Gabriel Ste-Marie: Thank you for that answer.

During a previous sitting, we heard from Chief Benedict, who was particularly concerned about the “region of national interest” concept set out in Bill C-39, which would prevent first nations from having a say on a specific project. He was also concerned that permanently enshrining this in law would pose a real and lasting danger.

Do you have any comments about that concern?

[*English*]

Cindy Woodhouse Nepinak: We have a lot.

As I said, you've heard the Assembly of First Nations. There are fundamental issues that are wrong in this bill.

Our legal...can go into that with a lot more depth.

Go ahead, please.

Julie McGregor: Thank you.

The concern we have over the national interest designation is the lack of meaningful consultation happening with first nations prior to the designation of a project of national interest. The fact is that this would be in violation of our duty-to-consult constitutional rights under section 35, and of UNDRIP, which requires the adoption and implementation of administrative measures that may affect people. It requires FPIC before that happens, under article 19.

Those are our concerns.

Graeme, did you want to add anything to that?

Graeme Reed: The same framework used for projects of national interest is being transposed onto the approach to regions of national interest. There are deep concerns that there are no mechanisms for first nations to express their free, prior and informed consent, nor are there practices to ensure that those processes uphold the duty to consult and to accommodate, as well as consent-based frameworks.

[*Translation*]

Gabriel Ste-Marie: That's very concerning. Thank you very much.

Chief Woodhouse Nepinak, the projects covered by this bill could be exempted from the Fisheries Act and the Species at Risk Act. Does that put traditional foods of indigenous peoples at risk?

[*English*]

Cindy Woodhouse Nepinak: Absolutely, it does. It affects our rights every which way. We live off the land. That's who we are. Creator put us here to protect the land and make sure we find that way forward together. Instead of pulling us together a lot more strongly, as it should, this bill is.... What are we doing for the next generations? We have to consider this and try to find a way to work together. This seems to pull us apart and make things a little more difficult than they already are.

First nations and this country, when they want to develop, need to get to the table and work with each other. You're going to infringe on someone's land, fishing and hunting. There are major flags in this.

We ask the committee to open it up. Don't close it and go line by line until we hear from first nations across the country.

Thank you.

The Chair: Thank you, Mr. Ste-Marie.

[*Translation*]

Gabriel Ste-Marie: *Meegwetch*.

[*English*]

The Chair: Mr. Leslie, it's over to you for five minutes.

Branden Leslie (Portage—Lisgar, CPC): Thank you, Mr. Chair.

I'll start with my Manitoba colleague, National Chief Woodhouse Nepinak.

I will continue on with what you just said.

My colleague alluded to this: I was video conferencing due to illness last night, but we voted on that motion to extend the number of witnesses. There was a Liberal MP from Hamilton, I believe, who, instead of just voting no to the motion, voted “hard no”, which I thought was fairly disrespectful to you and the many other witnesses who have brought up the tight timelines.

I'd like to start by focusing specifically on regions of national interest.

Now, this is an extraordinary power because cabinet could designate an entire geographical region. In a different committee, I talked to the environment minister about designating all of Manitoba, for example, as a region of national interest to allow certain types of projects within that area to move through an accelerated process.

Do you think we should put some clear guardrails around when that power can be used?

Cindy Woodhouse Nepinak: Absolutely.

As you heard in my remarks, for environmental protection; the focus on free, prior and informed consent; section 35; and all those things, first nations are at a crossroads with Canada right now, in terms of our relationship. The trust is very fragile. I'm really thankful to the premiers and the Prime Minister for meeting with us last Monday. However, that's the first time this country has ever met with first nations. That's unacceptable. We have to find a path forward.

First nations, as Chief Carr and many other chiefs have said, want to grow. We're not against development, but we need to be part of this country, and we need to have some of these hard conversations when it comes to the environment, of course, and the protection of water. We have another water bill coming through the House of Commons that I'm sure we'll be talking about shortly—source water and other things we're trying to protect for all of us. As Chief Carr said, protect it for your children, your grandchildren and your great-grandchildren. That's how we should all be thinking.

Thank you.

I don't know if you have anything further to add. Go ahead, Graeme.

● (1150)

Graeme Reed: *Meegwetch*, National Chief.

The regions of national interest rely on the same framework used in projects of national interest, and first nations have expressed substantial concern with the latest designation. I'm not sure if it's exclusively a question of guardrails around that process or whether that's an appropriate mechanism to support first nations-led assessments within their territories.

Julie McGregor: The guardrails would be upholding the duty to consult in UNDRIP. I think the regions of national interest are fundamentally at odds with the duty to consult in UNDRIP.

Branden Leslie: Thank you.

I had the opportunity to talk to Dawn Farrell, the CEO of the Major Projects Office, and since then, there have been nine more court challenges launched by first nations regarding the Pacific link pipeline. I asked her for her level of confidence. I tried to do it on a scale of zero to 100. Her level of confidence in whether the process of indigenous consultation would stand up to court challenges was high given the initial tranche of challenges.

What is your assessment of the legal consequences of the indigenous consultation process undertaken by the MPO thus far?

Julie McGregor: The duty to consult and the jurisprudence that has evolved from the Supreme Court have provided a good framework for how we look at the duty to consult and how we apply it. Haida Nation spoke to the fact that consultation is on a spectrum depending on the effect on first nations' rights. It could be from low consultation to very deep consultation, which requires a lot of engagement early on in the process with first nations.

Of course, if we look at UNDRIP and UNDA, as it has been applied in Canada, these provide the assessments and the guardrails for how we should be looking at these decisions.

Cindy Woodhouse Nepinak: When it comes to the Major Projects Office, this country can create all the offices it wants, but there's going to be no getting around first nations' rights. It has to have those conversations with each of our nations across the country. That's what we expect.

With regard to the head of the Major Projects Office, it's very disheartening that we've invited them to come and speak to the chiefs and the assembly. We have assemblies twice a year, once in July and once in December, and we'll extend that invitation again and see if it's accepted. If not, well, there's part of the problem.

The Chair: Thank you, Mr. Leslie.

Dr. Martin, go ahead.

Danielle Martin (University—Rosedale, Lib.): Thank you very much.

Thank you to all of you for being here today. I'm very grateful for the clarity of the messages that you're all bringing.

I want to bring Mr. Laronde into the conversation, but I have one question for National Chief Woodhouse Nepinak.

I'm very grateful to you for your work on behalf of over 600 first nations across the country. I want to emphasize that we have had an opportunity as a committee to speak with some of your member nations and some of the regional bodies that make up the AFN, and they brought really important perspectives to this committee.

We also had the opportunity to read the paper that AFN published in advance, because there was, of course, an engagement that took place over months leading up to the presentation of this bill, when over 700 indigenous groups were reached out to by the Government of Canada. There was valuable input that came into this process through that as well.

I like to think about the work of this committee as being part of a continuum of engagement, and of course, that's an ongoing obligation. We've heard you loud and clear that the duty to consult and accommodate as upheld in the constitution and that the commitment to UNDRIP remains unchanged are non-negotiable, and we agree.

I'm hoping you can speak specifically to the proposals in this bill that are intended to try to facilitate that engagement and consultation process, specifically the indigenous consultation hub concept. I can't speak for any first nation, but it does seem to me that the process...we heard Chief Carr speak about how onerous it can be and how much time, effort and energy it takes to engage as an indigenous community in a consultation.

The intent of that hub is to try to make the process a little easier in terms of indigenous communities' interaction with the proponents, with the regulators and with the government. It can be many groups that an indigenous community is asked to engage with.

Can you speak to whether you see any value in the notion of a hub and what your views are about that?

● (1155)

Cindy Woodhouse Nepinak: As I said, we are meeting again in December with our chiefs and assembly. Of course, we can always have these discussions as a whole right across the country.

I want to hand it off to our expert. She's done many projects, so if I can, I'll give that discussion to Chief Carr.

Thanks.

Laurie Carr: I don't know that an indigenous hub would work. First nations may engage with their sister nations through their treaty or individually. For a lot of first nations, you engage with our nation; nobody speaks on our behalf. In our Williams Treaties, we have four Michi Saagiig communities and three Chippewa communities. We work together to the best of our ability, but to create a large hub, that would not work.

Danielle Martin: Thank you.

To clarify, the intent of the hub is not for the Government of Canada to force indigenous communities to work together in any particular way. I think we all understand and respect the rights of communities to do what works for them. Rather, the intent is to have a point of contact on the side of the government for those communities to engage with.

I'd like to ask Mr. Laronde about his perspective on that around major projects.

Do you see a value in the notion of a hub? Do you think that's something that your members numbering in the hundreds would see value in?

Tim Laronde: I'd like to piggyback on Chief Laurie's and Chief Cindy's comments. There are over 600 first nations in Canada, and each one is at a different stage of their journey towards self-determination, so it's very difficult to put everything into one hub.

I can give you an example, though, of what the coalition is doing. In the feedback from our members, we're finding that there are regional challenges. Just last week, I was giving a workshop on getting a nation's investment ready in the Northwest Territories, so I was in Yellowknife for the day with my colleagues. We spoke to them and got feedback from them on what some of their unique challenges are in location, capacity and access to capital. These are things that are important to them and that they're finding very challenging.

What we've learned at the coalition is that.... Even though we're a national organization and we're not even 10 years old, we've grown from 11 members to over 200 members in that time. Our conference in April now draws over 2,000 people a year, from nations to industry and government, who want to learn how we can all work together. That's a positive thing.

I don't think a national hub would work, but I would certainly be open to the idea of regional hubs, sort of like what we did in Yellowknife. We've also done this in Whitehorse, Yukon, and we plan to do this in Manitoba as well, because that's the feedback we're getting from members.

We're open to some form of that, but any time you get an opportunity to build capacity for nations to help them create wealth, that's something that we're very much in favour of.

● (1200)

The Chair: Thank you, Dr. Martin.

Mr. Ste-Marie, go ahead.

[*Translation*]

Gabriel Ste-Marie: Thank you, Mr. Chair.

I will turn to you again, Chief Woodhouse Nepinak.

As mentioned in previous discussions, on Friday, nine first nations filed court challenges to the Pacific Link pipeline's route. That now makes 10 court challenges to that project and two more general challenges to the Build Canada Act.

Do you think Bill C-39 poses a similar risk of legal action?

[*English*]

Cindy Woodhouse Nepinak: Nothing's off the table. We saw with Bill C-5, when that went through very fast, how difficult the relationship grew after that. Wasn't that legislation rammed through in 20 days? It created a lot of controversy and distrust between first nations and the Government of Canada. As I said, I come to this committee today to ask you to extend that—to open this committee up and extend the timelines to make sure that first nations are a part of that.

Absolutely, it creates distrust, and nothing is off the table for any of the first nations when projects come through. That does a disservice to everybody, including industry, first nations and all levels of government.

Julie, do you want to say anything further?

Julie McGregor: As we said originally, we feel that Bill C-39 is a fundamentally flawed bill that may violate the duty to consult for first nations and the principles under UNDRIP.

In looking at the law, the development of the law and the duty to consult in UNDA, it is likely that there will be many court challenges. There was a question of confidence brought up by another member. We bet on our people. Our people are connected to the land, they know their lands, and we know the law, so we're confident.

[*Translation*]

Gabriel Ste-Marie: Thank you, *meegwetch*.

Thank you, Mr. Chair.

[*English*]

The Chair: Thank you, Mr. Ste-Marie.

We're going to do one more round for the Conservatives and the Liberals for three minutes each.

Mr. Albas, you're up.

Dan Albas: Thank you, Mr. Chair.

Again, thank you to all our witnesses for being here today.

I'm going to start with National Chief Cindy Woodhouse from AFN.

Thank you again, Chief, for being here today.

Following up on what both Mr. Lawrence and Mr. Leslie have said, the issue wherein provisions of this bill force first nations to contest them in court is likely. Would you agree with that?

Cindy Woodhouse Nepinak: As I mentioned earlier, we had a first ministers meeting together last Monday, for the first time ever. That's how cold our relationship has been in this country for a long time, and this bill doesn't make it any warmer.

Just when we're trying to start to work together in this country, a bill like this is thrown at the relationship, and it makes it a bit tough. We end up in court again when instead we should be doing political processes with each other, talking with each other and working through many of our issues that we need to work through.

When bills like this are rammed through and first nations aren't given that time to present, it just creates division. I always want this country to work—first nations want this country to work—but when we're not talking at the table and the only time we ever meet is in court, that's a problem. It continues to cause a problem here.

Dan Albas: Do you think there should be an amendment to the bill asking the Minister of Justice to look at making sure the Federal Court is ready for potential new cases being brought as a direct result of Bill C-39?

Cindy Woodhouse Nepinak: If we moved back to free, prior and informed consent and the rule of law in this country when it comes to the rights of first nations, we'd be on a better track.

Dan Albas: My colleague Dr. Martin mentioned the hub as a way for IAAC, the Impact Assessment Agency of Canada, to consult with first nations, and Mr. Leslie talked about the issue of regions of national interest.

One of the things that Bill C-39 allows is for IAAC to do a proper process wherein first nations feel respected, but when that designation of a regional interest comes, the minister responsible for the Building Canada Act can unilaterally make changes during the scheduling process despite what was heard and despite what was agreed to.

Do you believe that needs to be changed?

● (1205)

Cindy Woodhouse Nepinak: Absolutely. This bill is fundamentally flawed right from the get-go. If we're going to work at free, prior and informed consent, and we look back at Bill C-5 and how tough that was on people and environmental groups right across the country, I think that we have to do better. The potential that this will be rammed through by Christmas is unacceptable.

I'll pass it over to Graeme.

Graeme Reed: Briefly, what the national chief shared about regions of national interest reflects the ongoing concern that first nations and the AFN have raised about an expansive consideration of ministerial discretion. The concern first nations have is that this does not respect free, prior and informed consent.

Also, I have a quick comment on the hub—

The Chair: Comment very quickly, Mr. Reed.

Graeme Reed: There are multiple hubs, depending on the process that a project goes through, so it's a bit of a misnomer, and it doesn't forgive a process that is flawed.

The Chair: Thank you.

Ms. Desrochers, go ahead.

[*Translation*]

Caroline Desrochers (Trois-Rivières, Lib.): Thank you very much, Mr. Chair.

I'd like to thank the witnesses for being here.

[*English*]

I fully understand what you're saying. Thank you for conveying those concerns and for, as my colleague mentioned, all the engagement prior, over the summer.

What seems to be lost, maybe, and I just want to understand, is that when you're engaging with your members...is it clear for them that the one-year timeline can always be stopped at any point in the context of ensuring this engagement and meaningful consultation with indigenous groups? Do you think that's clear for your members? That's my first question.

Graeme Reed: One important point of clarification is that the Assembly of First Nations made a submission to the discussion paper process. None of the concerns that were laid out were reflected in the updated bill. None of the non-negotiables that were articulated were reflected in the bill. Even if this engagement process is a continuation, it means there's a disingenuous engagement process, because none of what was recommended through our processes was reflected in the updated bill.

On the timeline stoppage, there is no specific provision that allows first nations to stop timelines. There is for proponents, of course, and there is at the discretion of ministers, but even that ability has been decreased in the legislation itself. I think our members continue to be concerned with the usage of timelines. In fact, one year is a process that they are navigating.

Caroline Desrochers: The concern is that it's more up to the proponent as opposed to up to the group.

To go back to the consultation hub, what would make it stronger in terms of its ability, if we were to move toward that, to engage with the different groups, understanding that they are at a different place in their journey to self-determination?

Cindy Woodhouse Nepinak: Thank you for the question.

First and foremost, I think you need to make sure you're asking each first nation if they're interested in that ahead of time and what would work for them rather than, "Here's what we want to prescribe. This is what works for you." There are different nations, different language groups, different tribal councils and different treaty areas. They're the experts on the ground where they're from. They know what they want. Prescribing them another process beforehand, yet again, is always problematic. If you talk to first nations right off the bat, you'll clear up a lot of those unknowns, so to speak. They'll tell you exactly what they want. If this country wants to get this right, that's first and foremost.

As I said, we have our chiefs in assembly in December. We look forward to further conversations. We hope you'll join us there and listen to the first nations from coast to coast to coast as they deliberate on this bill. That's where they have to deliberate, unfortunately, if they're not welcome to this table. It comes out there. It spills out there, and let me tell you, there are collective rights and unity amongst chiefs from coast to coast.

Thank you.

● (1210)

Caroline Desrochers: Thank you very much.

The Chair: Thank you, Ms. Desrochers.

Thank you very much to all the witnesses. I appreciate your being here to share your insights. It's very helpful and very meaningful.

Meegwetch.

We will suspend for a few minutes and get ready for the next panel.

● (1210)

_____(Pause)_____

● (1215)

The Chair: Welcome back to meeting number seven of the House of Commons Legislative Committee on Bill C-39 and our last panel.

I have a few comments for our witnesses.

You've all testified to committees before, haven't you? You're all nodding firmly.

Okay. I can skip over some of the instructions about how to work your earpieces and whatnot, if that's all right with you. You will be asked questions in both official languages, so do have them at the ready, and please address all comments through the chair.

I would like to welcome today's third and last panel. We have, from Canada Steamship Lines, Guillaum Dubreuil, director, external affairs and government relations, and from the Business Council of Canada, Goldy Hyder, president and chief executive officer, and Michael Gullo, vice-president of policy.

Each organization will be given up to five minutes for opening remarks. After that, we'll open the floor to questions.

I will start with Mr. Dubreuil.

[*Translation*]

Guillaum Dubreuil (Director, External Affairs and Government Relations, Canada Steamship Lines): Thank you for having me.

For over 175 years, Canada Steamship Lines has carried the goods that build, feed and grow Canada. Still proudly Canadian-owned, Canada Steamship Lines operates 17 vessels on inland waters, as much on the Great Lakes as on the St. Lawrence River and in the Atlantic provinces.

These vessels specialize in dry bulk handling and carry the raw materials that support infrastructure projects, manufacturing, agriculture and energy production, as well as other cargo essential to the Canadian economy.

We therefore strongly support the introduction of Bill C-39 as well as measures to strengthen the country's supply chains. However, certain aspects of the bill could be improved to better support Canadian shipping and the industries we serve.

[*English*]

CSL welcomes the creation of a transportation project office. We have long said that there needs to be an economic development champion within Transport Canada. This office could be it, if, in addition to coordinating approvals, the office would also look at helping to resolve regulatory barriers, supporting competitiveness and providing a clear pathway for innovative industry projects.

Furthermore, we recommend that the office not be limited in scope only to fixed infrastructure projects. Seawaymax vessels are specifically designed to be operated on the Great Lakes St. Lawrence Seaway and cannot be used elsewhere in the world, essentially rendering them a unique and essential domestic asset. Also, since the CSL fleet carries approximately the same quantity of cargo that crosses the Samuel De Champlain Bridge every day we operate, having the office support fleet renewal projects for shipowners like CSL would go a long way towards supporting Canada's economic growth.

CSL also supports the bill's efforts to improve supply chain efficiency through the designation of national trade corridors. As provisions are implemented, we encourage the Government of Canada to formally recognize our Seaway system as a national trade corridor. It is one of Canada's most strategic transportation assets and is essential for domestic supply chains and expanding access to new markets. However, it is also unique. For this reason, we recommend that the government nominate Seaway experts for the national trade corridors council when it is created.

CSL would like to raise concerns about the adoption of international standards and obligations mentioned in proposed section 49.07. International harmonization can be good, but we have seen many instances in which well-meaning government officials have tried and often succeeded in implementing international standards meant for deep-sea saltwater ships in our Great Lakes. The Great Lakes St. Lawrence navigation ecosystem is unique in the world, and any standard that was not developed specifically for our waters cannot be implemented without meaningful industry consultation and an assessment of regional operational realities.

Similarly, the proposed modifications to the Coasting Trade Act will harm and weaken Canada's domestic fleet of vessels. While CSL understands that emergency situations can require governments to act quickly, there are already measures in place in the Coasting Trade Act to address such situations. Opening a breach in our domestic cabotage system under the guise of an emergency is an easy way to allow international vessels crewed by foreign sailors unfamiliar with our geography, our regulations and our reality to operate in our waters. We urge the committee to strike or amend this section.

Finally, CSL largely supports the measures in Bill C-39 aimed at improving the reliability of Canada's transportation system. In our sector, predictability is key, and vessel schedules and cargo deliveries are planned weeks in advance. While we strongly believe in the right to strike, the current 72-hour notice period provides insufficient time for carriers, ports and customers to safely manage vessels and cargoes already in transit. For these reasons, CSL recommends extending the notice period for strikes or lockouts in the marine shipping sector to 15 days.

In closing, CSL supports the overall direction of Bill C-39. For centuries, Canadian marine operators at large and CSL in particular have provided safe, reliable and efficient service to the industries that power our economy. As Parliament considers this legislation, we urge you to preserve that strength by maintaining the principles of the Coasting Trade Act, ensuring meaningful consultation on regulatory measures and creating the conditions for investment in the next generation of vessels.

Our message today is straightforward: Strengthening Canada's trade corridors means strengthening Canada's domestic marine industry.

● (1220)

[*Translation*]

Thank you for your time. I look forward to answering your questions.

[*English*]

The Chair: Thank you very much.

Go ahead, Mr. Hyder.

[*Translation*]

Goldy Hyder (President and Chief Executive Officer, Business Council of Canada): Good afternoon.

Thank you.

[*English*]

It's a pleasure for me and for my colleague Michael to appear before you at such an important time for the country.

The Business Council of Canada comprises 170 chief executives and entrepreneurs in Canada's leading enterprises. It was founded in 1976, and its mandate is to make Canada the best country in the world in which to live, work, invest and grow.

Canada's economy, today, is facing unprecedented challenges, and it will take a monumental effort by policy-makers, the private sector and Canadians to come together and chart a new course that preserves the country's sovereignty and economic capacity. The urgency of this matter should not be understated.

Canada is making tremendous progress towards removing the structural barriers that have compromised investment in energy and natural resources, as well as the supply chains that support them. Following on a successful investment summit and major policy announcements like the mega superdeduction, the measures proposed in Bill C-39 are consequential and would have significant implications for Canada's economic future.

At the same time, the world is on the verge of a global commodity boom that Canada cannot afford to miss. At this critical moment, we must make capital feel welcome in Canada. In this regard, Bill C-39 includes important provisions that would speed up project approvals and permitting, improve supply chains and modernize the Canada Labour Code so that collective bargaining processes are improved and disruptions that have national consequences are kept to a minimum. Taking these things together—and that's the important point—this bill could supercharge the work done by the government to date to build a stronger Canada through better jobs, higher incomes and greater economic stability.

Let me be clear: We support it. Inefficient project approval regimes underserve Canada's economic potential. Years of underinvestment in trade-enabling infrastructure mean the country's export capacity has been stretched to the maximum. Reoccurring labour disputes at our ports, railways and airlines put into question the country's reputation as a reliable trading partner. Our inability to produce and move our goods to our customers limits growth, suppresses pricing and constrains the country's ability to compete in global markets.

As you review this bill in detail, I urge you to focus on three important points.

The BCC endorses the government's plan to permanently accelerate federal assessment and permitting processes. Improvements that streamline timelines to one year would accelerate investments in new projects and at existing facilities and properties. However, success would be contingent on the ability of private sector regulators and the most relevant communities to align and clearly define the parameters of a project and the information regulators require to process an application.

The BCC also supports the government's efforts to improve investment in critical supply chains. As Canada is a trade-dependent country, efficient transportation networks are essential to maintain Canada's competitiveness as a major exporter.

Lastly, efforts to modernize the Canada Labour Code are long overdue and welcome. Structural predictability in labour relations is critical to the government's stated objectives of strengthening supply chains, attracting investment and building trade-enabling infrastructure. The measures proposed in this bill are important and would modernize the collective bargaining process.

However, let me be frank with you: Disruptions in certain parts of our supply chain have outsized and cascading impacts on the national economy and Canada's standing as a trading nation. The simultaneous railway work stoppages in 2024 created an economic shock that lowered annualized GDP by 0.4% in the span of just one week. When ports, railways and airlines shut down, farmers cannot move grain, miners cannot ship potash, manufacturers lack critical inputs and retailers face inventory shortages. Employers across the economy are forced to curtail operations and, in many cases, furlough employees who bear no part in the underlying dispute.

This is why we strongly believe that the legislation should equip the federal government with the authority and the tools necessary to protect the national interest, including the ability to prevent work stoppages that have national-level impacts. The responsible thing for government to do is maintain the option to intervene at any point when it is in the national interest to do so.

● (1225)

Finally, as you review this bill, I urge you to view the measures contained in it as interconnected components of a broader effort to strengthen Canada's economic capacity. A major project will not be successful without efficient supply chains. A supply chain can't operate without reliable ports and transportation networks. The success of this bill depends on maintaining an integrated approach throughout implementation.

Thank you.

The Chair: Thank you very much.

We'll start the first round with Mr. Albas.

Dan Albas: Thank you, Mr. Chair.

Thank you to our witnesses for sharing your expertise with us today.

I'd like to start first with Mr. Dubreuil.

Mr. Dubreuil, you talked about the Coasting Trade Act changes as being unnecessary. I agree with you. We've had other witnesses come and say that this is a solution in search of a problem. Would you agree with that assessment?

Guillaum Dubreuil: I absolutely would. In all the discussions we've had with Transport Canada so far in trying to determine what specifically would constitute an emergency situation that is not already covered in the Coasting Trade Act, we have not found a satisfactory example. I would fully agree with that assessment.

Dan Albas: I've spoken with people on the union side. I've spoken with people like you on the corporate side and with some people on the not-for-profit port side who all agree with that. I hope the government will support repealing that section of the act.

When it comes to Transport Canada, getting things done is very important. Having a single window would be helpful, wouldn't it?

Guillaum Dubreuil: Absolutely. I'm going to say that this is very true not only within Transport Canada but also within other departments. Often, projects in the transportation sector and the marine transportation sector will cut across multiple departments. For instance, CSL has been advocating for the approval of biodiesel here in Canada. It requires approval from Environment and Climate Change Canada, from Transport Canada, from other departments and from involvement with DFO as well. Obviously, that creates a huge level of regulatory burden.

● (1230)

Dan Albas: I'm glad you raised this. If you look at part 1 of the bill, the statutory one-year deadlines in clause 2 are just a declaration, a directive from cabinet. It is also more like the Major Projects Office, in that it has no formal authority. Even among divisions within Transport Canada, this transportation projects office that Minister MacKinnon is setting up is completely toothless. If you look at things like Roberts Bank, ECCC and species at risk issues were the remaining permits before they decided to pull the BCA parachute.

What would you think about having a one-window responsible authority that could coordinate and have some teeth to get all those things coordinated with some authority? If a job isn't done—let's say DFO doesn't issue a permit for a port or there's a SARA permit—they could name and shame the department responsible.

Guillaum Dubreuil: CSL has long advocated for Transport Canada to have some form of economic development champion within its structure. That is currently lacking. Transport Canada is generally seen as a regulatory agency, which means that their natural reflex is often to say “no” first and then evaluate a project. I hope that this would change that perspective. The more we can strengthen that project office within Transport Canada and the more we can, as you mentioned, give it teeth, the better off we will be.

Dan Albas: Mr. Hyder, you seemed to be nodding in agreement. Do you believe that there should be an authority given to Transport Canada in part 2 of the bill that is similar to the one given to these other authorities in part 1?

Goldy Hyder: I would defer to my colleague, who has expertise in the transportation sector. I would point out that the way he positioned it, the department comes at it more from the perspective of a regulator as opposed to an enabler.

Dan Albas: Thank you, sir.

Mr. Dubreuil, right now your ships are having to compete with American vessels. Has the government made any progress on reducing the red tape regarding ballast water restrictions so that you're harmonized with the Americans and you can compete with them? Have they done anything to try to have it such that the class of vessel you were referring to...that can't even dock in American ports?

Guillaum Dubreuil: You're absolutely right. On about 45% of the trades that CSL operates year in and year out, we do compete with American shipowners. Currently, at this point there are some discussions happening with the department on solving the ballast water regulatory issue. It currently is not harmonized between Canada and the U.S., giving somewhat of a competitive advantage to our U.S. counterparts. No permanent solution has been found so far, and neither has anything been implemented.

Similarly, Atlantic provinces, as you rightly mentioned, are basically left stranded right now. Near coastal vessels—a category of vessels created by Transport Canada—cannot dock in U.S. ports. Basically, transits, or cargo and trade between the Atlantic provinces and the U.S., are currently curtailed.

Dan Albas: Thank you.

Mr. Hyder, in regard to the section 107 provisions, we believe the special mediator needs special powers to compel...and to create good-faith bargaining. Give them more of a mandate, rather than just a report that could say the parties never met.

Do you believe having those things to prevent strikes would be helpful?

Goldy Hyder: So that the committee is aware, I served on the minister's tripartite council, representing.... I was one of three business leaders. We had three labour leaders. We had robust discussions about the outcome and how to get to the outcome.

The intention, as I understand it, is to create a mechanism whereby the government could appoint a mediator to bring the parties together to help resolve the issue. If that didn't happen, it would go to the minister. At the same time, a national interest test is being determined for going to the minister.

Our concern is—

Dan Albas: My question is on the amendment that we have been proposing to various business groups, one that seems to be getting a lot of play: specifically giving the special mediator special powers to compel.... It would not simply say that we have a special mediator who will write a report. That's what's on offer right now.

Goldy Hyder: We would prefer that the mediator have the capacity to bring the parties together to work towards a resolution.

● (1235)

Dan Albas: Thank you, sir. I appreciate that.

The Chair: Thank you, Mr. Albas.

Go ahead, Mr. Bains.

Parm Bains (Richmond East—Steveston, Lib.): Thank you, Mr. Chair.

Thank you to our witnesses for joining us today.

I understand the importance of our port networks. My hometown of Richmond, British Columbia, makes up one of the 16 communities in the largest port network we have in this country. It's $1 billion a day and 40% of our economy in Canada.

I want to talk a little about the potential this bill could have, whether it's for our marine sector or our trade corridors. If the bill is geared towards improving our port networks and trade corridors, and towards creating opportunities for the expansion of our marine infrastructure, do you think Canadian consumers could feel the benefits of a more competitive marine sector?

The question is for you, Monsieur Dubreuil.

Guillaum Dubreuil: Thank you very much for the question.

I'm going to say absolutely. It is a widely known fact that up to 80% of the goods we consume on a daily basis transit by ships, and therefore, they are loaded and unloaded at various port points in Canada. Improving the efficiency of those ports and of that cargo transit mechanism—and improving the efficiency of the seaway and all portions of that marine supply chain—would help businesses be, as we just mentioned, more efficient.

Therefore, they would be able to lower costs. That would ultimately be reflected...for consumers. There's no doubt.

Parm Bains: Okay.

Let's look at some of the other pieces in the legislation.

The enabling digital trade act in Bill C-39 would streamline maritime operations and lower costs for Canadians and the businesses that rely on your fleet.

Throughout the meetings we've had, we've heard quite a bit of witness testimony on replacing paper-heavy documentation.

Can you shed some light on that?

Guillaum Dubreuil: This is something that we fully support. It would be a huge benefit for our crews, honestly—the people navigating on board our ships who often need to fill out multiple documents when they are coming into ports. Not that long ago, they needed to fill these documents out in triplicate. Having a digital option, which has slowly been making its way into the marine sector, is something we would greatly welcome.

We've already started to see some changes. These things are more efficient wherever operations have gained speed and wherever the red tape burden has been lessened on our crews.

That is something we would welcome.

Parm Bains: Thank you.

I'll go to Mr. Hyder.

The Business Council of Canada has emphasized that labour stability is critical to attracting investment and supporting economic growth.

From the perspective of Canada's largest employers, how do the early bargaining and mediation measures in Bill C-39 help create conditions for successful collective bargaining and fewer labour disruptions?

Goldy Hyder: Thank you for the question.

As I mentioned, my time on the tripartite council allowed us to dive into these issues.

We should remember that what we're targeting here is probably less than 5% of strikes. The vast majority of strikes are resolved as they should be resolved: at the bargaining table. Those other 5% are usually the ones at choke points in our economy. They are the arteries of trade. They are, as my colleague mentioned, essential to our economy.

Our view is this: What the bill would do is allow for momentum to continue to make Canada competitive. The suggestion that we would prevent some strikes from happening is encouraging. However, the lever I'm identifying, which I feel has been missed here, is that any government of the day can only respond after a strike has happened. As you heard this morning from the CEO of WestJet, one minute means four days of delay in airlines. Each minute has consequences for average Canadians, who are not responsible for what's taking place. Giving yourselves, as a government, the option to bring about section 107 in advance of that is one of the main messages we have on that piece of the bill.

Parm Bains: We learned earlier today about the days lost. We were looking at the 5% number, but on the days lost, do you feel that the special mediator's being assigned to help right off the top is helpful in this?

● (1240)

Goldy Hyder: Anything that brings the parties together to work towards a resolution is preferred, but as I've indicated, the fiduciary duty of the government is beyond any one strike that's taking place. The duty is to the well-being of our country and our country's economy. If there's a tool available to the government to have that option to intervene when it is required to do so, because the work of the mediator may or may not have produced an outcome, then we feel it's responsible for the government of the day to have that lever.

Parm Bains: Talking a bit about the unjustified tariffs that we have and the diversification that Canada has set out to work on—the Prime Minister is working hard diversifying trade—how will the measures in this legislation help Canadian businesses pivot to new markets? Is there anything in here that you see?

Goldy Hyder: After a very difficult decade when we saw $1 trillion leave the country, we are now at a place in which Canada is cool again in the world. Canada is of interest to investors who want to build in Canada and want to be in Canada.

Money follows message. We have to recognize that we're in a competitive landscape. Just because we want capital, that doesn't mean it's going to form here. Germany had an investment summit. France and Ireland had one. We are in a competitive landscape, so everything that we can do to send the message that we're not just doing it in words but we're doing it in actions is key.

Canadian businesses have long been diverse, especially in the services sector. It's the hard goods that we are challenged with because of the choke points of the ports and because of the challenges that we face, including for time lost to labour; ours is among the worst records in the world. That is not something we should be proud of at all.

The Chair: Thanks, Mr. Bains.

Go ahead, Mr. Ste-Marie.

[*Translation*]

Gabriel Ste-Marie: Thank you, Mr. Chair.

I'd like to welcome the witnesses and thank them for being here.

Mr. Dubreuil, you're asking for the government to withdraw clause 289. Is that correct?

Guillaum Dubreuil: I don't have the number here.

Gabriel Ste-Marie: It has to do with the Coasting Trade Act.

Guillaum Dubreuil: Yes, indeed.

Gabriel Ste-Marie: Okay, thank you.

The current regime already allows for the use of a foreign vessel when no suitable Canadian vessel is available, including through fast-track mechanisms. This clause eliminates the need to check Canadian availability beforehand. Is that correct?

Guillaum Dubreuil: Yes, that seems to be the case, from what we understand. It would be possible to immediately use a foreign vessel to do the work instead of checking whether a vessel that sails under the Canadian flag and employs Canadian sailors is available to respond to an emergency.

Gabriel Ste-Marie: Thank you.

Do you understand why the government is doing this? Have foreign carriers lobbied for this and called for this to be added? More importantly, if these provisions are implemented, what will be the impact on Canadian expertise, the investments here and the trained workforce?

Guillaum Dubreuil: It's very difficult for me to answer that, that is, who is pushing for these changes to the coasting trade regulations and what justifies them.

What I can tell you is that, in our discussions with the people at Transport Canada, we asked them to explain the type of emergency that would not already be covered by the act or the type of emergency that would require a faster mechanism than the one currently available. Their answers were unsatisfactory to us. We weren't given much in the way of concrete examples.

In terms of the direct impact that can have, I would say that, especially if we're dealing with an emergency, very few people are as qualified as Canadian sailors to know how to navigate our waters, how to respond to an emergency and how to handle a ship.

We therefore strongly encourage vessels that sail under the Canadian flag to employ Canadian sailors to respond to these emergencies. We think that is the best situation. If there ever aren't any Canadian vessels available, the next step is to go back to what you were saying, that is, a situation for which a mechanism already exists in the act.

Gabriel Ste-Marie: In an emergency, then, it's better to rely on our strengths, our resources, our workforce and our expertise, rather than subcontracting those things to foreign companies.

Guillaum Dubreuil: That is absolutely true, especially considering that the foreign companies that are geographically closest to us are American companies. They could therefore take advantage of the system to come and do more business here in Canada in what would be deemed emergencies.

Gabriel Ste-Marie: Thank you.

My next question is for Mr. Hyder, and it concerns a completely different topic.

In the previous hour, we heard from first nations representatives. They came to talk about the issue of designating major projects or regions of national interest. What they told us was that there was no amendment that would accommodate them and that they were not at all happy with Bill C-39 as drafted. They talked about the duty to consult and accommodate, the obligations, the timelines that are set, as well as the fact that projects can be started before studies have been done and before first nations have been consulted. In their view, that doesn't work at all, and there is no amendment that could make it acceptable.

Does Bill C-39, as currently drafted, pose a problem when it comes to the stability or development of first nations rights?

● (1245)

[*English*]

Michael Gullo (Vice-President, Policy, Business Council of Canada): Thank you for the question, Monsieur Ste-Marie.

So that I understand explicitly what you're asking, are you referring to the regional economic zones or are you referring to the process as it's spelled out writ large?

[*Translation*]

Gabriel Ste-Marie: There are designated economic regions, but I'm talking about everything that covers what will be designated as projects of national interest.

[*English*]

Michael Gullo: Let me start with this. In Canada, there's the rule of law, and the Constitution prevails. Our members, when we look at major project opportunities, will double down on every ability to meet those obligations. In addition to the constitutional requirements, we also have many significant pieces of legislation in this country around environmental protection. None of these will be skirted.

The idea that a faster process may erode the ability of our members to fulfill the responsibilities as spelled out in legislation or the Constitution needs to be seriously challenged. We've come a long way. Our members will say they've come a long way in terms of getting this right, and we're really starting to pick up momentum.

I would argue that Canadian companies are globally respected and known for their reputation as responsible producers. I don't think we have many competitors out there when it comes to co-creating economic opportunities with our indigenous peoples.

That's the way we look at things.

[*Translation*]

Gabriel Ste-Marie: Thank you.

One point the representatives raised earlier was precisely the fact that nothing in the act makes it easier to co-create businesses with first nations.

Is that something you think could have been included to make the bill more acceptable to first nations?

[*English*]

Michael Gullo: Frankly, I think it's a very difficult thing to codify in legislation.

That being said, we're in a very privileged position in that it's really our members, the large employers in Canada, that are leading the way on economic reconciliation in terms of working with relevant communities, identifying economic opportunities and advocating for certain solutions, like the national loan guarantee program and stronger capacity building at a nation level, so that they can be more meaningfully engaged in economic opportunities.

We feel that we're doing the right thing. Codifying it would require some serious study, based on practical limitations of what's possible versus what's not.

[*Translation*]

Gabriel Ste-Marie: Thank you.

Thank you, Mr. Chair.

[*English*]

The Chair: Thank you.

Go ahead, Mr. Lawrence.

Philip Lawrence: Thank you very much.

I'll start with you, Mr. Hyder, and I'll give you a bit of an overview of where I am with this legislation.

I think most Canadians would agree that we'd like to see a one-year time horizon on projects. We'd like to see deals done at the table and an end to the work stoppages that have been so painful, not just for Canadian business but for the standard of living as a whole.

My challenge, though, is that I think this will come down to implementation. There are a couple of concerns that I have along the way.

I'll start with, first of all, the one-year time horizon. There is no clear mechanism to start the clock on the one year. They could have studies going back ad infinitum. You could say, “I have my application”, but the regulator says, “No, we need another study. We need another study. We need another study.” There is absolutely nothing in this legislation that would stop that from happening.

Mr. Hyder, irrespective of the symbolism of it, do you have any concerns with the substance of this legislation?

Goldy Hyder: I can speak only on behalf of my members and what they're looking for wherever they deploy capital, which is clarity, certainty and predictability. If these are not on offer, capital won't form.

Philip Lawrence: Yes. Thank you very much.

Let me say, too, that I am hoping—and for the members on the other side, I mean this legitimately—they implement it with great certainty and that Canadian businesses, as well as other foreign investors...because we can't afford, as you well know, to have another $1 trillion due to leave.

The other issue I have with the potential of uncertainty coming into this process is that there are very few consequences, if any, for a regulator that misses the one-year date. It's great that they have the one-year date, but for example, the only thing that would happen right now is that the senior bureaucrat who missed it would have to say: “Oh, I missed it. We now have a plan to get back on plan.” I've been at many government committees over the last seven years, and I have heard senior bureaucrats say: “Oh, we missed it again. We're going to have a plan to get back on plan to get on plan.” I've seen people deliver this.

Do you have any concerns with this? Would you give the government encouragement to make sure the implementation happens as the bill is expected to?

● (1250)

Michael Gullo: I'll answer the question on behalf of the Business Council of Canada.

I really appreciate your emphasis on the implementation aspects of this bill. When we consulted with our members in the lead-up to the bill's development through the various consultation processes, and in particular on the major projects piece, I'll be honest: There was anxiety around the front-loading aspect of how the bill is staged and what goes into a completed application before it is deemed to proceed to the next step by the regulator. The implementation concern is shared, I would say.

Alignment will be key in terms of determining what the scope of the new assessment regime will look like. So far, we're getting the signal that our members are willing to take that leap of faith. The agency has done some really good things in the last year to tailor the scope of assessments to a more pragmatic and realistic assessment process, but it's that alignment piece, really, that's going to define whether one year is doable and will dictate whether that clock starts or stops, as you outlined.

On the accountability piece, we're also mindful of that in that the only direction and the powers embedded into the process rest in the cabinet directive. I think anyone who has been around long enough will say that cabinet directives have accountability issues on their best of days, but there is a DM committee. There is a better process. There is a better governance structure, wherein at least whistles can be blown. We never had that before, and that in itself is a positive step forward.

Philip Lawrence: Thank you for your testimony.

As I said, I hope it is implemented. My concern is that I've seen lots of governance structures and I've been at lots of committees where senior bureaucrats have said, “Hey, we have a plan to get on plan to get on plan.” The Canadian economy can't afford that. Canadians can't afford that.

Finally, on that issue, the same sort of issue that perhaps is symbolism over substance is, as you mentioned, that the challenge with work stoppages can actually be leading up to the work stoppage. Now, the government has put a potential solution there with a special mediator, but unfortunately, that special mediator is completely toothless. All he can do is publish a report, and if reports got the economy growing, our Canadian economy would be the fastest-growing economy in the world, which it clearly is not. Do you have any concerns with the special mediator's not having any real power?

Goldy Hyder: I will repeat the answer from before. We feel that the purpose of the exercise can't just be for a mechanism to buy more time. This has to be an exercise designed to bring the parties together, to have meaningful dialogue and to produce an outcome. That's the objective.

Your concern, however, is well founded, because our whole point to this message on optionality is that if such a thing were to happen, the government should have a lever to pull to say: “We're not going along with that. We're going to intervene because there's a national interest here that supersedes what's taking place.” That's our primary concern. It's that in everything that's now going to happen—and unfortunately there are going to be strikes, and we're going to see this together—it will happen after, and as you're hearing from witness after witness who run these businesses and live with the consequences, that's going to hurt our economy at a time in which we're trying to send a signal to the rest of the world that we've got it and we're doing something about it.

Philip Lawrence: Thank you very much. I appreciate it.

The Chair: Thank you, Mr. Lawrence.

Ms. Desrochers is next.

[*Translation*]

Caroline Desrochers: Thank you, Mr. Chair.

I want to thank the witnesses for being with us today.

I'll start with you, Mr. Hyder, on part 3 of Bill C-39.

We've heard from a lot of union representatives in recent weeks. We've talked a lot about section 107 of the Canada Labour Code. What we're hearing is that, despite the parameters added to ensure that it's used in the right way, it's still going to undermine employers' willingness to negotiate in good faith. An off-ramp is kept open, since they know that the minister can intervene.

I'd like your opinion on that. Do you believe that, if the provisions under section 107 of the Canada Labour Code are maintained, employers will be less likely to negotiate in good faith?

● (1255)

[*English*]

Goldy Hyder: As I said at the outset, we are talking about a very small percentage of strikes that have taken place, more often than not, in our choke point industries.

Let me say on behalf of employers that there's a cost to strikes for employers as well. It's a great pain to have to shut down your business, only to plan to restart your business. There are also the consequences this has for your customer base, your employees and the communities in which you employ people. One wants to avoid the strike on all sides, I would hope, and that is the intention.

Our point is that there are times at which that may not occur. What we have seen is that when the government has that lever, then at least we know that the broader macro interests of the economy that I'm here to represent.... I'm not here to represent any one company or any one sector. The macroeconomic factor for Canada is that it's the fiduciary duty of a government to ensure that it has the levers available to it to protect against undue harm from having a trickle-down effect on the rest of the economy.

For example, the WestJet CEO referenced that an agreement was reached with the unions two days before, yet exactly the same agreement was signed two days later. How do you explain that? It was only because of whatever issues the unions were facing at that time. I think it's in businesses' interests to get the strike resolved, and it's in the country's interest to get the strike resolved.

[*Translation*]

Caroline Desrochers: Thank you.

I would like to continue by talking a bit about the issue of national interest and the impact on economic interest.

Clearly, the proposal is that the minister will have to assess the situation and can make a decision under section 107 based on national interest.

I would like to hear what you and Mr. Dubreuil have to say about the criteria that should be taken into consideration. At what point is an economic impact so great that it justifies the use of section 107?

[*English*]

Goldy Hyder: The short answer is that it depends on the circumstances. It depends on what we're speaking about. I suppose the government could argue that if we're having 8% growth and there's going to be 1% harm to the economy, then the national interest is not at stake. It's very circumstantial in terms of how it's administered.

Our point is that the Constitution is clear about many of these issues. There's a court case that's going on. The courts themselves have said that the government does have the duty to intervene, if needed, on behalf of the broader national interest. All we're saying is that this bill has changed the timing of when the government is able to use it. It's always had the option to use it. Now what it has said is that it will only use it after a strike happens. I'm asking the committee whether that is in the national interest, if we've actually choked one minute of time for four days of airline struggles for Canadians.

[*Translation*]

Caroline Desrochers: Thank you.

Mr. Dubreuil, I'd like to hear your opinion on the same question.

Guillaum Dubreuil: If I may, I will draw on my experience to tell you a bit more about the marine sector.

In some of the previous strikes that have occurred, whether the closure of the St. Lawrence Seaway or certain ports, there have been times where medical equipment was stuck in containers and couldn't be shipped, or times where drugs with an expiry date or that should be stored in very specific conditions couldn't be moved. In some cases, plants have even run out of some of the raw materials they need to make sure their machines continue to operate. A stoppage can be disastrous for machines and for meeting deadlines.

It has to be done on a case-by-case basis.

Looking at the issue more directly, we see that there are also impacts not necessarily on the economy, but rather on navigation safety and interests. During the last strike that led to the closure of the St. Lawrence Seaway a little over three years ago, nearly 100 ships were at anchor because there was no room at the ports for them to take safe harbour. If a storm had hit at the time, the ships would have been at risk, as would the lives of the sailors.

Strike or pressure tactics must therefore remain possible, but must absolutely be a last resort. The measures proposed here make it possible to achieve that.

● (1300)

[*English*]

The Chair: Thank you, Ms. Desrochers.

Go ahead, Mr. Ste-Marie.

[*Translation*]

Gabriel Ste-Marie: Thank you, Mr. Chair.

I'm not going to use my turn to ask questions of the witnesses, whom I thank once again. Instead, I would like to follow up with you, Mr. Chair, and the clerk.

At the October 19 meeting with the ministers two weeks and one day ago, I asked Minister MacKinnon and Minister LeBlanc if the departments affected by Bill C-39 could produce a document that explains each part of Bill C-39 in detail to make it intelligible to us. I pointed out that the Department of Finance, for example, conducts this type of analysis and presents it to us for budget implementation bills. The ministers made a commitment to do that. As I recall, Mr. MacKinnon told me that we should be provided with it within a week. It hasn't been that long, only two weeks and a day, but we still don't have it.

My concern is that we have until tomorrow to submit amendments, and we still haven't received a document from the departments that explains, part by part, everything that the bill entails. That complicates our work. If the government wants to proceed within tight deadlines, it would be nice if it produced this document.

I don't know if the clerk can remind the ministers' teams to get us the document so that we can do our work properly as soon as possible.

That is all I have to say.

Thank you, Mr. Chair.

[*English*]

The Chair: Thank you, Mr. Ste-Marie. I've spoken with the clerk, and we'll chase it down for you.

Thank you to our witnesses. Unfortunately, that's all the time we have. We're very grateful to you for being here today and sharing your insights on this. You're our very last panel of witnesses on this long journey we've been on, so we're incredibly grateful.

Before everybody runs away, I have a couple of reminders.

The amendment deadline is tomorrow, five o'clock, with the caveat about next Tuesday because of the translation.

The last thing I want to say is thank you to our clerk and our analysts, because we've been sitting incredibly long hours.

Some hon. members: Hear, hear!

The Chair: It requires a lot of patience, commitment and paying attention—

Philip Lawrence: Just dealing with the chair alone....

The Chair: —just dealing with the chair alone. I was going to go on to thank the members, but I'll skip that part now.

Some hon. members: Oh, oh!

The Chair: No, in fact, I want to show my appreciation because the committee has run very smoothly and that's a credit to all of you. I look forward to going into clause-by-clause when we get back after the break week, and I'm sure that pattern will continue, so thank you very much, everybody.

The meeting is adjourned.

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