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Chair

The Honourable Judy A. Sgro

Standing Committee on Transport, Infrastructure and Communities

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• (1530)

[English]

The Chair (Hon. Judy A. Sgro (Humber River—Black Creek, Lib.)): I am calling to order meeting number 72 of the Standing Committee on Transport, Infrastructure and Communities, in the 42nd Parliament, first session, pursuant to the order of reference of Wednesday, September 20, 2017, to study Bill S-2, an act to amend the Motor Vehicle Safety Act and to make a consequential amendment to another act.

We have with us today the Honourable Marc Garneau, Minister of Transport, and as witnesses from the Department of Transport, Donald Roussel, associate assistant deputy minister, and Kim Benjamin, director general.

To all of you, welcome. I would also like to welcome our newest member officially, Ben Lobb, and of course Michael Chong. We are happy to have Kelly Block back here on our team, as well as Mr. Aubin. The group on this side we all know very well.

Minister Garneau, I will turn the floor over to you.

Hon. Marc Garneau (Minister of Transport): Thank you, Madam Chair.

I apologize ahead of time if I begin to cough on occasion. I am nursing a cold at the moment. Hopefully, it won't happen.

[Translation]

Madam Chair, I'm pleased to be here again this time to speak about Bill S-2, the Strengthening Motor Vehicle Safety for Canadians Act.

This bill is a key component in support of the transportation safety theme set out in Transportation 2030. It fulfills the government's commitment to amending the Motor Vehicle Safety Act, making its regulatory framework more flexible, promoting innovation, and supporting the adoption of new technologies while protecting the safety of Canadians.

A key objective of this bill is to strengthen the recall order powers. In 2014, the act was modified to provide the necessary powers to order a company to issue a notice of defect. Since 2014, that power has been used three times to protect Canadians. However, there is a gap in the application of this power.

[English]

Although the government has the power to order a company to issue a notice of defect, there is little it could do today to protect

Canadians if a company were to refuse to issue a recall and to pay for the defects to be corrected. This could mean that the repairs would not be carried out and the defective vehicles would still be on our roads. This new authority to order manufacturers to issue a recall and to correct defective or non-compliant vehicles at their expense would close that gap.

I recognize that the recall order powers are powerful tools, which is why this bill includes a recourse mechanism for companies that ensures transparency and accountability. Our goal is to keep our roads safe and protect Canadian consumers.

In addition, the proposal for a new power to order a company to undertake testing of its products, which is similar to the power available under the Canada Consumer Product Safety Act, would be invaluable for defect investigation, particularly where there are proprietary technologies involved. This would assist Transport Canada in carrying out its responsibilities.

[Translation]

Speaking of new technologies, the automated and connected vehicle revolution has arrived. The provisions proposed in this bill are key measures that will support the industry in bringing these innovative technologies to market. They will allow us to maintain the safety of the vehicles on the road where new technologies are being developed and tested, while protecting Canadians. A more efficient exemption process; an extension of the period for interim orders; and the new order power to suspend, modify or adapt a regulation will contribute to our objective of promoting innovation.

Improving our investigation and enforcement tools is also key to protecting Canadians. As such, the bill includes an administrative monetary penalty regime and the new consent project. In addition, the inspector powers have been modified from the previous version of the bill to specify the purpose of the inspector's entry into company property.

• (1535)

[English]

Finally, the other House put forward an amendment to the bill to address concerns raised by Canada's vehicle dealers. I am pleased to inform you that we have worked closely with the Canadian Automobile Dealers Association to better understand their views and to clarify how the bill would protect their members. As a result of these conversations, we will be coming forward with a proposed amendment to the current bill that addresses their concerns.

Madam Chair, Canadians have been waiting far too long for the improvements in this bill. It has been nearly two and a half years since the majority of these provisions were first proposed by the previous government. I hope that your committee will pass this bill swiftly so that all Canadians can benefit from increased safety that these provisions will bring, while we continue pursuing other ways to improve safety for Canadians.

Thank you, Madam Chair.

The Chair: Thank you very much, Minister Garneau.

On to our questioning. Mr. Lobb, for six minutes.

Mr. Ben Lobb (Huron—Bruce, CPC): Thanks to the minister for appearing today despite being under the weather. I appreciate that for sure.

In your presentation you talk about interim orders for new technology extensions. Was there any discussion around how long those interim orders could last? Is it months, weeks, years, decades? How long are we talking about?

Hon. Marc Garneau: I guess the answer to that would be as long as they are necessary but no longer than necessary. As the title suggests, we want on an interim basis to have some flexibility, particularly with respect to the introduction of new technologies, whilst at the same time it being uppermost in our minds, of course, that safety is our main concern when new vehicles are introduced. We do feel that we need to provide some flexibility, hence these interim orders. However, it would only be for the time required to allow the necessary testing of these vehicles.

Mr. Ben Lobb: We all know the names of those out there now who are using highly automated vehicles—Tesla, Volkswagen, and all the rest, on and on. Does Transport Canada currently have an idea on a daily basis how many of those vehicles are travelling Canadian highways and roads?

Hon. Marc Garneau: I'll turn to my officials in terms of numbers. The numbers are still very small at this point in time. Certainly, there are vehicles that have some degree of autonomy. As you know, there are five levels of autonomy, five being totally autonomous; you don't even need a driver. Some of these are quite advanced in terms of having features such as keeping in lanes and adaptive speed control, those kinds of things, and they're getting more sophisticated all the time. As you pointed out, many companies are introducing new models.

I don't have an exact count. I don't know if we have that information. I'll turn to my colleagues, but at this point in time it's still very, very small because as we move toward complete automation we need to put a lot of infrastructure in place outside of the vehicles. As well, we need to be in a situation where there are more vehicles on the roads that are communicating between each other.

● (1540)

Mr. Ben Lobb: That's maybe one we'll have to look at as we go down the road, because I think they're having some significant issues in the United States with tests and tests gone wrong and exemptions there.

Probably the largest recall, the most serious recall likely outside of the Motor Vehicle Safety Act, had to do with the Volkswagen diesel

engines and the cheating on the tests, and so forth. Were there any discussions on that? Currently it would be through Environment where these would be flagged, I believe, but I don't believe Environment has the minister there, or you as minister, has the ability to recall those issues and force the company to do anything in Canada.

Can you comment on that?

Hon. Marc Garneau: You're right, it's with Environment. This was a decision that was taken in 1999, I think, to separate environmental issues from safety issues. Yes, we've all followed the Volkswagen diesel saga, a very sad saga, but it is not a safety-related issue; it is certainly a serious environmental issue, but that is now the responsibility of the Department of Environment and Climate Change.

Mr. Ben Lobb: I'm just wondering, at a time when we see a bill that is presented to the House of Commons through the Senate, the biggest feature in it is the theory or the idea of recall. It's probably the biggest issue in the last 10 years. There was no working collaboration with the other department, through you, to make sure that an issue.... It maybe isn't safety, but certainly the environment is at the forefront of everybody's mind. There's nothing here for Canadians on that.

Hon. Marc Garneau: Yes, and again, it's because the Motor Vehicle Safety Act, as the name implies, is concerned with safety. We have to make sure that any new vehicle introduced on our roads is safe for people to drive. Other issues that are not safety related sometimes come under other departments.

I would say to you that there are big safety.... The Takata airbag is probably an issue that has grabbed a great deal of attention, and there are smaller issues with individual models.

Mr. Ben Lobb: Okay.

One final thought concerns the vacuum brake on the Ford F-150. That was an issue you dealt with earlier in the year, or in 2016. You're talking about transparency on these decisions, what Transport Canada's findings are versus what Ford's information is to counter it. I know that you guys came to an agreement.

At any rate, under the change, how much will the public as consumers be able to see that decision and how it comes to be?

Hon. Marc Garneau: There's an example of where we decided that since the manufacturer was not ready to recall the vehicle, but we felt there were safety concerns and we didn't have the tools, i.e., we didn't have the tools of Bill S-2, we exerted pressure, as we could, in discussions with them. It certainly also received quite a bit of media coverage. Eventually Ford decided it was a good idea to proceed with the recall.

The new powers of Bill S-2 will allow us to solve those kinds of problems. I hasten to add that hopefully they won't be used very often. Most of the time, manufacturers not only announce a defect but also proceed with the other steps. Hopefully, most of the time there will not be a need to invoke the powers that Bill S-2 provides.

The Chair: Thank you very much.

Mr. Fraser, you have six minutes.

Mr. Sean Fraser (Central Nova, Lib.): Thank you to the minister for being here. I appreciate your presence to discuss this important piece of safety legislation.

When I was doing some review of Bill S-2 before, when it was last on the floor of the House of Commons, I came across an article indicating that as many as one in six cars on Canadian roads today might be subject to an outstanding recall. This blew me away, quite frankly. I don't think Canadians appreciate how many cars are actually subject to a current voluntary recall.

Right now there's not a power for you, or whoever the minister may be in the future, to order it or to prevent the sale from a dealer's lot to get on the roads. With such a low understanding of the number of recalls that are out there, when you use this power—I hope you don't, but should you have to—how are we going to ensure compliance? Can you perhaps point to how the administrative monetary penalty is going to lead to a high completion rate of repair when it comes to really making a difference for the safety of Canadians?

• (1545)

Hon. Marc Garneau: You really touched on two sides of the equation. We want to make sure that manufacturers do issue recalls, which they do presently, but then also...or they issue a notice of defect. We want to make sure they also follow up with the recall and the repair. That's what Bill S-2 in part is meant to do. If they don't, there are different tools. At the moment, the only tool we have is to take them to court. We want to have a graduated capability with administrative monetary penalties or consent agreements that don't take us as far as pursuing, for many years, going to court. That's a new element in this bill.

On the other side of the coin, many drivers are notified that they have a defect by the manufacturer, but sometimes, regrettably, they decide, "Oh, my car is seven years old. I'm not going to bother." There is not an educational component in the Motor Vehicle Safety Act, but it is certainly important. We hope that with this new act, people will be more conscious of the fact that even though their car is older, should it have defects, especially if they are safety related.... But that also demands an initiative on the part of car owners.

Mr. Sean Fraser: Maybe this is outside the scope of the four corners of Bill S-2, but you mentioned public education. In addition to the inevitable media coverage that a piece of legislation gets when it goes through the legislative process, are there plans, as part of the transportation 2030 strategy, to engage in a public education and awareness piece? With the enforcement mechanism in there though, are you confident that the public won't need to be educated because it's going to happen, as between the government, dealers, and manufacturers?

Hon. Marc Garneau: I think this bill will help quite a bit, but I don't rule out the possibility of taking other measures to really encourage drivers to be more conscientious about fixing cars for safety reasons. This becomes particularly important if they eventually want to sell their car. They don't want to sell a car with multiple defects.

Mr. Sean Fraser: Of course.

On the issue of automated vehicles, we heard through a previous study on smart cities that this is coming in short order. In 10 or 15

years, they're going to be everywhere, we heard. This was a bit of an eye-opener for me, coming from rural Nova Scotia. To picture driverless vehicles on the roads is a long shot for most people to imagine. Knowing that we're on the precipice of this new technological development, how is the exemption power going to both ensure that we're on the cutting edge of technology, so the economic benefits come to our country, without jeopardizing the safety of Canadians, as new technology makes its way onto the roads?

Hon. Marc Garneau: It's a very good question. It's a fine line because what we want to do...and by the way, it will be incremental. It's not as though, after a certain period of time, suddenly 100% of our vehicles will be automated vehicles. The manufacturers are developing vehicles that have more and more autonomy, but they are still driven by people.

In the meantime—and this is something we're encouraging; Ontario is out there already doing it—there are tests in specific places. For example, the town of Stratford, Ontario is actually accepting the development of driverless vehicle technology to be done on the test site of part of the town. Other countries are doing this, like the United States and in Europe. We hope other provinces will become involved.

We're very encouraged by the Active and Aurora programs, which are at the University of Alberta and the University of British Columbia. As the vehicles are put out there in real life situations, we have to ensure that they remain safe and do not present a hazard, but we have to make some adjustments to the regulations because we're dealing with new technologies. It's very much something that is in front of us at the moment, but we wanted to give ourselves the flexibility in Bill S-2, so that we could do this and encourage the innovation and the development.

Mr. Sean Fraser: Thank you.

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

Go ahead, Mr. Aubin.

• (1550)

[*Translation*]

Mr. Robert Aubin (Trois-Rivières, NDP): Thank you, Madam Chair.

Welcome, Minister Garneau.

You've visited two times in the three weeks since work resumed. I invite you to maintain this pace. I must say we're always pleased to be able to address questions directly to the Minister.

My first question is simple. We've often talked about a bill proposing an alignment with the American legislation. I have the impression—you can tell me whether I'm right or wrong—that the alignment basically consists of catch-up measures in relation to the American legislation.

Does any part of Bill S-2 place us ahead of the curve and help us spearhead an American amendment?

Hon. Marc Garneau: The other day, I said that we're working hard to catch up when it comes to this technology, which is developing quickly. I didn't say that it was in relation to the Americans' technology. It's everywhere.

Of course, we must work with our American partners. We do so in all transportation areas, including cars, trains and airplanes. The Canada-United States Regulatory Cooperation Council, the RCC, has brought together our two countries for a long time. The RCC's goal is to align our regulations so that they don't change when we cross the border by car.

Are we ahead in relation to the Americans? I must turn to my colleagues. They can answer the question. However, I can tell you that we're certainly aware of the importance of acting as quickly as possible.

Mr. Robert Aubin: Thank you.

Paragraph 9(1)(b) of the bill gives you the power to exempt certain vehicles from applying the safety standards if the exemption promotes the development of technologies. Like many people, I concluded that the exemption would be applied if the technological innovation provided for a higher safety level than previously intended. I imagine this is the spirit of the act.

Can you illustrate this using a concrete example?

How do you justify this new exemption power when the verification shortcomings raised in the Auditor General's report haven't been corrected?

The Auditor General's note on the matter was very clear. I know that Bill S-2 is not necessarily a direct response to the Auditor General's audit, but I imagine that you're nonetheless using it to re-establish a certain number of facts.

Hon. Marc Garneau: I can't give you examples given that we're not authorized to apply exemptions. Bill S-2 hasn't been passed yet. Once it has been passed, there will no doubt be examples. Our goal is for autonomous vehicles to be safer. For these vehicles to be authorized to drive on our roads, the technology must be validated. In some cases, this requires adjustments to the regulations. We're giving ourselves this power in the bill with the hope, of course, that these vehicles will be safer than the current vehicles.

We received the Auditor General's report. It went through the Standing Committee on Public Accounts, which gave us recommendations. We can now determine our response to the committee. Of course, we'll soon be able to present our response to the House of Commons. We always take the recommendations of various committees, including your committee, very seriously. It goes without saying that we take all this to heart. It's not the same as Bill S-2. They're two parallel things. That said, if we can take measures to improve Transport Canada's performance, particularly when it comes to safety, we'll do so.

Mr. Robert Aubin: Thank you.

Clauses 12 to 14 of the bill strengthen Transport Canada's inspection powers, in particular the power to verify vehicle compliance and collect documents regarding collisions. It seems that we're adding human resources. However, in recent years, we've

decreased the ability to provide evidence, in particular by reducing collision tests by 59%.

How can we reconcile the fact that more resources are allocated, but the department doesn't have the financial means necessary to conduct tests?

• (1555)

Hon. Marc Garneau: We've adopted a risk management philosophy. I think it's a smart approach. In the past, we've conducted inspections each year or a number of times a year without really questioning the logic of the method, simply because we had always worked that way. This required a great deal of time and resources, which weren't necessarily used properly. The risk management approach is mainly what we're using to decide, in terms of inspections, where we'll invest our resources. I think that's a better approach.

In this bill, we give additional inspection powers to our employees when, as part of a safety investigation, the possibility of a defect exists. This interaction with the manufacturers is necessary. It's important to keep the door open to enable the two parties to share information. In some cases, if it's privileged commercial information, we need the power to ask the manufacturers to provide the results of tests, and we'll specify those tests.

Mr. Robert Aubin: Thank you.

[*English*]

The Chair: Thank you, Mr. Garneau.

Mr. Iacono.

[*Translation*]

Mr. Angelo Iacono (Alfred-Pellan, Lib.): Thank you, Madam Chair.

Mr. Minister, thank you for being here today.

Bill S-2 is similar to the previous Bill C-62, which died on the Order Paper in 2015; it was never adopted.

Can you explain the main differences between Bill S-2 and the former Bill C-62, and tell us what improvements are in the bill that we are studying today?

Hon. Marc Garneau: Yes, certainly.

It is difficult to measure exactly, but I would say that about 75% of Bill S-2 reproduces what was in the Conservative government's bill. There was an election in 2015 and this bill died on the Order Paper.

The main new elements are the power to negotiate consensus agreements with manufacturers and to reach administrative agreements. We will have the power to impose penalties on manufacturers without having to go so far as to launch lawsuits, which take a long time and are very expensive. It also gives us more flexibility as to what we can do if we are not satisfied with what the manufacturing sector has done to fix a defect.

In addition, we will extend the period of an interim order and broaden its scope. We will also expand the scope of an exemption order and allow for ministerial approval, which goes hand in hand with the flexibility needed to develop new technologies. We want regulations to be flexible in order to foster innovation, while being aware that adjustments need to be made, without minimizing the importance of safety.

There are a few other very minor amendments, but many of the elements in Bill C-62 have been taken as they are.

Mr. Angelo Iacono: Thank you.

In your opinion, what key elements of Bill S-2 enable us to say that car passenger safety will be improved?

Hon. Marc Garneau: The key element is the power that the Minister of Transport can use to order a manufacturer to correct an observed defect at their own expense. We will not only point out a defect, we will have to follow up to ensure it is repaired. This applies both to new cars at the dealership and to cars already on the road. I think that's good news.

That said, it will not always be necessary to use this power since, in the majority of cases, manufacturers recognize the observed defects and make the necessary repairs.

• (1600)

Mr. Angelo Iacono: To your knowledge, has a car manufacturer ever failed to issue a voluntary recall or delayed doing so?

Hon. Marc Garneau: In my speech, I mentioned that there were three cases where the manufacturer did not recognize a defect. I'm going to ask Kim Benjamin to expand on that.

You have raised another important point. We want to minimize the wait time for solving a problem. When a defect is observed, sometimes there is no immediate solution, such as when the manufacturer must produce parts in large quantities to correct a defect. This may take time, but we do not want things to drag on when a number of vehicles on the roads have the same defect.

[English]

Ms. Benjamin, could you talk about examples where we've had to step in?

Ms. Kim Benjamin (Director General, Road Safety and Motor Vehicle Regulation, Department of Transport): We have had three examples where we've had manufacturers who were not in agreement with us since we received the power to order a notice of defect. For each of these cases we started the process with the preliminary determination, which is the public announcement. The information is given to the public at the same time as the manufacturer. In each of these instances the manufacturer decided to issue the notice of defects—or in one case it was a consumer campaign to essentially conduct the repair—in advance of having to make the final order for a notice of defect. We've posted each of them on our website. As I said, because of the pressure that has come from the public being aware, the public giving us information, we haven't had to proceed to the final notice of defect; they've done it on their own.

The Chair: Thank you very much.

Mr. Hardie.

Mr. Ken Hardie (Fleetwood—Port Kells, Lib.): Madam Chair, I'll be splitting my time with the honourable member Hunter Tootoo.

Thank you for being here, Mr. Minister.

I want to talk about the administrative monetary penalties. I understand that under certain circumstances, imprisonment could also be involved if somebody doesn't comply. Can you describe how that could all come about? Is that the case?

Ms. Kim Benjamin: An administrative monetary penalty is not the criminal penalty. The whole idea is that it is administrative. It doesn't have the same burden of proof to be able to demonstrate the non-compliance. It is meant to be a way of bringing someone into compliance. It is not as much a punitive measure as a criminal prosecution would be.

Mr. Ken Hardie: Under what circumstances would a criminal prosecution take place?

Ms. Kim Benjamin: Where we felt that the issue was far too egregious to be dealt with on an administrative basis.

Mr. Ken Hardie: I see.

In a meeting with the manufacturers association representatives, they were somewhat concerned they could be facing criminal charges when in fact the action was by a dealer. They wholesale the vehicle to the dealer, and then it's up to the dealer to withhold that from the public, certainly not the manufacturer. Can you speak to that concern?

Hon. Marc Garneau: Certainly it would not be our intention to penalize the wrong party in a situation like that, so we'd have to look at the details. Criminal pursuit is a very serious matter, and would only occur under certain specific instances where there was clear proof that something was deliberately done. The burden of proof in a situation like that is quite high, but it's also a situation that I think would be rather exceptional. Administrative penalties are quite common in Transport Canada in other areas when there are violations, for example, railways and ships. It is a tool we have, but we didn't have it in this case, and we think this is part of a graduated response capability.

• (1605)

Mr. Ken Hardie: That's great. Thank you.

I'll turn the rest of my time over to Mr. Tootoo.

Hon. Hunter Tootoo (Nunavut, Ind.): Thank you, Mr. Hardie.

Welcome, Minister Garneau.

I only have one question on this, and it's an issue that's been brought up a couple of times this summer in Iqaluit.

As you know, Nunavut is quite different from the rest of the country. We don't have dealerships. I know of one case where a recall was ordered for a vehicle and another case where there was a warranty the dealer was fixing automatically on his own. Because there's no dealer there, and they're saying an authorized dealer of the vehicle has to do the work, they're being told they have to put their vehicle on a ship, ship it out, get the work done down here, and then wait until next year to get it back.

I'm wondering if anything in here could help address that concern, where we're forced to utilize dealers. We have garages in the communities up there, but they're not authorized dealers. They have licensed mechanics. We need to address that so that work can get done. There are people who can't be without a vehicle and people have to pay for the shipping of their vehicle down south to get it fixed and get it back so they are still using those vehicles with those defects. There's no opportunity to change that. I'm wondering if there's something in the bill to help address that issue.

Thank you, Madam Chair.

Hon. Marc Garneau: Thank you.

You're reminding me that things are very different in the north, and there are challenges that we don't even dream of down here because of different circumstances and not all of that infrastructure being in place.

Bill S-2 is essentially focused on saying if there's a defect in a vehicle that somebody is driving in Iqaluit or somewhere else, that ultimately if the manufacturer doesn't fix it and we feel it is a safety hazard, we can force them to fix it at the manufacturer's cost.

But you're bringing in an element here that is different from the normal situation and that is shipping it from Iqaluit or some other location to a southern location. There are other alternatives as well. They can ship a new car up that's without the defect and do a switch, and that kind of thing, but I would have to get back to you on the particular circumstances that exist up there where there aren't the kinds of things that we take for granted down here.

The Chair: Thank you very much. The time is up.

Ms. Block.

Mrs. Kelly Block (Carlton Trail—Eagle Creek, CPC): I too want to thank you for joining us today, Minister.

• (1610)

Hon. Marc Garneau: Thank you.

Mrs. Kelly Block: Welcome to your departmental officials as well.

The Auditor General's fall 2016 report stated:

Overall, we found that Transport Canada did not develop motor vehicle safety standards to respond to emerging risks and issues in a timely manner.

It went on to say:

We could not always determine how the Department used evidence and research to develop or amend safety standards.

In the case of Bill S-2, this bill would give the minister and his or her department significant new powers. I'm wondering if you could tell us what, if any, attempts have been made to resolve some of those issues that have been raised by the Auditor General.

Hon. Marc Garneau: Yes. I don't have at the top of my mind the years that were being covered by the Auditor General's report. Certainly we have looked at the Auditor General's report, and we take it very seriously. As I say, we will be responding through the public accounts committee to the recommendations that were made to address the issues brought up by the Auditor General. Yes, there are some things that we can do better on. We will be taking that very seriously.

I understand that the Auditor General did find some things that we were doing well, so that's good news. There was our ability to identify vehicle safety defects, which is fairly crucial in this whole thing as part of ensuring...when they're not necessarily brought to us by the manufacturer. We're keeping on top of that to identify defects that are out there.

I can't tell you exactly what will be tabled in Parliament fairly soon, but it will be our response to the public accounts committee's study of the Auditor General's report. Perhaps at that point if there are questions you feel still need to be asked, I would welcome them.

Mrs. Kelly Block: Thank you very much.

I do want to speak to another measure in Bill S-2. Bill S-2 increases the power of Transport Canada inspectors to visit facilities and compel documents and testimony from employees in order to demonstrate compliance. What would trigger a visit by Transport Canada for a company to demonstrate compliance? This isn't based on complaints; it's just that they can go in and ask for this information. What would trigger a visit by Transport Canada?

Hon. Marc Garneau: Probably the quick answer is exceptional circumstances and, hopefully, these are powers that would not be necessary. As I say, at Transport Canada, we want to make sure that the whole process of ensuring that cars are safe—and it actually goes from motorcycles to trucks.... If we are not being provided with information we feel is necessary in order to understand anything related to addressing a defect, then we are giving ourselves that power to do it. As I say, I think it would be in exceptional circumstances.

I am very confident that we will have very few situations in which that kind of ministerial power or inspector power will be invoked, because I think we will work well with the manufacturing sector. We're giving ourselves that flexibility should it be necessary.

Mrs. Kelly Block: I want to ask about the fact that this bill was introduced in the Senate, and that question was asked a fair bit during the debate in the House of Commons by all members who may not have the answer to that question. With you here at the table, would you be able or willing to answer why this piece of legislation came to the House of Commons through the Senate?

Hon. Marc Garneau: Yes, with pleasure, and it's not very complicated. This was a bill that we wanted to put into the system very quickly in the early days. As you know, when a new Parliament starts, there's a blank slate in both Houses in terms of what kind of legislation is going to be put forward. The Senate, as you know, can take a bill from the government and pass it through there. It doesn't have to always start in the House. They were willing to begin looking at Bill S-2, one which your government in an earlier version introduced. It was just one of those situations. There's nothing mysterious about it. It was a question of flow through. There are many bills that new governments introduce and at this particular point, there was an availability of resources in the Senate to study this bill.

• (1615)

The Chair: Thank you, Ms. Block.

We move to Mr. Sikand.

Mr. Gagan Sikand (Mississauga—Streetsville, Lib.): I'd like to follow up on my colleague's previous line of questioning, and perhaps just take a step back, because I was really surprised to hear that your office, and you, the minister, didn't have these powers before, so I'm happy to hear that Bill S-2 is coming forward. I'd like to know how you envision these powers being exercised. I'd imagine a situation has deteriorated to the point that you're being forced to act. Are recalls going to be ordered in conjunction with manufacturers? How is this going to be rolled out?

Hon. Marc Garneau: I think many Canadians think that, at the moment, we have the ability in the Government of Canada to order recalls. They're not aware of the fact that the law at the moment only orders a notice of defect to be put out by the manufacturer, but we don't have those. That's in part because the manufacturers very often follow through, and they proceed with the recall and repair, which speaks well for them.

As my colleague Kim Benjamin said, there were a few instances where there was a difference of opinion. From our point of view, from our expertise at Transport Canada, our inspections and what have you, and feedback from the public, we felt that in these three cases we weren't hearing from the manufacturer to say that there's a defect. In fact, they disagreed with us. That's one of the situations where the power of the minister can be invoked. We hope it won't happen very often, but there can be instances. There are so many models out there, and there's so much technology, that it's important for us to have that capability if we feel strongly that the defect needs to be addressed.

Mr. Gagan Sikand: You just mentioned that you weren't hearing from manufacturers. Keeping Canadians' safety top of mind, I don't want to see a situation where there's a foreign company which has cars operating in Canada, and perhaps incorporated there, and by virtue of that incorporation they're sheltered from legal action. I'd like to know how Bill S-2 is going to address those foreign companies operating within our country.

Hon. Marc Garneau: The law is addressing both manufacturers and importers of cars, so we feel that any car or vehicle that's going to be on our roads has to be safe, and that includes imported.

Mr. Gagan Sikand: Thank you.

I'd like to pass over any remaining time I have to Mr. Badawey.

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

With respect to the process, Minister, I'm quite excited about it, because it is taking something that's long overdue and bringing it up to date.

That said, it gives the perspective of 2017 in relation to safety. What I'm most interested in, however, is that it's also an opportunity. It's an opportunity to look down the road and take into consideration not only the perspective of 2017, but the possibility of the perspective of 2030 and going well into the future. I think a lot of this was spoken about earlier in relation to taking safety into consideration in an environment of quickly evolving new technologies.

Having said that, and being more proactive versus reactive—reactive being defects and responding after the fact—is there an opportunity here? Can we leverage this process to encourage manufacturers to accelerate new technologies in the name of returns on environmental, social, and economic investments, therefore being more proactive with respect to those new technologies and, of course, with that, the safety that can be dealt with by those new technologies?

Hon. Marc Garneau: If we had a crystal ball now and were to look at our roads in 2030, which is only 13 years from now, I think we would all be a bit surprised at how this disruptive new technology has implanted itself on our roads in the country, and hopefully for the better. I would say to you that my sense, from following what's happening with the development of autonomous vehicles, is that the business forces are already very actively pushing this.

We've all heard of Tesla, but as you know, there are many other companies. Audi is another example, but Google, Apple, the Big Three, and many European companies such as BMW and others are all scrambling, because they want to own as big a part of that market as possible. I think they are highly motivated. We don't know.

We can have a discussion about the availability of ZEVs, but that's a different discussion. On autonomous vehicles, I think they are self-motivated, and they are developing these. Of course, they know their success will be that it has to be safe, cleaner, and provide all the advantages, which we believe will be accessibility and those kinds of things. I think there are enough motivational forces in play. We don't need to coax them along too much on that.

• (1620)

The Chair: Thank you, Mr. Badawey.

We'll move to Mr. Chong.

Hon. Michael Chong (Wellington—Halton Hills, CPC): Minister, thank you for coming. You mentioned in your opening remarks that you're going to be proposing amendments to the bill. I assume that's not in the House but in committee, through the Liberal members on the committee. Is that correct?

Hon. Marc Garneau: It will be in committee.

Hon. Michael Chong: I assume that means, then, that you're not supportive of the amendment that was made to the bill in the Senate. I think it's on proposed section 10.52. Is that also correct?

Hon. Marc Garneau: We thank the Senate for engaging with the dealers—

Hon. Michael Chong: But you don't agree with that part of the bill—

Hon. Marc Garneau: What we've done is we've worked with the Canadian dealers to find something that we feel they are happy with.

Hon. Michael Chong: You're not in agreement with what they've proposed as an amendment, the amendment they made to the bill—

Hon. Marc Garneau: No, not as written. Let me explain why. The reason is that this is the Motor Vehicle Safety Act. It does not get into managing the relationship between dealers and manufacturers. That's outside the scope of the Motor Vehicle Safety Act, but we have looked to find a way to, I think, make all parties happy and —

Hon. Michael Chong: That will be done through—

Hon. Marc Garneau: —you will be deciding in your wisdom whether you want to go with that.

Hon. Michael Chong: Thank you.

On a different part of the bill, clause 11 amends the Motor Vehicle Safety Act to add proposed section 13.1 to the act, which allows you, as minister, to suspend for a period not exceeding three years any regulation of the act. Now, is this intended to allow innovation such as autonomous vehicles to be on our roads?

Hon. Marc Garneau: Yes.

Hon. Michael Chong: That's good to hear because technology is changing rapidly, and I think we're quite behind as a country on the legislative and regulatory framework for autonomous vehicles. You know, there are cars on the road today that are fully autonomous, and many cars are fully capable of autonomous driving but have yet to flip the software switch on. I think this is something that we need to be seized with because Ontario is a significant auto manufacturer, and we don't want to fall behind other cross-border states in that competition.

Is it your intention, if this bill becomes law, to review all the regulations under the Motor Vehicle Safety Act and identify any regulations that are incompatible with self-driving autonomous vehicles or self-driving autonomous systems?

Hon. Marc Garneau: Ultimately, we will have to have a standard for all autonomous vehicles, and as different players bring in new vehicles, we will have that flexibility, and a very important part of allowing this innovation is that component of this bill.

Hon. Michael Chong: But is there a time frame on doing that? The reason I ask is that the National Highway Traffic Safety Administration in the United States last September released new guidelines and regulations on autonomous vehicles in the United States, essentially allowing driverless cars. Google's driverless car is now considered acceptable throughout the United States. In fact, they consider Google's self-driving car to be a driver for the purposes of their legislation and regulation, and that has allowed companies to set up shop there, raise financing, and pursue fully autonomous systems and fully autonomous cars.

Currently in Canada, that would not be allowed. It would not be allowed for a fully autonomous vehicle without a driver to go down our roads. I think that will put us at a disadvantage.

The industry is wondering when we are going to review all the regulations that are incompatible with these technologies in order to ensure that we have a regulatory framework that is just as innovative as what we see south of the border and in Europe.

• (1625)

Hon. Marc Garneau: The regulations that are there now apply to all the conventional cars that are out there, and it's important that those stay there. When new driverless vehicles start to come in—and we want to encourage them to be on our roads and to keep safety in mind—we will look at individual regulations as the case arises to make sure that...

What the United States has done is put out some guidelines. There's quite a difference between guidelines and regulations.

We want to, in Canada, encourage development. Ontario, as you point out, is particularly involved in the automotive industry, and there's a lot happening.

There's also, at the University of Alberta, a program called Active. There's a program at the University of British Columbia called Aurora. We want to get more vehicles out there, and we will be looking at that flexibility in the regulations to encourage them to do exactly what you've described.

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

Sorry, Mr. Chong.

Mr. Aubin.

[*Translation*]

Mr. Robert Aubin: Mr. Minister, if I may, I would like to come back to an answer you gave me in the first round. You said that there was a shift in management, and that risk management was now the norm.

I imagine that effective risk management requires evidence. What is happening with the six regional teams that were specifically mandated to consult with local authorities and police forces, to conduct inspections, and to provide evidence? Can we expect those six regional teams to be brought back in order to manage the risk?

Hon. Marc Garneau: We make adjustments continuously, but in reality, as I mentioned, there will be progress and it will be risk-based. In the past, for fairly logical reasons, we decided to inspect the planes or any vehicle twice a year. Nothing has changed for years, because what we were assessing had a very low level of risk.

We realized that it did not make sense to use all of our resources and that we needed to use them more intelligently, and that is what we are doing. That said, we are changing with the times. We need to monitor the situation. If we see that we need to adjust something or increase resources, that is what we'll do. I think it's a pragmatic way of using resources that are not inexhaustible.

Mr. Robert Aubin: Do you think it would be possible for the Standing Committee on Transport, Infrastructure and Communities to receive the list of organizations and groups that were consulted when Bill S-2 was developed?

My question relates to another aspect of the Auditor General's audit. He seemed to suggest that, in previous consultations, the car industry had been heavily consulted, but the interest groups had not been consulted as much. Consumer and police groups, for example, or even the CAA, who are also significantly affected by this issue, had not been consulted as much. This raised the issue of possible bias.

Basically, we would like to be able to see whether, in all the consultations that took place in preparation for Bill S-2, the range of agencies consulted is wider.

• (1630)

Hon. Marc Garneau: Absolutely. We have the information as to who participated in the consultation, and we can forward it to you. You mentioned the CAA. I think the association even reacted to our bill, saying it was a good thing.

However, we can provide the committee with a list of the organizations we consulted in preparation for Bill S-2.

[English]

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

Minister Garneau, thank you very much for coming this afternoon. I hope you haven't infected all of the committee and everyone else in here, because we have a piece of legislation coming up that we need to deal with.

Voices: Oh, oh!

Hon. Marc Garneau: I hope I've infected you with my enthusiasm.

The Chair: Only enthusiasm, no germs.

Thank you very much for coming.

I will suspend momentarily for our other witnesses to come to the table.

• (1630) _____ (Pause) _____

• (1635)

The Chair: I'll call the meeting back to order. We'll continue on our study of Bill S-2.

We have with us, from the Office of the Auditor General, Michael Ferguson, Auditor General of Canada. He is with Richard Domingue and Dawn Campbell.

Mr. Ferguson especially, welcome. It's nice to see you back again.

We'll open up the floor to you. Please go ahead.

Mr. Michael Ferguson (Auditor General of Canada, Office of the Auditor General): Madam Chair, thank you for this opportunity to present the results of our audit on the oversight of passenger vehicle safety by Transport Canada.

Joining me at the table are Richard Domingue and Dawn Campbell, who were responsible for the audit.

Vehicle safety technology is evolving faster than regulations and standards. Transport Canada faces challenges in exercising its important role of keeping passenger vehicles safe. An up-to-date regulatory framework and the proper oversight of passenger vehicle

safety help to ensure that Canadians are driving the safest vehicles possible. We examined whether Transport Canada's regulatory framework and its oversight of vehicle safety defects and recalls were adequate to respond to emerging safety risks and issues in a timely manner. We noted a number of significant deficiencies in the regulatory framework, including a lack of timeliness, an absence of broad stakeholder consultation, and outdated regulations.

[Translation]

We found that Transport Canada did not develop motor vehicle safety standards to respond to emerging risks and issues in a timely manner. For example, Transport Canada's regulations did not allow vehicles to be equipped with advanced headlights that are controlled by software. At the same time, however, vehicles partially controlled by unregulated software are on Canadian roads.

We found that, in general, Transport Canada waited for the National Highway Traffic Safety Administration in the United States to develop new or amended standards before proposing regulatory actions in Canada. This reactive approach created significant delays in implementing new standards, and meant that some passenger vehicles were not equipped with the newest safety features available in other countries, such as the aforementioned advanced headlamps. There were lengthy delays—sometimes of more than 10 years—from the time that Transport Canada started to work on an issue to the implementation of new or amended standards.

Prior to making proposed regulations public in the *Canada Gazette*, Transport Canada consulted with manufacturers but did not engage broadly with stakeholders such as consumer associations, medical associations, and police. Manufacturers may have exercised disproportionate influence on regulatory decision-making.

We found that some important standards were not working as intended, or were outdated. For example, Transport Canada was aware that child seat anchorages could fail under certain conditions, but it had not proposed a new regulation or issued an advisory by the audit completion date. The department stated that introducing a unique-to-Canada requirement for anchorage strength in passenger vehicles would be detrimental to trade.

[English]

We also found that Transport Canada did not plan or fund its research and regulatory activities for the longer term. As a result, the department could not prioritize resources and spending decisions accordingly.

Finally, we looked at Transport Canada's oversight and analysis of public complaints and manufacturers' recalls. Overall, we found that the department adequately assessed complaints from the public to identify vehicle safety defects. However, the department did not request information about critical safety issues that manufacturers were investigating. As well, manufacturers issued 318 recalls between 2010 and 2015 for safety-related issues that were not brought to the department's attention. Furthermore, the department did not have the authority to assess whether manufacturers implemented effective processes for identifying and reporting safety defects. This limited the department's ability to investigate defects and better protect Canadians.

We found that Transport Canada adequately assessed vehicle manufacturers' efforts to complete safety recalls. However, manufacturers had difficulty identifying and contacting owners for some recalled passenger vehicles, especially for owners with older vehicles.

Transport Canada has agreed with our seven recommendations and has prepared a detailed action plan.

• (1640)

[Translation]

Madam Chair, this concludes my opening statement.

We would be pleased to answer any questions the committee may have.

[English]

The Chair: Thank you very much.

Mr. Lobb, you have six minutes.

Mr. Ben Lobb: The first question I have is on the six points you made in your presentation. It was the comment about the National Highway Traffic Safety Administration in the U.S. versus Transport Canada. How do you see that relationship working with Transport Canada?

Mr. Michael Ferguson: Madam Chair, in the audit we actually refer to the department taking a reactive approach to setting regulations in a number of regulatory cases. For example, they wait to see what regulations the U.S. sets before Canada sets its regulations. What we are concerned about is that in a number of cases, Transport Canada perhaps has research information or has done its own research into a certain issue. We certainly understand the need to understand what is going on with regulation in the U.S., but I think Transport Canada needs to be quite clear on how much of its approach is reacting to what the U.S. does in regulation and how much of its approach is about Canada's setting its own regulations.

Mr. Ben Lobb: In your opinion, is Transport Canada privy to where the safety administration in the U.S. is leaning with regard to new regulations for motor vehicle safety, or is Transport Canada being left in the dark until after they've made their decisions?

Mr. Richard Domingue (Principal, Office of the Auditor General): Thank you, Madam Chair.

In this case, as Mr. Garneau said earlier in his testimony, there is the Regulatory Cooperation Council, the RCC, and through that committee, there is discussion of upcoming regulatory initiatives that could be undertaken by both Canada and the U.S.

What we found in the audit is that the work plan set up by the RCC is rather prescriptive in terms of what will be acceptable when it comes to new regulations that can be introduced. For example, there's the anchorage system for the child car seat restraint system, and we noticed in the report that the anchors are failing under certain conditions. Transport Canada could introduce a new regulation, but for all sorts of reasons—one of them mentioned in the report, that it would be detrimental to trade—they decided not to introduce a made-in-Canada solution to that problem.

So there is that co-operation, but to an extent it might be detrimental to the introduction of Canadian regulation when needed.

Mr. Ben Lobb: The delay...there's been a bit of slowness within the department. You have the regulatory council. Maybe the U.S. makes a decision. They're working with the manufacturers. They go in a certain direction. On average, how long does it take Transport Canada to implement, or is it seamless?

Mr. Michael Ferguson: I think we've identified in the audit that in a number of cases it will take Transport Canada about 10 years to actually make a change to regulations from the time they originally undertake to look at something and do the research, and do their consultations, which again were primarily with the industry, and go through all of that process. I think we've given about three examples of different changes to regulations that were taking 10 years or more to make.

Again, our concern is that vehicle technology is changing much faster than that. A regulatory system that takes 10 years to put new regulations in place doesn't keep up with the pace of change in the technology.

• (1645)

Mr. Ben Lobb: I have time for one last quick question.

In point 10 of your presentation, you said there were 318 recalls between 2010 and 2015. Of those 318, were you able to identify a hypothetical scenario, if this new bill was brought forward, Bill S-2, where the minister would have or should have the ability to interject and where it would be proper to force a recall?

Mr. Michael Ferguson: Madam Chair, we haven't done that type of mapping to what's proposed in the bill. I guess as auditors, really what we did is we did an audit on a particular topic. We found a number of places where there needed to be improvements. We made some recommendations.

The department may feel that some of those recommendations can be dealt with by changes to the legislation. As auditors, our approach is always to wait and see, and probably at some point we'll go back and do a follow-up and see whether the department is having more success at being able to access information about what the manufacturers are aware of and are investigating.

The Chair: Mr. Badawey.

Mr. Vance Badawey: Thank you, Madam Chair.

Although we're on opposite sides of the table, I think we're heading towards the same sort of vision or direction, especially given Mr. Chong's comments earlier with the minister, of looking down the road and utilizing this process as something of a lever to be more proactive. That's what I want to address.

Do you feel there is an opportunity to take what you've done—and I might add that it has been very in-depth—to encourage the development of an enhanced auto economy by way of incentives, leading into the future, and somewhat anticipating what those new technologies will be?

I spoke about this earlier with Minister Garneau. Do you feel there's an opportunity here to encourage new technology through innovation that will, one, develop proactive—proactive, not reactive based on defects—returns on environmental, economic, and social investments? Two, do you feel it will encourage new and improved product, produced right here in Canada, to obviously strengthen our overall GDP, but most importantly, to take that next step to fulfill the vision of being proactive in dealing with the possibility of future defects, environmental or social, and ultimately, of course, leading to economic growth?

Mr. Michael Ferguson: Madam Chair, throughout the audit, I think one of the main points that kept coming out was this issue of regulations not keeping pace with technology. In fact, in some instances, for things like some of the lighting systems that exist now in vehicles in Europe, which are innovative but are not allowed under Canadian regulation, when you look at things like lighting systems being that closely regulated while some of the intelligence in semi-autonomous or autonomous vehicles is not being regulated, I think our concern is that there's a mismatch between the regulations and the pace of technology.

I think, from an economic point of view, it certainly becomes a drag on economic activity if regulations are not keeping up and are prohibiting certain technologies that have been proven elsewhere to have safety benefits. I think, really, from an economic point of view, you want to make sure that the regulatory system matches the pace of the industry. That will allow the right technologies. That will allow the right innovation. That will make sure that the regulatory system is not a hindrance to economic activity.

Mr. Vance Badawey: That's great. That's good news. We do not see this bill or this process as one that will simply sit on the shelf and be done. No, it has to breathe. It has to move well into the future. Hopefully the regulatory process can keep up with the pace of technology. I appreciate that answer.

You made the point that Transport Canada had agreed with your seven recommendations and had prepared a detailed action plan. With respect to the audit itself, the 2016 Fall Reports of the Auditor General of Canada, what year did you actually go back to with respect to the concerns that you brought forward within your audit? What years did it actually cover?

• (1650)

Mr. Michael Ferguson: I'm double-checking here to make sure that I get it exactly right. The period of the audit was January 2010 to September 2016.

Mr. Vance Badawey: Okay. Has Transport Canada agreed with all seven recommendations and prepared a detailed action plan?

Mr. Michael Ferguson: They agreed with the recommendations and they prepared an action plan. That would have been presented to the public accounts committee.

Mr. Vance Badawey: I believe that's coming through public accounts to us pretty soon, from what I read today in the email we received.

With that said, for the action plan and moving forward with it, how long do you suspect the time frame will be?

Mr. Michael Ferguson: We can double-check and see what some of the time frames are that they have in their action plan.

Related to our first recommendation, “Transport Canada should provide regular public updates on the status of its regulatory plans”, in fact their expected final completion date for that was April 2017. There's another one here, our second recommendation, with a time frame of September 2017. Another one is January 2017, which they say is completed. There's one for October 2017. For some of these, the dates have passed or are soon coming up, so at this point it's not just a matter of what they're saying they're going to do. They should be able to tell you whether they have done what they had in their action plan, because many of the dates are in the past, in fact.

Mr. Vance Badawey: I would anticipate that there will be or may be opportunity for that to attach itself to what we discussed earlier with respect to those new technologies and the regulatory environment keeping up with those new technologies.

Mr. Michael Ferguson: The thing about an audit is that in the course of an audit, we have findings. We identify things that need to be improved. We make recommendations. The department agrees with our recommendations, responds to them, and prepares an action plan. All of those individual activities are important, but I think it's perhaps more important to keep the big picture in mind, which is whether all of the changes are being made to line up the regulatory system with what's happening in the industry and properly balance the safety and the economic and other considerations. I think, again, as you keep an eye on this issue, it's not just whether the department has taken the individual steps that it said it was going to take; it's more about whether they can demonstrate that it is leading to a more efficient and more responsive regulatory system.

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

Mr. Aubin.

[*Translation*]

Mr. Robert Aubin: Thank you, Madam Chair.

Mr. Ferguson, thank you for being with us. My thanks also go to the members of your team. Your testimony is very enlightening. Earlier, when we received the Minister, I was wondering whether all the measures put forward were more like playing catch-up than a real proactive approach. I think we are starting to have quite a clear answer to that question.

I'd like to hear what you have to say about an aspect from your audit. You are saying that “Transport Canada did not develop motor vehicle safety standards to respond to emerging risks and issues in a timely manner”.

We now know that Bill S-2 will give the minister powers of exemption from certain regulations.

I would like to understand. Do we sometimes find ourselves in a situation where we could have advanced technology that is not accessible to us, like the headlights you mentioned earlier? Are we really faced with a road safety problem that we are not addressing because Transport Canada is not doing the tests?

Based on your audit, are we simply being deprived of advanced technology, or do we have a real safety issue?

My car certainly doesn't have the headlights you mentioned, but it has headlights.

Mr. Michael Ferguson: Generally speaking, we said there are a few situations where the technology exists, but the regulations to approve the technology are not in place. It can also be a matter of safety for the public.

Perhaps Mr. Domingue can add some comments.

• (1655)

Mr. Richard Domingue: The example of the headlights illustrates the situation well. That technology exists in Europe but is prohibited in North America, in both Canada and the United States. There are a number of reasons for that, but essentially there is the resistance from the Canada-U.S. Regulatory Cooperation Council. It is not on the list of projects for which the regulations have been approved.

In Bill S-2, as we discussed earlier with the Minister, there is an opportunity for him to make exemptions and allow vehicles that do not meet the standards to enter the Canadian market. Those headlights do not meet Canadian standards.

As the saying goes, the devil is in the details. Bill S-2 may help introduce into the Canadian market technologies to which we do not have access at the moment. We are sort of depriving ourselves of this technology for regulatory reasons.

Mr. Robert Aubin: Would I be reading your mind if I said that, if the Americans accepted this technology, we would have a parity clause, but Canada never takes the lead to change a standard like this with the Americans?

Mr. Richard Domingue: I can tell you that Transport Canada has been looking at the headlights issue for over 10 years. Their technological or technical argument is about the glare that those headlights could cause. However, the same lights exist in Europe, but the department will tell you that the road conditions are different, the roads are faster, narrower or wider there, and that, based on a number of criteria, what seems to work there may not work here. In addition to that, there is the issue with the U.S. regulations, which, for the time being, prohibit the coming into force of this technology.

Mr. Robert Aubin: Thank you.

I would like to hear what either of you has to say about one issue. It is up to you to choose who will answer.

A number of choices made by the Department of Transport over the last few years deserve to be questioned. One of the things you are wondering about is the \$5.4-million investment in the test centre for a new external safety barrier. You seem to be saying that it is not necessarily the best use of resources at a time when they are scarce.

What do you think the problem is with this investment?

Mr. Richard Domingue: The problem is that the decision was to build the barrier, at a cost of \$5.4 million, as you indicated, but the research budget was cut at the same time. Those funds would have been used to test the barrier. As indicated in the report, the budget decreased from \$1.2 million to \$492,000. We were wondering about building a \$5.4-million infrastructure without the money to fund the research that needs to be done on the barrier.

Mr. Robert Aubin: Okay.

We are told that Transport Canada's new approach is to manage risk. You just said that the budget has been reduced by 50%. Should laboratory tests be restored as a priority, even if they are done outside, as well as the regional teams on the ground who are able to bring evidence to assess the risk?

Mr. Richard Domingue: Our job is not to determine whether a particular program is properly funded. The department has to decide whether \$492,000 or \$1.2 million is sufficient or not.

Mr. Robert Aubin: I was not talking so much about the amount as about what is most appropriate for public safety.

Mr. Richard Domingue: This barrier is useful. In Blainville, it was considered important and necessary. We raised this point because there is a contradiction between investing \$5.4 million and not having the money to do the tests that follow.

[English]

The Chair: Thank you very much, Mr. Aubin. Your time is up.

Mr. Iacono.

[Translation]

Mr. Angelo Iacono: Thank you, Madam Chair.

My thanks to the witnesses for being here today.

In your fall 2016 report, in the chapter on passenger vehicle safety, one of the things you point out is that Canada is slow to adopt new vehicle safety regulations.

What explains Transport Canada's slowness?

• (1700)

[English]

Mr. Michael Ferguson: Madam Chair, again, I think part of what we particularly pointed out was the fact that the department seemed to wait to see what the U.S. was going to do. That was a significant part of the delay. There was also the way that they were approaching the consultations and how they were working with the industry in terms of the consultations. We felt that their research program was taking a long time. I think there were a number of factors, but I think it was all perhaps focused on the fact that they first started with waiting to see what the U.S. was going to do.

[Translation]

Mr. Angelo Iacono: You also said that Transport Canada does not have sufficient data on collisions and injuries, partly because of its inability to compel provinces and territories to provide complete and timely data.

What could the government do to correct this?

Mr. Michael Ferguson: There would have to be a discussion about the problem with the provinces in order to come to an agreement with them to obtain that data.

Mr. Angelo Iacono: Bill S-2 strengthens the powers of Transport Canada inspectors, including giving them the ability to collect information on collisions.

In your opinion, will that provision serve to correct, at least in part, the problem with collisions that you were critical of?

Mr. Richard Domingue: In the audit, we did not specifically examine the work of Transport Canada investigators on collisions. We touch on the subject a little when we talk about the six regional offices that have the mandate to go to the location of an accident, to collect data, and to talk to the coroner's office, to police forces and to doctors. In our report, we say, in fact, that the reduction of funding to those regional offices, which are not actually regional offices but research centres, usually in universities, like the École Polytechnique in Montreal, or the University of Waterloo, could jeopardize the quality of the data being collected in the field.

That said, we did not focus on the work that Transport Canada investigators do.

Mr. Angelo Iacono: In your opinion, will Bill S-2, which will require companies to provide more information on vehicle safety, help to improve vehicle safety?

Mr. Michael Ferguson: In an audit, our role is to examine activities in the past. Our mandate is not to say whether changes will result from certain aspects of a bill.

In this audit, we made recommendations on the department's power to obtain more information from manufacturers.

We will have to conduct an audit later in order to determine whether those changes have had any effect.

Mr. Angelo Iacono: Thank you.

I now yield the floor to my colleague Ken Hardie.

[English]

Mr. Ken Hardie: Thank you very much.

You do have the response from Transport Canada to some of your recommendations, particularly around the delay in developing new regulations. In the course of doing your audit you observed that it appeared as though they were trying to make sure they were synchronized with NHTSA, the National Highway Traffic Safety Administration in the United States. Is that what they told you, or was this an observation of yours?

Mr. Richard Domingue: As we did the audit, it became clearer and clearer that the role of the RCC was prevalent, that the need to synchronize the regulatory framework was the primary objective, that the trade issue was the primary objective. Some bureaucrats at

Transport Canada sort of questioned that, because they said they were there for safety, not for promoting trade, so it became apparent to us that this issue of the need to harmonize with the U.S. was the primary objective.

● (1705)

Mr. Ken Hardie: Did you detect any potential complications if, in fact, we in Canada got out too far ahead of the United States with some of the regulations, especially given the fact that a vehicle manufactured in North America crosses the border any number of times before the final product rolls out? Obviously, the whole issue of harmonization pretty much has to be top of mind.

Mr. Richard Domingue: Rightly so, because we are trading partners. You don't want to have a car produced in Oshawa that is made for the U.S. and another car made for Canada.

This being said, the only exception to the regulatory framework vis-à-vis the U.S. is the daytime running lights. This is the only exception you will find right now.

We noted the issue of the anchorage system for car seats. Transport Canada decided not to act on this one, for trade reasons. We are not questioning whether this is the right or wrong answer. We are simply saying there is a potential gap here between what is required for Canadians vis-à-vis what is required regarding trade.

The Chair: You are on to your own six minutes, by the way. You are a minute into it, which means you still have five minutes.

Mr. Ken Hardie: Good heavens, I need an audit now.

You looked at this group between the United States and Canada that talks about regulations, etc. Did you get the sense that the American equivalent of Transport Canada is also felt to be behind, not keeping up with new technology such as the one you cited from Europe on headlights?

Mr. Richard Domingue: I would say no, because even though it's a co-operative approach we have with the U.S. and discussions do take place between both parties, from that perspective we think the Americans are not complaining about the RCC.

Mr. Ken Hardie: But would the American manufacturers be complaining about NHTSA for simply being too slow with new regulations? Again, it speaks to the whole issue of trying to be harmonized.

Mr. Richard Domingue: We did not audit the Americans, so we don't know exactly what happened there, but we know there is a lot of pressure not to allow some technology into the U.S., for competitive reasons.

Mr. Ken Hardie: I see. Again, that goes back to the comment you made about trade, perhaps, being one of the motivators for a delay on Transport Canada's behalf.

Mr. Richard Domingue: One could see it that way, yes.

Mr. Ken Hardie: Did you look into any connection between consumer protection, if you like, and safety? You see occasionally where a manufacturer gets in trouble for having a transmission that doesn't work very well, requiring a lot of trips back to the dealership and being very difficult to repair. I wonder if you looked at situations where the line between a consumer issue and a safety issue can be very narrow. Did that factor at all into your audit in terms of Transport Canada's relationship with the other agencies that do oversee the auto manufacturing industry?

Mr. Michael Ferguson: Madam Chair, one of the things we identified in the audit that Transport Canada was in fact doing quite well was overseeing defects and recalls. That whole area of consumer protection and when a vehicle isn't living up to standards, I think they were managing well.

Again, we identified that the department didn't have access to some information from the manufacturers, so there are some things they should be able to get more information about, but they were doing a good job on the recall and defects side of things.

Going back in terms of the issue of the U.S. and the regulations, obviously there is an interest in trying to keep those regulations as close as possible, but I think all of that just needs to be well defined and designed within the regulatory framework in Canada. You know, how much of an influence is there going to be in the U.S.?

Again, the types of issues we raised, the fact that they were waiting for the U.S., I think are symptoms that resulted in the bigger problem, which was that it was taking Canada 10 years to put a regulation in place. When you have a system that takes 10 years to put a regulation in place, that's the indicator that the department needs to be working on. They need to figure out, "Well, if we want to be able to react more quickly, how do we do that in terms of also being able to stay in line with the U.S.?"

The issue isn't so much whether they should or shouldn't be trying to stay aligned with the U.S. The issue is more how that is taken into account in the whole regulatory system. Is that the primary goal? If so, let's state it, and let's figure out then how Canadian regulations are set afterwards.

I think it's more about having clarity around that issue then saying they should or shouldn't be doing it.

• (1710)

The Chair: Ms. Block.

Mrs. Kelly Block: I join my colleagues in welcoming you here today. I had the opportunity to sit in on the public accounts committee when you were in attendance and spoke to the recommendations that were made in this audit.

I want to take a step back and look at the process around not only your audit but the creation of this bill, and perhaps try to understand what role the work you do may play on the legislative process that we, as parliamentarians, find ourselves in.

It's been noted that this bill originated in the previous Parliament as Bill C-62, and was introduced in June 2015. Bill S-2 was actually introduced in the Senate in May 2016. It was then referred to the Standing Senate Committee on Transport and Communications in October 2016.

Perhaps this is where you could correct me if I'm wrong. You had actually initiated this audit in the fall of 2015. Is that when this audit was initiated?

Mr. Richard Domingue: Yes.

Mrs. Kelly Block: In the fall of 2015 you initiated an audit. We saw this piece of legislation going to the Senate in the form of Bill S-2 in the spring of 2016. You were in the middle of your audit at this point in time. The bill then passes third reading in the Senate in February 2017, but by now Bill S-2 has been introduced.

I'm wondering whether there was a missed opportunity here. You had initiated an audit, and then this legislation was introduced while you were in the middle of the audit.

Do you have any role in terms of perhaps providing some advice to legislators as to whether it might be a good idea to wait until an audit is complete before they begin a process around introducing a piece of legislation that could have looked very different if we had the report in front of us?

Mr. Michael Ferguson: When we do audits we walk into many different situations. Sometimes, in fact, we will walk into a situation where a department will tell us, "Look, we're working on something. Please wait until we've done that and come back and do the audit after we've implemented it." We hear that a number of times.

Also, there are situations where, yes, our audit results could have an effect on the changes that people want to bring forward.

Sometimes our audits will help to spur something along. A department may have been working on something but it may have been put on a back burner. We come in and we do an audit on a situation and that spurs them to get it completed.

We walk into a number of different situations. Fundamentally, though, it's not our job to try to set policy or to try to say when policy should be changed, or legislation, or any of those types of things. What we do is decide what topics we want to audit, when we want to audit them, and we go in and do that.

Occasionally we will change our audit schedule if we feel that the department is in a particularly significant transformation period for that program and that it makes more sense to come in after they've completed that. Occasionally we will do that, but usually we just keep going with our audit schedule no matter where things are. Sometimes they line up with the legislative calendar and sometimes they don't, but that's not really something we take into account or that we try to influence.

• (1715)

Mrs. Kelly Block: Is there a prescribed length of time that it takes for you to conduct an audit? Do you know, going in, how much time you have to complete the audit?

Mr. Michael Ferguson: Our normal planning period really is from the time we officially say that, yes, we are doing this audit, until we get it tabled in Parliament. It is usually 18 months.

If we scope an audit down so that it's only looking at one item and if the area isn't overly complex, we can do audits more quickly than that. But for these types of performance audits, we have to make sure, first of all, that we understand the topic area. Building up our knowledge of business on the area takes some time. Then there's making sure that we have the time to talk to all of the people we need to talk to, getting the advice that we need to get, and going through multiple iterations of draft reports with the department to make sure we haven't gotten any facts wrong. All of that usually takes us about 18 months from beginning to end.

Mrs. Kelly Block: You did note that it is not your role to form policy. I'm wondering if you believe there is room for the work you do to inform policy after the fact.

I would suggest, as a parliamentarian, that in a perfect world, I might have waited until your audit was complete on this specific area to see if there was anything in that report that would have fit well into this piece of legislation. I suppose we do have the opportunity to amend the legislation, now having been able to look at the recommendations you've made. That would just be one observation I make.

The Chair: Mr. Ferguson, I'm sorry, but we're way over time here. Maybe you can figure out how to tag that answer in somewhere else, or if you really think it's imperative, then we'll have to find a minute for you.

Mr. Fraser.

Mr. Sean Fraser: One of the big take-aways from your testimony for me today is essentially the timeliness of our ability to implement regulations, particularly when we have such focus on trade and harmonization with the U.S. I think you've laid out the problem very well.

One of the things I'm still trying to search for mentally is how we overcome that barrier. Is this simply going to be a direction by the Minister of Transport Canada to say, "Forget what's going on with the RCC and forget what's going on in the U.S. You have the information to enhance safety through these regulations, and just do it"?

What are the obstacles that we're facing to doing this in a more expeditious manner?

Mr. Michael Ferguson: I think the obstacles in this are formidable. With respect to the things the department needs to balance, there are serious competing interests. I go back to the starting point of when issues are identified, and it takes 10 years to put a regulation in place, that sounds like a system that isn't completely working. When technology is changing as fast as this technology changes, when you have regulations that deal with the types of lights on a vehicle but there is nothing that says anything about some of the semi-autonomous and autonomous software that allows cars to operate with less driver intervention, it makes you wonder whether the regulatory system is complete and robust enough.

I start with what the end result looks like, and say that what the department needs to figure out is what the regulatory system should be doing. The types of things they need to consider, as I said, are formidable. What's going on in the U.S.? Do we need to harmonize

with the U.S.? What's the impact on trade? What's the impact on the cost of a vehicle? What's the impact on the environment of having regulations or not having regulations? How much research do they need to have before they bring in a regulation?

There are a number of things they need to sort out within that regulatory framework. But it seems to me that right now, the regulatory framework is one that just cannot keep pace with the rate of change. The fundamental question is whether the way they're operating the regulatory system right now is achieving what it was intended to achieve.

● (1720)

Mr. Sean Fraser: In very broad strokes, I'm thinking what a framework should do is keep pace with technology and improve safety. When the information is there or is attainable, go get the information and make the regulations as quick as you can to effect the change you're hoping for. I'm still struggling to understand how we do that. Do we need Transport Canada to do a survey of all the things we're behind in right now? Do we need to be prioritizing research to get there, or am I getting into the realm of policy, which is beyond your role as an auditor?

Mr. Michael Ferguson: In terms of all of the details of that, that's something which I think Transport Canada needs to sort out. They need to sort out what an efficient regulatory system would look like, what it is intended to achieve. Getting down into that level of detail is beyond my knowledge and expertise. Fundamentally, though, when you look at the results of the audit, you may question whether the regulatory system is really doing what it should be doing.

Mr. Sean Fraser: Most of the report is not specifically tied to Bill S-2, but you mentioned one item today that I saw in the report and which I think is fairly applicable, and good news for the safety of Canadians. You highlighted that we're pretty good at identifying defects and discussing plans with manufacturers. It seems that's not a bottleneck in the system right now. With the new power to order recalls in Bill S-2, do you think, given that we're half-decent at this, the minister is going to have the information required to order recalls for things that do pose safety risks to Canadians?

Mr. Michael Ferguson: Well, I'm always very careful as an auditor, in that there has to be something we can actually audit, as opposed to speculating on whether a change will or will not deal with it.

Mr. Sean Fraser: Perhaps I can rephrase my question. Did you find any cause for concern in your audit that suggested there wouldn't be full information for the minister to identify these defects and make an order?

Mr. Michael Ferguson: We found instances where manufacturers were investigating potential defects and the department didn't know about it. We found instances where the Canadian subsidiary didn't know that the American parent was investigating potential defects in vehicles. We identified situations where Transport Canada didn't have access to all of the information, and we felt they should have more ability to get access to some of that information, but—

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

Mr. Chong.

Hon. Michael Chong: Thank you, Mr. Ferguson, for appearing in front of us.

I want to focus on the emergence of autonomous driving technologies and vehicles. I'm very worried that we're going to miss the boat on what is a very important industry in our country. The auto manufacturing sector is incredibly important to employment in southwestern Ontario. It's one of our key industries. I've been reading reports that the autonomous, driverless vehicle industry could be worth up to \$100 billion in about a decade in North America. It seems to me that one of the risks preventing us from being a big part of that is that our regulatory framework is not keeping up.

We already have autonomous vehicles on the highways today. A Mercedes S-Class can drive itself down the 401, can come to a complete stop in stop-and-go traffic, can accelerate up to 200 kilometres an hour, all without the driver touching the brake or accelerator. It can steer itself down the highway. It can steer itself indefinitely, although they haven't turned that on, but it will steer itself for a period of time before alarms start going off.

This technology is already here, and we don't have a clear regulatory framework on how to proceed. You identified this in your report of a year ago, that this was a big gap in the department's regulatory approach. You've mentioned numerous times here that there are lengthy delays to implement regulations and standards, sometimes in excess of 10 years. In your report of a year ago, you also said there were already semi-autonomous vehicles on the roads back then. In your report, the department responded to your recommendation 4.35, which says that Transport Canada should provide regular public updates on the status of its regulatory plans. The department committed to delivering on that last April.

We just had the minister here, and we were unable to get a clear answer as to when the new regulatory framework for autonomous vehicles is going to be released by Transport Canada. It seems to me they're not even meeting the commitments that they made to you for the gaps you identified in your report.

I just make that as a point. We're losing time here. Ten years is not that far out, and this is a critically important industry to workers and companies in Ontario.

• (1725)

The Chair: Would you like to respond?

Hon. Michael Chong: That's just a comment. If the Auditor General has a comment in response to that, it would be appreciated. There's a sense of urgency here, and I don't sense from the department and the minister that we're getting that urgency in return.

Mr. Michael Ferguson: Madam Chair, the important message coming out of this audit in terms of the regulatory system is that there is a regulatory system—or there was at the point in time that we looked at it—that was going at one pace and an industry that was going at another pace.

I think for the government to make sure the regulatory system is relevant, it needs to make sure that regulatory system can keep up with the pace of the industry, the pace of the innovation in that industry. We've identified a number of gaps, and we identified a number of places where that regulatory process was taking too long. I think that is the real challenge for the department, getting a regulatory system that is keeping pace with the industry and figuring out how to get that regulatory system quite quickly.

The Chair: Mr. Aubin.

[*Translation*]

Mr. Robert Aubin: Thank you, Madam Chair.

In your opening statement, you made some comments that particularly troubled me. You said:

We also found that Transport Canada did not plan or fund its research and regulatory activities for the longer term.

We are no longer talking about delays here, but of a lack of planning. You go on to say:

As a result, the Department could not prioritize resources and spending decisions accordingly.

In your seven recommendations, is there one that addressed this problem specifically?

I am quoting from paragraph 9 of your opening statement.

[*English*]

Mr. Michael Ferguson: Okay.

[*Translation*]

In paragraph 4.63 of the report, we say:

Recommendation. Transport Canada should develop a long-term operational plan for the Motor Vehicle Safety Directorate. This plan should identify planned activities, budget, and level of effort needed to deliver on its mandate.

In my opinion, the relevance here is that the department should have a plan, a budget, and activities, and that all those aspects of the plan are specified so that the department is able to conduct all its activities in a rigorous way. All the aspects have to be included in the plan.

• (1730)

Mr. Robert Aubin: You say “in a rigorous way”, but I imagine you could also add the words “and more coherent”. My impression is that the management is very ad hoc.

In paragraph 8 of your opening statement, you say: “The Department stated ... “ Going back to the issue of the anchorages, it is patently clear that commerce has been prioritized over safety in this case.

Can any link be established between this example and the disproportionate influence of the consultations with the major manufacturers that you mention in another part of the audit?

Mr. Richard Domingue: We are not clear on what manufacturers and the Retail Council of Canada, the RCC, contributed to the resistance that the department was putting up to the idea of regulating anchorages at the time of the audit. They were proposing a label on the car seat as a solution. By the way, the audit did not examine the accessories, specifically the car seats and the tires. However, since the anchorages are components of the car, they were part of our audit.

Their solution is not to regulate the vehicle by modifying the strength of the anchorage, but to amend the regulations about the use of the children's car seats. The idea is to advise parents that, after a certain weight, they must use the anchorage as well as the harness.

[*English*]

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

Thank you very much to our witnesses. We appreciate your taking
the time to come and answer the questions.

If we could excuse the witnesses, we have a short bit of committee
business to do, or at least I hope it will be short.

[Proceedings continue in camera]

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