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Chair: Mr. John Williamson



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• (1545)

[Translation]

The Chair (Mr. John Williamson (New Brunswick South-west, CPC)): I now call this meeting to order.

Good afternoon, everyone. Welcome to meeting number 131 of the House of Commons Standing Committee on Public Accounts.

[English]

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

I'd like to ask all members and other in-person participants to consult the cards on the table for guidance to prevent audio feedback incidents.

[Translation]

Please keep in mind the preventive measures in place to protect the health and safety of all participants, including the interpreters.

[English]

Please use only an approved black earpiece. Keep your earpiece away from all microphones at all times. When you're not using your earpiece, please place it face down on the sticker, which is generally to your right but could be to your left. It is well away from the microphone. Also, as a reminder, all comments should be addressed through the chair.

[Translation]

Pursuant to Standing Order 108(3)(g), the committee is undertaking the consideration of report 6 from the Auditor General of Canada, entitled "Sustainable Development Technology Canada", referred to the committee on Tuesday, June 4, 2024.

Before welcoming our witnesses, I would like to thank the Office of the Auditor General of Canada for the documentation it has already provided to the committee in response to the questions asked on June 4, 2024. We are waiting for the answers to come regarding breaches of the conflict of interest rules and the projects that received funding, in accordance with the request made by the committee on June 4, 2024.

[English]

I'd like to welcome our witnesses.

From the Office of the Auditor General, we have Karen Hogan, Auditor General of Canada; Andrew Hayes, deputy auditor general; Mathieu Lequain, principal; and Ewa Jarzyna, director.

From the Department of Industry, we have Simon Kennedy, deputy minister. It's good to see you.

Finally, from Innovation, Science and Economic Development Canada, we have Francis Bilodeau, associate deputy minister. I appreciate seeing you today as well.

Each group will have five minutes for an opening statement.

As per our custom, we'll begin with you, Ms. Hogan, for five minutes, please.

Ms. Karen Hogan (Auditor General of Canada, Office of the Auditor General): Mr. Chair, thank you for this opportunity to discuss our report on Sustainable Development Technology Canada.

I want to begin by acknowledging that we are gathered on the traditional unceded territory of the Algonquin Anishinabe people.

This audit examined whether the foundation, Sustainable Development Technology Canada, managed public funds in accordance with the terms and conditions of contribution agreements and its legislative mandate. It also examined Innovation, Science and Economic Development Canada's oversight and administration of public funds. Between March 2017 and December 2023, the foundation approved \$856 million of funding to 420 projects.

We found that there were significant lapses in Sustainable Development Technology Canada's governance and stewardship of public funds. Specifically, the foundation awarded \$59 million to 10 projects that did not meet key requirements set out in the contribution agreements between the government and the foundation.

I am also very concerned by breakdowns in the foundation's governance. The foundation was not always following its conflict of interest policies, and it failed to comply with the Canada Foundation for Sustainable Development Technology Act. The act requires the foundation to have a group of 15 members, separate from its board of directors, to represent Canadians and appoint most of the foundation's board. We found that the foundation did not comply with the legislation because it had only two such members instead of the required 15.

[Translation]

On the conflict of interest issue, the Canada Foundation for Sustainable Development Technology did not have an effective system for recording conflict of interest declarations or the measures taken in that regard. While we found 96 cases in which members of the board of directors complied with the conflict of interest policy by declaring their conflict and recusing themselves from the vote, there were 90 cases in which the foundation's records showed that the conflict of interest policy was violated. Those 90 cases were associated with funding decisions that granted almost \$76 million to projects.

We also found that Innovation, Science and Economic Development Canada did not adequately evaluate whether the foundation was complying with the contribution agreements. Because of its limited oversight activities, the department was unable to ensure that the funds were spent in accordance with the terms of the contribution agreement. As well, it did not conduct any compliance audits of the foundation and did not monitor conflicts of interest.

Like any organization funded out of public moneys, Sustainable Development Technology Canada must operate transparently, responsibly and legally. Our findings show that when there are failings in that regard, it becomes difficult to show that the funding decisions made on behalf of the Canadian public are appropriate and justified.

This concludes my opening statement. We will be pleased to answer questions from committee members.

• (1550)

The Chair: Thank you once again.

[English]

Mr. Kennedy, I expect that you'll be making the presentation. You have five minutes.

Mr. Simon Kennedy (Deputy Minister, Department of Industry): Thanks for the invitation to appear before the committee today, Mr. Chair, and for allowing me to provide some opening remarks with regard to the audit of SDTC.

[Translation]

I have three points that I would like to present to the members of the committee.

[English]

First, I would like to strongly underline my department's commitment to sound management of public funding. We aim to ensure effective stewardship in all of our activities and, where weaknesses are found, to take swift action to correct those weaknesses.

The record shows that Innovation, Science and Economic Development Canada moved swiftly as soon as we were made aware of the allegations of mismanagement at SDTC. We were informed by the whistle-blower of the allegations in mid-February 2023. Very shortly thereafter, we issued a contract for a leading audit firm, Raymond Chabot Grant Thornton, to conduct a fact-finding exercise. The firm had full access to the evidence provided by the whistle-blower.

RCGT's report was presented to the department in late September 2023. It revealed inconsistencies and opportunities for improvement in the organization's governance and conflict of interest practices, in its compliance with its contribution agreement and in its HR practices. Within a few short days, the minister was briefed, and he ordered SDTC to implement a detailed corrective action plan in order to pause on new project funding.

[Translation]

In response to concerns regarding the SDTC's human resources practices, the department decided to do a second review, and that required the contribution of SDTC and the Attorney General of Canada.

[English]

Within the space of a few short weeks, the government engaged a leading national law firm, McCarthy Tétrault, to look deeply into the allegations around HR practices. That review was thorough, interviewing more than 60 current and former SDTC staff, executives and board members, and there was an associated document review. ISED also provided to the law firm the package we received from the whistle-blower. This review found that neither current nor former executives engaged in harassment, that severance packages and NDAs were aligned with normal business practices and that HR complaints were unequivocally addressed.

Finally, of course, the Auditor General conducted her own audit. We've been very pleased to work closely with Ms. Hogan and her office, and we welcome the findings of her audit. We are in full agreement with her findings, including the recommendations directed to ISED. Indeed, we're already quite advanced in implementing improvements.

My second point is to underline the unique nature of SDTC. Its legal structure played a role both in how we got here today and in the government's plans for restoring funding to the clean-tech sector. More than 20 years ago, Parliament set up this organization as a private foundation. This means that it's an organization in the private sector and is not owned by the government. The statute makes clear that SDTC is not an agent of the Crown. In this regard, it is totally unlike a branch of my department, a Crown corporation or even a third party that might act as our agent to deliver a program on our behalf.

Through a contribution agreement, ISED allocated funds to SDTC for a specific purpose. However, much of the day-to-day decision-making on how the organization should operate and exactly how its programming should work is, by design, in the hands of the SDTC board and management team.

[Translation]

Under the legislation, the government's ability to oversee this organization's activities is limited to the terms of the contribution agreement. Any human resources issue at Sustainable Development Technology Canada therefore falls outside government oversight by law. The employees are not public servants and none of the usual legal structures that apply to public servants are in play. That is why the former board of directors had to waive its rights before McCarthy Tétrault could begin its review of human resources practices.

[English]

As the Auditor General noted, ISED did conduct monitoring activities under the contribution agreement, but as the Auditor General said, these were not sufficient to pick up the problems inside SDTC. We agree and are already well advanced in putting in place structural changes in how we oversee clean-tech funding.

My final point, briefly, is with regard to the action plan to restore confidence in clean-tech funding. We are confident that the transition of both rank-and-file staff and SDTC programming to the NRC will directly address the concerns that have arisen from the various reviews.

The NRC and IRAP have a 100-year history of excellence in delivering programming to Canadian business. Moreover, they have expertise in clean tech. They are well suited to take on the new responsibilities. Moreover, unlike SDTC, the NRC is a Crown agency. It is fully subject to important statutes such as the Financial Administration Act. Its employees are public servants directly accountable to the Crown. Its governing council, in its entirety, is named by the government. The president of the NRC is a GIC appointee subject to regular performance reviews by the government.

The challenges identified at SDTC revolved almost entirely around its arms'-length independent governance model, which clearly, as the minister has said, was not sufficient to meet modern expectations of public sector governance. By placing its programming inside the public service, the ability to scrutinize and ensure adherence to key government policies, whether in finance, administration, conflict of interest or HR, will be much higher.

[Translation]

Thank you for giving me the opportunity to present my comments. I am now prepared to answer questions from members of the committee.

• (1555)

The Chair: Thank you.

[English]

We will begin with our first round. Each of the first four members will have six minutes.

Mr. Barrett, you have the first slot.

Mr. Michael Barrett (Leeds—Grenville—Thousand Islands and Rideau Lakes, CPC): Ms. Hogan, we got a shocking response from your office to a question from my colleague Mr. Perkins.

Are you able to confirm that the total amount of money handed out by SDTC in cases of conflicts of interest was more than a quarter billion dollars—\$336 million?

Ms. Karen Hogan: I'd like to provide a bit of clarity to the figures. There were 96 cases of conflict of interest that we believed were managed well and where board members recused themselves from the vote. Those were linked to \$259 million in funding. Then there were 90 cases, as we noted in the audit, where there were conflicts of interest that were not properly managed and where individuals who had declared a conflict of interest continued to be involved in the discussion and then vote. Those were linked to \$76 million of funding.

You can't just add the two up because some of the funding appears in both buckets. It isn't just a case of adding the two numbers, but it represents a total of \$319 million.

Mr. Michael Barrett: It was \$319 million in the cases of the conflicts of interest. Thank you very much.

Mr. Kennedy, when was the minister or staff first informed about any of the findings of the RCGT report? What was the date?

Mr. Simon Kennedy: I'm looking at the chronology. The minister was briefed on the results of the fact-finding exercise and the next steps on September 27, 2023. There's a briefing note that my office would have provided to him to support that discussion.

Mr. Michael Barrett: Prior to the end of September, you never discussed any findings at any stage of the RCGT report with the minister or his staff before that formal briefing at the end of September.

Mr. Simon Kennedy: We received the confidential file from the complainant on February 16. We briefed the minister shortly thereafter on the fact that we had received this binder and the proposal to conduct this review using a third party audit firm. Then the review unfolded between early March and late September. The minister was briefed on the findings in late September, on the date that I noted.

Certainly I would have let him know the review was continuing and so on. I meet the minister regularly, so I would have maybe orally let him know that RCGT was continuing its work, but the briefing of the findings was on September 27, 2023.

Mr. Michael Barrett: We heard from your CFO that there were multiple discussions in June and that prior to the September date, the minister was read in on it.

Do you agree with Mr. McConnachie's statements that the minister had been read in on the status of the RCGT report not at the end of September but in fact in June?

Mr. Simon Kennedy: I would, as part of normal practice, have kept the minister apprised of the fact that the audit work was continuing.

Again, I believe it's a matter of record, but we received a preliminary assessment from RCGT on their work, and we amended the contract for them to do additional fieldwork. That was in early June.

There were multiple rounds with RCGT where we asked them to go back and do additional work. However, as I said, the results were presented to the minister on September 27.

Mr. Michael Barrett: On September 15, SDTC said you told them there would be no further investigation and they should consider suspending funding, so you made the decision on the 15th prior to briefing the minister in full to that effect. That wasn't the minister's call; that was yours. Is that correct?

Mr. Simon Kennedy: There are two things, I think, happening here at the same time. One is the work that RCGT was doing, and the dates I've noted. The second is that in the way SDTC normally operates—and this is my layperson's description—they have a regular funding cycle where they do reviews of projects and make funding awards. When I spoke to the organization, I advised them that it would be unwise to continue business as usual.

• (1600)

Mr. Michael Barrett: Then that was your decision.

Mr. Simon Kennedy: It was really SDTC's decision to suspend. At that point, the minister hadn't issued a formal stop order, but it was advice—they had a board meeting coming—saying, “You may wish to delay decision-making because the audit report is almost final. We'll be talking to the minister and you don't want to—”

Mr. Michael Barrett: I am running short on time, sir.

The findings were produced by RCGT in May. The study was extended. Did you make that decision or did the minister make the decision?

Mr. Simon Kennedy: That would have been made by me. It would have been the department's decision to extend that.

Mr. Michael Barrett: The findings were enough for ISED to discuss an action plan, including a new office at a director general level to deal with it, but that never materialized.

Who made the decision, and on what date, to extend? You said you didn't brief the minister until June. These seem like pretty advanced decisions for the minister to not weigh in on.

Mr. Simon Kennedy: I'm not sure I understand. I'll try to answer.

We had RCGT doing audit work. The audit work clearly picked up that there might be issues. We wanted them to do additional fieldwork so we would have a definitive assessment to present to the government.

When we were getting closer to the final report being ready for presentation to the government, we were working on our management response and action plan, which I can make available to the committee. I believe it's a matter of public record. That was the actual response to the audit: What would we do in response to these findings that were problematic?

The Chair: Thank you very much.

Up next is Mrs. Shanahan for six minutes, please.

Mrs. Brenda Shanahan (Châteauguay—Lacolle, Lib.): Thank you very much, Chair.

I'd like to thank the witnesses for being here today, and I'd like to thank the Auditor General in particular for an excellent report.

I am glad to see that the department is moving forward on the recommendations and is co-operating in every way on this matter. However, what concerns me is the highly unusual—I would say for this committee—letter that we received from the Auditor General on June 10. It concerns the motion that was passed in the House of Commons the week before regarding the production of documents and indeed the entire audit file housed by the Office of the Auditor General.

In the letter, Auditor General, you expressed your concern about “some of the short-term and long-term impacts of this motion” and how producing this “entire audit file to the Law Clerk and Parliamentary Counsel compromises [your] independence, and is also likely to discourage departments, agencies, and Crown corporations from providing” you and your office “free and timely access to the information required for [your] audits going forward.” This concerns me greatly as a member of this committee because the independence and integrity of the Office of the Auditor General are of paramount importance.

Auditor General, can you explain the background of the letter you sent to this committee last week in regard to the House motion and your investigation of SDTC? Why do you feel it's important to voice your concern at this time? Can you please explain further your thinking behind this?

Ms. Karen Hogan: As to the timing of my letter, it was from before the original motion had been amended. I think it's important for the time frames to know that.

I believe including my office in that motion was unnecessary since inserting the law clerk didn't seem to be needed in order to see my office comply with a request from Parliament. We have always co-operated very swiftly with Parliament, and I already had established mechanisms in place to ensure that the RCMP could access any information that they believed was necessary in the course of an investigation they might undertake.

When it comes to my independence and the long-term impacts that I think this might have on audits, I think Parliament believes that my audit files should be protected, and they signalled that by shielding them, in the Auditor General Act, from access to information and privacy requests. This was done in the context of the Federal Accountability Act. It was important for the information we gather to be protected in some fashion. It was also done to ensure that public servants, or any other individual who wished to talk to us, could provide us with free and timely access to information.

My concern about being included in this motion was that it might hinder my ability to gain timely access to information going forward or hinder the freedom that public servants feel now. When they talk to us, what they say should remain confidential and appear in our report in the best way possible to help Parliament hold the government to account.

I was concerned about that. I was also concerned about the time and cost it might take to respond to such a request. It was unclear to me at the time whether my entire file needed to be translated to meet this motion, so there were many things causing some concern. However, as soon as the motion passed in the House, we communicated that day with the law clerk, and we're working through how to ensure that we continue to support Parliament, as we always have.

• (1605)

Mrs. Brenda Shanahan: Thank you very much for that answer. We can certainly rely on the professionalism of your office and the other offices in Parliament. More and more, however, we're seeing, for a variety of reasons, this push to divulge all information, regardless of where it comes from, what it's used for and what its purpose is.

Do you believe this type of motion—and who knows what could come up in the future—could affect the integrity of future investigations you might conduct? Would this have a chilling effect, in other words?

Ms. Karen Hogan: As I mentioned, I'm concerned about the unintended consequences the motion might have on my free and unfettered access to public servants, Crown corporations, departments, and agencies going forward. If there's a belief that everything might need to get handed over, there might be a hesitancy to provide us with information, or we might have to deal with redactions. Then there's the time that it takes to challenge departments and have those appropriately removed or not removed.

There might be some unintended consequences, which I hope will not impact us going forward, but those cause delays such that I might not be able to provide all reports in a timely fashion to Parliament, as I have committed to doing.

The Chair: Thank you. I'm afraid that is your time, unfortunately, Mrs. Shanahan.

[*Translation*]

Ms. Sinclair-Desgagné, the floor is yours for six minutes.

Ms. Nathalie Sinclair-Desgagné (Terrebonne, BQ): Thank you, Mr. Chair.

Thanks to the witnesses for being here and to the Auditor General and her team for a very interesting report.

Sustainable Development Technology Canada is an example of how to take a good idea based on noble objectives that have lasted for 23 years and transform it into a management disaster and a source of anxiety for thousands of entrepreneurs who are now dependent on these funds for technologies that are the future of Quebec and Canada.

Ms. Hogan, I will begin by asking you a brief question, just to understand the chronology. In November 2022, a group of whistle-blowers contacted your office, is that correct?

Ms. Karen Hogan: Yes, they contacted my office in November.

Ms. Nathalie Sinclair-Desgagné: Good. You then advised the group of whistle-blowers to submit their evidence to the Privy Council Office, is that right?

Ms. Karen Hogan: We contacted the Privy Council Office ourselves and put them in touch.

Ms. Nathalie Sinclair-Desgagné: At what point did you contact the Privy Council Office?

Ms. Karen Hogan: It was in February 2023.

Ms. Nathalie Sinclair-Desgagné: Right. So in February 2023, you contacted the Privy Council Office.

Mr. Kennedy, in your case, what happened between November and June, when you retained Raymond Chabot? In fact, seven months passed between those two events. Why did you wait so long?

Mr. Simon Kennedy: As I understand it, the people who were concerned about the problems went around to various organizations, including the Office of the Auditor General and the Privy Council Office.

We received the complaints on February 16. We became involved in this matter in February, not November. Since it was an organization that had received funds from our department, and it was part of our portfolio, it was our responsibility to follow up. We therefore decided to do that, and that was why we undertook the study with Raymond Chabot.

• (1610)

Ms. Nathalie Sinclair-Desgagné: In fact, your department was responsible for doing the necessary follow-up. I understand that the study was assigned to Raymond Chabot, but there was a series of events after that.

You told my colleague that you had informed the minister. On what date, exactly, was the minister made aware of these problems for the first time?

Mr. Simon Kennedy: We informed the minister officially on March 5. We sent him a memorandum stating that we had received a complaint and we were in the process of discussing the possibility of doing an audit. We awarded the contract about ten days later. We then presented the minister with the results on September 27.

Ms. Nathalie Sinclair-Desgagné: Okay.

Between 2001 and 2022, there seem to have been a lot of failures when it comes to follow-up. In fact, according to the Auditor General's report, you received the minutes relating to conflicts of interest. Sustainable Development Technology Canada, or SDTC, was supposed to let you know when the funding was to be recovered. The department was to have been kept informed of a lot of things, but there was no follow-up on them.

As you said, SDTC is part of the department's portfolio. Can you simply answer this question: Who at Innovation, Science and Economic Development Canada was supposed to follow up with SDTC?

Mr. Simon Kennedy: There is a sector of the department that is responsible for clean technology programs. The department participates in these initiatives with organizations like SDTC. Our own office is responsible for finances. So these two groups, together, follow up with the organizations working in the field of the environment.

It is up to the department to follow up with those organizations, but both offices are—

Ms. Nathalie Sinclair-Desgagné: Okay. So there are two different offices, two opportunities rather than one, that did not do the necessary follow-up to make sure that SDTC was using public funds wisely. Access to the minutes was not verified, obviously.

I have another point of information, and I think it is important that taxpayers know about it. As early as 2018, there was an internal audit that recommended a review of the conflict of interest policies and assurance that they were being properly overseen by the department. This means that recommendations for an internal audit were referring to these problems as early as 2018.

Now, you are telling me that not one, but two teams at the department did not do the necessary follow-up with SDTC. That is problematic.

When was it decided to abolish Sustainable Development Technology Canada? We know that the announcement was made on the same day as the Auditor General's report was submitted. However, the decision had to have been made well before that. When was it made, please?

Mr. Simon Kennedy: I can tell you that we obviously worked on the various options, because we were aware that the Auditor General was doing an audit and was going to present the results. We had already done a study with Raymond Chabot that showed there were problems. We were considering the options. Did the board of governors need to be strengthened? Did there need to be a change of governance? That discussion took place over several months.

I do not have the exact date in front of me when the decision was made, but the minister announced the decision—

Ms. Nathalie Sinclair-Desgagné: —on the same day as the report was submitted. The minister did not pull it out of his hat, and that decision had to have been made earlier.

Mr. Simon Kennedy: Yes, certainly, that is obvious. There was a lot of work to do before we—

Ms. Nathalie Sinclair-Desgagné: Can you give me a specific date, or at least a week, or, at worst, a month?

Mr. Simon Kennedy: I do not have a date in front of me. However, I just want to say that we did a lot of work to get to the announcement, that is for sure.

The Chair: Thank you.

[*English*]

Up next is Mr. Desjarlais for six minutes, who is joining us online.

Mr. Blake Desjarlais (Edmonton Griesbach, NDP): Thank you very much, Mr. Chair.

I want to thank the Auditor General and her team for a very important audit related to Sustainable Development Technology Canada.

Auditor General, you highlighted in your opening remarks some of the key issues that pertain to the very troubling concerns that Canadians are now faced with. If I may, I will summarize part of

them and editorialize a bit, but I'll give you an opportunity to speak about them afterwards.

My summary of this issue is, first, related to non-compliance of the act. You were pretty clear that there was non-compliance with the establishing act, which would provide some level of oversight to at least try to prevent some of the egregious issues we're seeing today.

Conflict of interest was mentioned by my colleagues just now. Several times there's been criticism of the conflict of interest issues related to this fund.

Regarding the abuse of workers, it's my understanding that non-unionized workers were forced to report this as whistle-blowers, ultimately facing some of the most severe setbacks in their lives, like losing their jobs, and issues that pertain to their personal lives. I thank those whistle-blowers for their immense courage in bringing forward a very serious issue. Unfortunately, they were non-unionized, and many of them suffered the penalties of such. This would be a good example of why unions are important.

Ultimately, Canadians, and particularly young Canadians, are hoping for a government that takes seriously the concerns of climate change. What they find here is a classic example of greenwashing. It breaks my heart, and I think the hearts of many Canadians, to know the very difficult circumstance that we find ourselves in. There's a promise to help challenge the climate crisis we're all in today, yet one of the major tools of the government to help with sustainable development and technology has largely been hijacked by large-scale issues of conflict of interest, which leads to corruption. It's disappointing.

Deputy Minister, I hope this is something you take full breadth of, not just in today's hearing but as the report continues, to understand that this is not only an abuse of taxpayer dollars and the important funds that people work hard to contribute to our government, but also a massive breach of trust—a basic level of trust in our institutions and in the programs that are said to be adhered to by government. When they see reports like this, it does dramatic, direct damage to public confidence, and that cannot be understated. That's something you have to take forward in your responsibility as our deputy minister, and I hope you take it seriously.

I want to turn to one of the issues that I highlighted in my opening remarks related to the very serious issues of governance and the non-compliance of the act. The Auditor General makes special note of the appointment process for the board of directors. There was a requirement under the act to have 15 members on the board of directors, and we found ourselves in a situation where there were only two.

Auditor General, how is that possible? How did that happen?

• (1615)

Ms. Karen Hogan: I have a point of clarification. The board of directors had 15 members. A group of members—I'll call them a member council, but that's not their official title—was put in place to name half of the board, but also to do things like name the external auditors. It was that group of members that dwindled down to two, and this is where I believe the board of directors of the foundation failed in ensuring that the foundation would continue to comply with its enabling legislation, which required not only the board to have 15 members, but the member council to have 15 members.

Mr. Blake Desjarlais: Who's responsible for monitoring compliance of the act?

Ms. Karen Hogan: In my view, it is the responsibility of the board of directors of the foundation to ensure they comply with the act. Innovation, Science and Economic Development Canada were to ensure that the foundation complied with the contribution agreements between the government and the foundation, but their oversight could have also included ensuring that the foundation was complying with legislation.

Mr. Blake Desjarlais: In your mind, where do you think the biggest error in governance comes from? I want to summarize, with that question, a feeling I get about a pattern. I've been on public accounts for almost three years, Ms. Hogan, and you've presented us with many reports. I thank you for that, but in your own mind, you might see a troubling pattern that continues to persist, one of ministries, departments and partners skirting the line of accountability or responsibility just enough so that there isn't one person, one department or one ministry we can hold accountable. That issue leads me to think we have issues in coordination, oversight or accountability.

Can you please spend a bit of time describing who is most accountable for this work?

• (1620)

Ms. Karen Hogan: The biggest share of accountability rests, in my mind, with the board of directors of the foundation. They had a fiduciary responsibility to the foundation. In my view, they failed to ensure that conflicts of interest were well managed and to comply with legal requirements. Most concerning is that this group of members was allowed to dwindle to two individuals instead of 15, and they then appointed five members to the board of directors. That, to me, was a huge gap in governance at the foundation and in compliance with its enabling legislation.

The department plays some role in oversight. However, I think, ultimately, this failure rests with the board of directors of the foundation.

The Chair: Thank you very much.

We're beginning our second round.

Mr. Barrett, I understand you're going to begin and then will turn things over to one of your colleagues. You have the floor for five minutes.

Mr. Michael Barrett: I want to take a second to circle back to one of the questions from the previous round, Madam Auditor General. It's with respect to files that have been ordered by the House,

to be transmitted by the law clerk to the Royal Canadian Mounted Police.

That function, first of all, is important to highlight. The law clerk's role here is to serve as the conduit for those files and to make them travel. This isn't a direction to the Auditor General on what to audit. It's like any bill that comes through the House that receives majority support. The documents and data that were used by you to reach the conclusions you did with respect to the millions of dollars.... I think you said \$319 million was involved in cases of conflict of interest. Some were declared and some were undeclared, but all of that money went to appointees' interests, to those involved with SDTC.

The only reason this step is necessary is that after nine years of the NDP-Liberal government, we have a complete absence of transparency—a refusal to be transparent with Canadians. It's not just files from the Auditor General. We need files from Sustainable Development Technology Canada and ISED. While we know the record-keeping at the Auditor General's office is excellent, we haven't seen that evidenced by the departments you've audited.

My question, Mr. Kennedy, is this: Are you collecting documents and preparing to transmit them to the Royal Canadian Mounted Police?

Mr. Simon Kennedy: I can confirm that we are moving expeditiously to do that.

The Chair: Mr. Perkins, you have just over three minutes.

Mr. Rick Perkins (South Shore—St. Margarets, CPC): Thank you, Mr. Chair.

I have a couple of questions for the Auditor General.

Thank you for your report on Sustainable Development Technology Canada, which was released last week. To those watching, it's better known colloquially as the “Liberal green slush fund”.

There were 186 transactions approved by the board or by directors who had a conflict of some sort, declared or undeclared. They didn't follow the conflict of interest guidelines. Is that correct?

Ms. Karen Hogan: I wouldn't say it's 186 transactions. Sometimes there may have been many conflicts in one transaction. That's why we said it was 96 cases and 90 cases. It doesn't mean 90 different projects.

I don't know if that helps you understand.

Mr. Rick Perkins: It's not 186 out of 420 projects you reviewed.

Ms. Karen Hogan: No. There could be many conflicts of interest in one project.

Mr. Rick Perkins: I can see why Canadians are confused about this. It appears that even the department, which had an ADM in the meeting every time, didn't clearly understand.

That totals, as you said, \$319 million out of \$856 million, which means that somewhere around 40% of the money allocated in the period you audited was conflicted in some way.

Ms. Karen Hogan: Yes, there was a conflict of interest, either well managed or not well managed, linked to the funding decision.

• (1625)

Mr. Rick Perkins: In addition to that, there was another \$58 million—maybe there was overlap—in funds that did not meet the contribution agreement, which included, I believe, the COVID payments.

Ms. Karen Hogan: That \$58 million in funding didn't follow the process outlined in the contribution agreement. It should have been done project by project based on merit. These were, really, batch approvals that should not—

Mr. Rick Perkins: These Liberal appointees only got the billion dollars in order to follow the contribution agreement. They didn't have freedom to go outside the contribution agreement.

Ms. Karen Hogan: The contribution agreement was supposed to dictate how funding decisions were made and where the money went.

Mr. Rick Perkins: They went outside of that. The \$319 million was conflicted, and another \$58 million went outside the contribution agreement. That's almost \$400 million of the \$859 million, with this board's approval. These Liberal appointees either were not complying generally with normal governance practices, which means not doing business with the company you are governing, or were going outside of the rules that Parliament and ISED set up for the organization when allocating the billion dollars for them to invest.

Ms. Karen Hogan: For the funds, there will be some overlap. Some of the \$58 million is already included in those conflicts of interest.

I can ask the team to try to narrow it down for you. We may not get to it during the meeting, but if we can, we'll give you the right number.

Mr. Rick Perkins: Thank you.

The Chair: Thank you very much.

Up next and joining us virtually is Mr. Weiler.

You have the floor for five minutes.

Mr. Patrick Weiler (West Vancouver—Sunshine Coast—Sea to Sky Country, Lib.): Thank you, Chair.

I want to thank the witnesses for being here today, and the Auditor General and her office for their important work on this file and for attending our committee in back-to-back weeks.

Today, I would like to direct my questions to Mr. Kennedy.

As mentioned earlier, the AG has found many instances where projects didn't meet eligibility criteria or where conflict of interest guidelines weren't followed. Can you please explain to this committee why SDTC is being brought under the wing of the NRC? What assurances can you give us about accountability and transparency, with SDTC being under NRC, to prevent ineligible projects from being funded or prevent conflict of interest guidelines from not being followed?

Mr. Simon Kennedy: Maybe I could speak briefly to the issue of the conflicts of interest.

It is abundantly clear that processes and procedures were not followed in the diligent way they needed to be by the board in exercising its responsibilities. The statute itself, a statute passed by Parliament 20-something years ago, mandates that the board of directors be composed of people—this is my layperson's explanation—with expertise in the clean-tech industry. It mandates that the people brought under the board must have a background in the industry.

By the very structure set out on the legislation, you have the inherent potential for conflict. I haven't looked, but my suspicion is that this inherent risk has been there from day one, throughout changes in government, because the board has to be composed of people from industry. That makes management of conflicts a lot more important than it might otherwise be, because the risk of conflicts is much more present if you're bringing people in with industry experience.

By bringing this organization under the ambit of the NRC, you largely eliminate that problem. It's not that there's not going to be the possibility that a civil servant working at the National Research Council, or someone in the chain of command, will have a conflict. In fact, there are pretty serious rules that public servants, like me, have to follow to manage conflict. However, you're not going to have the magnified risk of having a board involved in decision-making whose very background is in the industry on which they're being asked to make funding decisions.

Right out of the gate, that is a really vivid example of where we think the risks of conflicts of interest would go down quite substantially. I'm happy to elaborate further. I could do that if you wish, but hopefully that gives you a sense of one of the big changes that would happen by bringing it in-house under the National Research Council.

Mr. Patrick Weiler: That's very helpful.

Will there be the current NRC ethics guidelines, or will new or enhanced guidelines need to be followed?

Mr. Simon Kennedy: I suggest directing that question more specifically to the president of the NRC. I know he's been asked to testify.

In our discussions with the government about how to get trust restored in clean-tech funding, part of the rationale for selecting the NRC is its very solid business processes. I hope all members agree that IRAP is generally regarded as a very well-run program and is very strongly supported by the business sector.

For the reasons I enumerated in my opening remarks, the NRC is a Crown agency. The individuals are subject to the public service code of ethics. They're subject to postemployment rules. The organization is governed by a council selected directly by the government.

There was a discussion earlier about the member council of SDTC. I will give you this by way of illustration. I completely agree with the Auditor General about the necessity of ISED having stronger oversight of its contribution agreement—there's no quarrel there—but from a legal point of view, ISED and the government have no ability to appoint members to the member council of SDTC. When this organization was set up, there was an initial round of appointments for members of the organization. That was meant to be self-perpetuating: The members appoint new members. The membership was allowed to erode, and there's no legal way for a minister of the Crown to directly remedy that. That is totally different from, for example, the NRC, where if the number of members is allowed to decline, it is directly on the minister responsible. It's the minister's and the governor in council's job to be appointing people to the NRC.

Again, I fully agree with the Auditor General about the necessity of ISED strengthening its oversight. However, from a legal point of view, SDTC is actually quite far removed from the government. Many of the day-to-day decisions and many of the elements of governance are in the hands of the board of directors. That doesn't remove our responsibility, to be perfectly clear, but it creates certain limits and practical issues. Many of those go away by moving the organization under the National Research Council.

• (1630)

The Chair: Thank you very much.

[*Translation*]

Ms. Sinclair-Desgagné, the floor is now yours for two and a half minutes.

Ms. Nathalie Sinclair-Desgagné: Thank you, Mr. Chair.

Ms. Hogan, has it often happened, in your career, that the organization you had just audited was abolished on the day you submitted your report?

Ms. Karen Hogan: No, I have to say this is the first time.

Ms. Nathalie Sinclair-Desgagné: Right.

You made a number of recommendations to Sustainable Development Technology Canada. This was a radical measure, simply shutting a fund down and transferring its activities to somewhere else in the government.

Ms. Karen Hogan: That is a policy decision. As long as all the failures I identified are corrected once the fund is in the public service, I will be happy.

Ms. Nathalie Sinclair-Desgagné: That is exactly what I wanted to get at. Perfect.

Mr. Kennedy, all of the Auditor General's recommendations in the report have been accepted. Although the decision to shut down Sustainable Development Technology Canada had probably already been made, you accepted the recommendations. How are you going to make sure the problems do not simply follow the fund and the personnel?

Mr. Simon Kennedy: Thank you for the question.

I think it is important to note that when we received the results from Raymond Chabot, we made an action plan and asked the Sus-

tainable Development Technology Canada board of directors to implement it.

I can't speak for the Auditor General, but, if I understand correctly, the elements of the action plan addressed a large number of the Auditor General's concerns. That said, we can do more, for example regarding the recommendations relating to Innovation, Science and Economic Development Canada. We have already made progress. We have already made a lot of changes to the organization that already exists, which may put new structures and processes in place that are much more robust than before. The idea is to move everything to the National Research Council of Canada.

Ms. Nathalie Sinclair-Desgagné: I have been contacted by numerous companies whose funding has been suspended. Can you tell them when the subsidies and funding they were promised will resume?

Mr. Simon Kennedy: I can confirm that the process for granting the companies these funds has already started. It is already under way. I think that is a good question, but you would have to ask the new chair of the board directly. He could talk about the plan that his organization has put in place for taking rapid action.

We are already working with it on starting the funding process back up. We have determined that all the measures in the minister's action plan have been put in place. We have verified that the organization has made changes. We are therefore comfortable with the idea of moving forward on the new funds. However, it is ultimately the new chair and the new team who are responsible for that.

• (1635)

The Chair: Thank you.

[*English*]

We're turning now to Mr. Desjarlais.

You have the floor for two and a half minutes, please.

Mr. Blake Desjarlais: Thank you very much, Mr. Chair.

Mr. Kennedy, are you familiar with the term greenwashing?

Mr. Simon Kennedy: Yes, I certainly have heard that before.

Mr. Blake Desjarlais: You're likely aware, then, that part of its definition is a claim to being on track to reducing a company or asset's polluting emissions to net zero when no credible plan is actually in place. Is that correct?

Mr. Simon Kennedy: It's fair to say this would be one possible example. Yes, I agree with that.

Mr. Blake Desjarlais: The Auditor General states there were projects that SDTC, as a matter of fact, "did not establish targets for the environmental benefits of projects", but required applicants to quantify benefits in their applications. Also, of the projects assessed by the Auditor General's Office, 12 of 18 did not meet their stated emissions reductions by at least half.

That's a huge difference, wouldn't you say, Mr. Kennedy?

Mr. Simon Kennedy: I would agree with the findings of the Auditor General, absolutely.

Mr. Blake Desjarlais: Would you agree, if you're agreeing to both these terms, that in many ways the SDTC fund is an example of greenwashing, especially the failed projects?

Mr. Simon Kennedy: This is something we have to follow up on with the new management team at SDTC. I think it's important to note—

Mr. Blake Desjarlais: It's all good and well to think about what's going to happen next, Mr. Kennedy, but the purpose of this committee, this audit and this report is to make very clear the failures that have taken place so that we can make sure they never happen again. I'm looking for your clear advice on what is, to me, a very obvious and explicit example of greenwashing in a government program that has funnelled billions of dollars into the hands of those who said they would reduce emissions. As we see, a majority of projects that were examined failed to do that.

Mr. Kennedy, I need only a very clear response from you: Is this a good example of greenwashing within the government?

Mr. Simon Kennedy: What I would say is that we agree with the findings of the Auditor General. We agree that there needs to be enhanced oversight of the activities of SDTC, particularly with regard to adherence to the contribution agreement.

Mr. Blake Desjarlais: Is it greenwashing, Mr. Kennedy, yes or no?

Mr. Simon Kennedy: I've given the answer I'm giving on this question.

Mr. Blake Desjarlais: Auditor General, do you think this is greenwashing?

Ms. Karen Hogan: What I would raise is that some of these projects were meant to fund innovation, which means they're about new technology that's never been tried before. Some of them will fail—

Mr. Blake Desjarlais: It's 12 out of 18.

Ms. Karen Hogan: —but that's what innovation is about.

Mr. Blake Desjarlais: Ms. Hogan, that's not the greatest response when the majority of the projects have failed to reduce at least half of their emissions.

The Chair: Thank you very much.

If you'd like to respond, go ahead.

Ms. Karen Hogan: We looked at only the completed projects—18. There were 58 as part of the group, so really, it would have been 12 out of 58, but I take the member's point.

Mr. Blake Desjarlais: It's not working.

The Chair: Thank you very much.

Mr. Perkins, you have the floor for five minutes, please.

Mr. Rick Perkins: Thank you, Mr. Chair.

Deputy Kennedy, we've had testimony from many witnesses in this committee and two other committees, including from the former president of the green slush fund, that there was an ADM in every board meeting where these votes were taken. I believe for most of that time, certainly while you were deputy, one was a now retired public servant named Mr. Noseworthy. Is that correct?

Mr. Simon Kennedy: Yes.

Mr. Rick Perkins: Who has replaced Mr. Noseworthy in that role?

Mr. Simon Kennedy: I'll have to get back to you on that. Just to be clear for the member, this is an area we've been looking at deeply. Work is under way to renovate the role of the observer.

I'll have to get back to you with the details. I'd be happy to do that.

Mr. Rick Perkins: You said at the beginning that the department takes the management of these issues seriously, that you, as the deputy, were only made aware of this when the whistle-blower came to you, and that the board's decisions, done at arm's length, don't remove your department's responsibility over the expenditure of taxpayer dollars.

In 186 instances, perhaps with some overlap, you had an assistant deputy minister in the meeting and conflicts were declared, or were partially. He testified obtusely on those issues. Did he, as a person responsible for oversight on behalf of this department, ever report to you what was happening in the time that you were a deputy? I believe you were appointed in September 2019.

• (1640)

Mr. Simon Kennedy: On matters regarding the governance of the organization, the buck stops with the deputy minister. That's why I'm here speaking.

I don't think I'm in a position to talk about what individual employees did or did not do, just as, frankly, a basic matter of accountability and privacy. What I will say is that we're in strong agreement with the Auditor General. Again, these are my words, and I'm sorry I don't have the report, but—

Mr. Rick Perkins: I understand that, Deputy.

You were appointed three months after Ms. Verschuren was put in charge as chair. Were you briefed that the president of SDTC had informed the minister at that time, Navdeep Bains; ADM Noseworthy, who was a go-between; and the minister's office that she had a conflict of interest and was not an appropriate appointment for chair?

Mr. Simon Kennedy: I became aware of the concerns that have been raised contemporaneously with committee members. I was not deputy at the time and was not involved in those events.

Mr. Rick Perkins: No, but I mean when you took over as deputy only three months later and got briefed on this.

Mr. Simon Kennedy: As to my awareness of these historical events and the concerns raised, I learned about them I would say more or less at the same time the committee did.

Mr. Rick Perkins: On March 30, 2011, SDTC board director Stephen Kukucha had a project—which he had an equity interest in—approved by the board for \$8 million. That's in your time as deputy. That followed the \$4.5 million that the company he had an equity interest in received from SDTC before you were deputy.

Were you made aware by your officials that this director received an \$8-million equity investment in the company?

Mr. Simon Kennedy: I was made aware of these concerns about the improper documentation of a conflict of interest through the whistle-blower process and the review by RCGT. Had I been aware of these kinds of lapses, you can be assured that the organization would have been moving quickly to fix them. To the point that has been raised by the Auditor General, which was that a range of activities was undertaken, they weren't sufficient to catch—

Mr. Rick Perkins: I understand that. I have limited time.

Mr. Simon Kennedy: Yes. Sorry.

Mr. Rick Perkins: Andrée-Lise Méthot, who saw \$44 million, in her time as director, go into companies she had an equity interest in, received \$3.5 million in 2021. Furthermore, in November 2021, after she left the board to join the Infrastructure Bank board, in her cooling-off period, her company received another \$8.5 million.

Did anyone inform you of that kind of corruption?

Mr. Simon Kennedy: I was not aware of these activities.

The Chair: Thank you very much.

Ms. Khalid, you have the floor for five minutes, please.

Ms. Iqra Khalid (Mississauga—Erin Mills, Lib.): Thank you very much, Mr. Chair. I feel like I'm very far away from you, which is a little heartbreaking.

Thank you so much to our witnesses for being here today.

Ms. Hogan, I'll start with you, if that's okay. I appreciated your letter. It helped me think about a lot of things and your role as the OAG.

Perhaps I'll start by asking what you think the role of the public accounts committee is within our democratic institutions.

Ms. Karen Hogan: One of the roles I appreciate is that you receive all of my work. You should be studying my work in order to hold government to account for the findings in it. This should be all about good stewardship of public funds and improving the public service regardless of any political colour. The public accounts committee is a wonderful committee that should be focused on the outcome of better service to Canadians.

• (1645)

Ms. Iqra Khalid: I appreciate that. I feel exactly the same way, but that's a “should be” world, and we live in a “what is” world. I think those two worlds are a little different.

Perhaps I'll ask you about holding government to account. How does that correlate with people versus institutions and separating the two in your report? There's the SDTC as an organization versus the people who are running it. How do you distinguish between them?

Ms. Karen Hogan: That's a complex question to answer. I think it depends on many factors. If I look at a government department, ultimately the deputy head is the accounting officer and is accountable for decisions that are made by the department. That being said, authorities are delegated in the public service, and every public servant who holds a delegated authority should appreciate what exer-

cising that authority means. It comes with accountabilities and responsibilities.

If I turn to a Crown organization or the foundation, which are at arm's length from the government, then the board of directors kicks in, and it is really the responsibility of the board of directors to ensure the good stewardship of funds and to carry out the mandate of the organization.

Ms. Iqra Khalid: I appreciate that.

Mr. Kennedy, do you have anything to add to that?

Mr. Simon Kennedy: No. I agree with that.

Ms. Iqra Khalid: Thank you.

Ms. Hogan, over these past number of years, we've seen increasing polarization, and I am not sure what kind of role social media plays in it. Has your office been impacted in the work you do by the very hyperpartisan politics being played with certain political parties in relation to your work?

Ms. Karen Hogan: I think social media impacts every organization with the misinformation or disinformation that might be out there. I hope that Canadians turn to the information my office provides knowing that we are a trusted source of information, that the information we provide is based on sound audit methodology and that it includes evidence to support the statements we make. I'm always concerned about whether our organization is seen as just another opinion out there, when we should be a trusted opinion that Canadians and parliamentarians should rely on.

Ms. Iqra Khalid: You're absolutely right. I give a lot of regard to all of your reports. I read them cover to cover and take a lot of positive feedback from what you have to say. I find you, as an independent person overseeing what Parliament and government are doing, to be very credible, but we are seeing a lot of manipulation of facts and a lot of disinformation being spread, especially by some parliamentarians, about the work you do. What can we do as a committee to prevent that? How do we combat that level of disinformation? Ultimately, it really corrodes our democratic institutions.

Ms. Karen Hogan: One thing that specifically the public accounts committee can do when you want to study some of my work is bring the entities that we audit to the table with us. It's important. When we're here together, you can hear all sides of the story. It allows us to ensure that our work is properly understood and interpreted. We're here, ultimately, to support parliamentarians in holding the government to account, and we should be doing that with them by our side.

The Chair: Thank you very much. That is the time.

We are beginning our third round.

Mr. Cooper, you have the floor for five minutes.

Mr. Michael Cooper (St. Albert—Edmonton, CPC): Thank you very much, Mr. Chair.

Ms. Hogan, you found in your report 186 cases of conflict. In 96 cases, declarations of conflict were made, and in 90 cases they were not made—in almost all cases by board members. Would you agree that in all cases where monies were funnelled to companies and board members—that's the case for almost all of those conflicts, totalling nearly \$319 million—it was in contravention to the Canada Foundation for Sustainable Development Technology Act?

• (1650)

Ms. Karen Hogan: We found that the 90 cases that were not well managed didn't follow their own conflict of interest policies.

What didn't follow the Canada Foundation for Sustainable Development Technology Act was that the member council dwindled down to two members, and those two were able to appoint five board members. That is where the act was contravened. The rest was about not respecting the contribution agreement with the government.

Mr. Michael Cooper: Subsection 12(2) of the act says that directors are not to profit:

no director shall profit or gain any income or acquire any property from the Foundation or its activities

However, \$319 million was funnelled into the companies in which board members had an interest. That would seem to me, on the face of reading the act, to be a violation of the act.

Ms. Karen Hogan: The member highlights an area where, as we noted in our report, the conflict of interest policy established by the board of directors of the foundation did not comply with the act. Absolutely the act is clear that an individual should not personally benefit, yet their policies just provided for a blackout period. They were much less restrictive on board members than they were on the employees of the foundation.

Mr. Michael Cooper: Precisely. They had a conflict policy that was inadequate insofar as it didn't necessarily meet up with the law and comply with the law.

Ms. Karen Hogan: Yes, you're correct in that instance.

Mr. Michael Cooper: Thank you for that.

Mr. Kennedy, the Auditor General's report is a scathing indictment of ISED, the department that you help oversee as the deputy minister. Your department has a duty to oversee the billion taxpayer dollars that was sent to SDTC. We now know that taxpayers were ripped off by nearly \$400 million out of \$850 million, which was improperly spent by SDTC. It was \$319 million in cases of conflicts of interest, and \$59 million in which there was non-compliance with contribution agreements.

Canadian taxpayers deserve a refund. They deserve a refund now. What instructions has the minister provided to you to get taxpayers their money back?

Mr. Simon Kennedy: We have been working with the organization, partly through the management response and action plan, to look at all of the organizations receiving funding now and—this is my layperson's language—to effectively rescreen them and put them back through some sort of process to examine whether there are problems, like whether some of the issues identified by the Auditor General remain present.

The organization has engaged a third party. They have a third party audit firm helping with that. This will be something the new management team, the new board at SDTC, will—

Mr. Michael Cooper: How much of the \$400 million of taxpayers' money that was improperly spent is going to be recouped and when?

Mr. Simon Kennedy: It is important to keep in mind what we're talking about here, because there are multiple levels of issues that have surfaced from the various reviews and audits that have been undertaken.

There are going to be cases, potentially, where funding was provided and it needs to be recovered. There are going to be other cases where organizations and private sector companies in good faith engaged in a contractual relationship with SDTC, presuming that what they were doing was in accordance with the rules, and may find themselves in a situation where—

Mr. Michael Cooper: Sir, the Auditor General found that for \$6.2 million—just a small portion of the \$400 million in projects that were cancelled by SDTC—your department had a responsibility to recover the funds. Your department didn't even do that.

• (1655)

Mr. Simon Kennedy: The issue of recovery is a separate issue. We will be taking action to offset funds owed in cases of recovery.

It is absolutely the case that where an organization has not spent the money or it's been spent improperly, there needs to be a recovery. That money should be returned to the Crown. I would agree entirely with the member on that point.

The Chair: Thank you very much.

Up next we have Ms. Yip.

You have the floor for five minutes, please.

Ms. Jean Yip (Scarborough—Agincourt, Lib.): Thank you, Chair.

Thank you to the witnesses for coming and answering our questions.

Mr. Kennedy, in the beginning, the department initiated two separate independent reviews and invited the Auditor General to conduct an audit. Why were there two separate independent reviews? How are each of those two reviews different?

Mr. Simon Kennedy: Mr. Chair, I should make sure that the record is clear. I wouldn't want to speak for the Auditor General, but the Auditor General made an independent decision to conduct an audit. As much as we enjoy working with the Auditor General, it was not at our invitation. I just want to make sure that nobody thinks that it was somehow at our behest that this was done.

The reason for these two reviews are as follows: Under the legal structure that is SDTC and the kinds of legal responsibilities that it has and that the Crown has, it is very easy for us to ask for, and indeed to follow up with, audit work with regard to the contribution agreement. This is the kind of contract we have with SDTC, which is legally at arm's length. It's not a government organization; it's a private organization at arm's length. The Raymond Chabot report looked at all of those issues related to whether they were following the contribution agreement, applying conflict of interest and doing the sorts of things that would be required by virtue of the contribution agreement.

The Raymond Chabot report also made some observations about human resources. You will note that in our management response and action plan, the character of what we have to say about HR is different from the other elements. The reason is that human resources are legally the responsibility of the organization. It's legally the responsibility of the board. These are not Crown employees; these are private sector employees working for a foundation. We had to get agreement from the SDTC board to waive their rights to allow the Attorney General to hire an agent to go and do a review of HR.

Obviously, given all of the allegations and given the pressure, the board was very co-operative. They were certainly eager to allow the government to go in, but that was a separate process, because unlike with the contribution agreement, where we have full legal rights to march in there, look around and demand documents, on the HR front, for the Crown to take action without the consent of the board and without having all of its legal bases covered would have been *ultra vires*.

I'm not a lawyer, but there are no legal grounds for the government to do that. In fact, it could attract quite a bit of liability from employees, managers and others, so we needed the board's assent to do that. That was a separate process run by McCarthy Tétrault on behalf of the Attorney General.

Ms. Jean Yip: I am curious to find out what happens to the funding for the companies with SDTC. We know that a lot of companies were affected by the funding freeze. Is there a plan for resuming funding for these affected companies?

Mr. Simon Kennedy: Mr. Chair, I will note that when the minister made his announcement in response to the Auditor General's findings, he did note that the plan is to get funding flowing again very quickly out to the clean-tech ecosystem. Minister Champagne has been on record indicating his profound concern that clean-tech companies have been caught in the crossfire as a result of this issue.

That is a top priority for the new board that has been asked to take on responsibilities. In effect, there are two main responsibilities of the new board. One is to get funding flowing again, but with all the appropriate controls in place. ISED, as the continued holder of the contribution agreement until such time as the NRC takes

over, will be applying all the enhanced controls, the management response and the action plans. Effectively, until there's a new structure, the old structure prevails.

There's a new board that's been given very explicit instructions to up their game on oversight. The department has significantly upped its oversight of the organization. Ultimately, this will be transferred to the NRC, and then it will be the NRC's job to administer the funding. In the short term, we do want to get funding restarted, but with a much greater level of probity and accountability as per the recommendations of Ms. Hogan and the various reviews that have been done.

• (1700)

Ms. Jean Yip: The CIC, the Canada Innovation Corporation, which is the new corporation that combines SDTC and NRC's IRAP, is going to be established by 2026-27. That's a long time away.

Mr. Simon Kennedy: Mr. Chair, what I would say is that there are two things happening here. I think it's important to distinguish between the two. One is an immediate plan to effectively move the programming and the staff, who are all being invited to join the National Research Council, to the NRC. The plan is for that to happen as quickly as is practical—later this year, for example.

In the longer run, and the government has noted this, the plan is for the industrial research assistance program to form part of a new Crown corporation that will have additional resources to support innovative activities in the economy. That's a future step several years away.

If or when the IRAP program ultimately moves over, it is envisaged that this programming would move over as well. The fact that IRAP was to be joining the new Canada innovation corporation is a matter of public record. It was discussed in previous budgets. Because SDTC's programming would be joining IRAP, ultimately it would move to this new home, but that is still several years away.

The Chair: I'm afraid that's your time, Ms. Yip. Excuse me. We went generously over.

[*Translation*]

Ms. Sinclair-Desgagné, the floor is yours for two and a half minutes.

Ms. Nathalie Sinclair-Desgagné: Thank you, Mr. Chair.

Mr. Kennedy, I want to be sure I understand what you want to do. The goal is for Sustainable Development Technology Canada, or SDTC, to be managed by a Crown corporation. Have I understood correctly?

Mr. Simon Kennedy: Yes. For the immediate future, SDTC is being managed by the National Research Council of Canada, the NRCC, and it will eventually be managed by the new Crown corporation.

Ms. Nathalie Sinclair-Desgagné: Since it is a Crown corporation, and those corporations can also carry on their operations with a degree of independence from federal departments and do not have the transparency and accountability standards that apply to those departments, how are you going to make sure these funds are properly managed? What you are describing is a scenario in which, ten years from now, we will find ourselves with exactly the same problem.

Mr. Simon Kennedy: I want to point out that the plan consists first of transferring management of SDTC to the NRCC.

It will then be several years before the final transfer to the new innovation agency. However, as I said in my remarks at the start of this meeting, SDTC was even more independent than a Crown corporation, which must comply with a whole framework of rules and structures that did not apply to SDTC.

We can debate the choice of vehicle, but there are definitely more transparency requirements and more rules that apply to the activities of a Crown corporation than to the SDTC.

Ms. Nathalie Sinclair-Desgagné: I agree, but there are much fewer than for a government department. We cannot find out where Crown corporations' money goes. It is problematic for the government to keep making more use of Crown corporations to do its work, knowing that the transparency and accountability standards that apply to those corporations are less stringent than its departments.

So, fundamentally, if the government is thinking of creating a fund, recreating a fund, or managing funds or programs to assist businesses, it should do it using its own departments, not by way of Crown corporations that do not have the same duties and responsibilities as the departments do when it comes to transparency.

I think what you have just announced raises a problem. I see you have no comment, so I am happy to see that you agree.

The Chair: Ms. Sinclair-Desgagné, your time is up.

[English]

Do you have a response to that, Mr. Kennedy?

Mr. Simon Kennedy: No, Mr. Chair. I accept the concerns the member has raised. I don't have a response.

The Chair: Thank you very much.

Turning to Mr. Desjarlais, you have the floor for two and a half minutes, please.

Mr. Blake Desjarlais: Thank you very much, Mr. Chair.

I want to turn to one of the findings in the Auditor General's report in paragraph 6.31, which reads:

We found that through the foundation's milestone management, the foundation terminated 37 project funding agreements that had been approved during our audit period. It determined that \$6.2 million needed to be recovered from 12 ultimate recipients because they could not demonstrate that funds were used for eligible project costs.

To the Auditor General, do you want to highlight any additional information about that finding before I turn my questioning over to the deputy minister?

• (1705)

Ms. Karen Hogan: I think the only thing I would add is we also found that the foundation did not inform ISED of that so it could take the appropriate action.

That being said, ISED never really inquired about a cancelled project, so I think there's two-way accountability there.

Mr. Blake Desjarlais: I see.

Deputy Minister, on the fact that ISED never inquired, why didn't it?

Mr. Simon Kennedy: Mr. Chair, as I noted at the outset of my remarks, we accept the Auditor General's finding that there needs to be enhanced oversight from the department. There were a variety of activities taken, such as the reviewing of minutes, regular evaluations, attendance in meetings—

Mr. Blake Desjarlais: On that point, you say “regular evaluations”, but the audit spoke particularly about the fact that there were several times that departmental plans, which are required under the act, simply didn't have the satisfactory information that would make your decision-making at ISED more accountable.

It seems to me that there's a situation of wilful ignorance and that there is a lack of true accountability, because they were supplying annual reports that really had no information, which has ultimately led to the charge of guilt that you, by your own admission, were relying on minutes.

That shows me that the level of information that the ministry was getting was not sufficient. Is that correct?

Mr. Simon Kennedy: I think, Mr. Chair, that it's fair to say that the level of information that was flowing into the department was not sufficient. I think we certainly acknowledge that.

Mr. Blake Desjarlais: Why not ask, then? Why not ask SDTC to provide more information?

Mr. Simon Kennedy: Mr. Chair, very briefly, as I tried to say at the beginning, if ISED, for example, is administering a program, then we are directly responsible. As the deputy minister, I want to know where every nickel is going, and when there are problems, it's—

Mr. Blake Desjarlais: Why didn't you, then?

Mr. Simon Kennedy: Mr. Chair, the point here is that this is an organization that's actually at quite some distance from the government—

Mr. Blake Desjarlais: So it's not your problem.

Mr. Simon Kennedy: No. I'm not saying that at all. I'm saying that many of the day-to-day functions that we might otherwise be directly involved in are actually being run by a third party at some distance from us.

We agree with the Auditor General and we agree with the findings of the reports. The lesson is that we can't be relying even on a well-regarded board to always follow its own processes and procedures and to be fully transparent with us when they find problems. We actually have to be doing more checking—

Mr. Blake Desjarlais: Are you going to get the money back?

The Chair: Thank you. That is the time. I'm sure we will come back to that.

Mr. Blake Desjarlais: Could he answer that, Chair? Is he going to get the money back?

The Chair: You will have another round, Mr. Desjarlais.

Mr. Perkins, you have the floor for five minutes, please.

Mr. Rick Perkins: Thank you, Mr. Chair.

I guess, to Mr. Desjarlais' question, I will give you a brief second: Are we going to get the money back?

Mr. Simon Kennedy: With regard to the question of recoveries, that is an area that we think is a priority. We think there needs to be action taken to offset those funds to SDTC, which should be taking action to recover those monies.

Mr. Rick Perkins: Right. It wasn't a priority in the past, though.

I would like to come back to this relationship with the assistant deputy minister who has been in the meetings.

Auditor General, from page 23 of your report, I take it that you must have spoken with a number of the directors about the relationship. At the top of page 23, you essentially say that when these votes of conflict were going on, either declared or not declared, since the assistant deputy minister did not raise any concerns, board members assumed that the department was okay.

Essentially, if that's a fair summary, there was an implicit agreement to the ambiguity or the silence of the department, which was in every meeting.

Ms. Karen Hogan: We definitely spoke with many past and current board members, and even the assistant deputy minister, and there was confusion around what the role was. That was very clear.

Yes, some of the board members voiced to us that it was an implicit agreement, in their mind, that nothing had been raised by—

Mr. Rick Perkins: Well, I don't think he was there just to eat the chicken fingers. I presume he was there to actually be a two-way conduit for both what departmental policy is to make sure they are following the contribution agreements and to report back anything that the assistant deputy minister...

I have served on a number of boards, including one Crown board. I would expect that the department, the deputy and the minister would be informed. In fact, I know that in the case of the Crown board that I served on, the minister was very much aware of what went on at every board meeting.

Ms. Karen Hogan: I think this is exactly why we made a recommendation that this needs to be clarified and strengthened. I personally spoke with Mr. Kennedy about this situation as we were closing off the audit.

• (1710)

Mr. Rick Perkins: It's pretty clear in the Conflict of Interest Act with regard to public office holders. It says, "No public office holder shall make a decision or participate in making a decision related to the exercise of an official power". When almost half the money going out the door is conflicted amounts in terms of the government-appointed board members, that is not one person leaving the

room and there's an exception. It's actually the rule. They're all working and getting conflicts, and it's the culture that causes a problem.

Mr. Kennedy, were you aware that the previous person who was on there, ADM Noseworthy, had asked a previous serving chair, while he was serving as an observer on the board, for a job?

Mr. Simon Kennedy: Mr. Chair, I'm not aware of these allegations. I'm sorry. I'm not in a position to comment on it.

Mr. Rick Perkins: If your ADM was asking a chair for a job while supposedly observing any wrongdoing, do you think that it would compromise their ability or willingness to report wrongdoing in the board?

Mr. Simon Kennedy: Mr. Chair, I would just say that this is the first I'm hearing this allegation. I don't feel comfortable responding to hypotheticals, especially not about a former employee.

I am not aware of this allegation. It's the first time I'm hearing of it.

Mr. Rick Perkins: Okay, but it is not appropriate for a government official serving on a Crown corporation board as an observer to ask that board chair for a job.

Mr. Simon Kennedy: Well, Mr. Chair, I would say there are very clear rules that apply to designated public office holders about how they are to comport themselves with regard to future offers of employment. Members would be well aware of those rules. They're a matter of public knowledge, so I would just point to those.

Mr. Rick Perkins: I have one last question for the Auditor General.

The Chair: You have one minute, Mr. Perkins.

Mr. Rick Perkins: Thank you.

I'm very confused here. From a governance perspective, your report seems to imply that if you declare a conflict, because they followed their rules, then somehow that's not an issue, when it's clearly an issue with regard to the SDTC act, which says that "no director shall profit or gain any income or acquire any property from the Foundation or its activities."

When you have almost half the transactions, almost half the money, going to board members in companies they have a financial interest in, it doesn't really matter what the conflict of interest policy of the board is, does it? What matters is the act, and breaking the act of Parliament.

Ms. Karen Hogan: I think there's a lot going on here, because there is also the Canada Foundation for Sustainable Development Technology Act, which requires that some of the board members have experience and be involved in the sector.

I think that inherently, as Mr. Kennedy pointed out before, it will create conflicts of interest, which is why a really rigorous process is needed. I would expect that it's more than declaring a conflict of interest; it's declaring and recusing yourself from any votes and decisions.

However, I agree with the member, Mr. Chair, that the act also clearly states that no member should have personally benefited. It is a concern, which is why in our report we flagged failures of the board in respecting its enabling legislation.

The Chair: Thank you very much.

Up next is Ms. Bradford. You have the floor for five minutes, please.

Ms. Valerie Bradford (Kitchener South—Hespeler, Lib.): Thank you, Mr. Chair, and thank you to the witnesses today.

This is directed to you, Ms. Hogan.

In paragraph 6.24, you write that estimates of environmental benefits of projects “were unreasonably high.” Can you explain what you meant by this, and what made them “unreasonably high”?

Ms. Karen Hogan: I might ask Mathieu if he wants to join in here.

I think we were raising a few things. There was no target set in what should be a reasonable target when it comes to determining the environmental benefits. We found that most of the applications quantified them, but they were very high. Part of our conclusion was based on the fact that we looked at completed projects, and in 12 out of the 18 completed projects, the received benefits were actually 50% lower than what had been estimated.

While I know that an estimate is difficult in this area, that was a lot of projects to have not achieved their benefits.

There's nothing else to add from Mathieu.

Ms. Valerie Bradford: Thank you.

In paragraph 6.44, you note that the same law firm that the foundation's external general counsel worked for was “hand-selected” to produce a report on financial mismanagement in human resource practices at the foundation. You note that “This could create the appearance that the investigation was not independent.” However, this also appears like a selection based on previous work and trustworthiness.

In your view, how can foundations and arm's-length corporations better prepare for perceived conflicts of interest? How can board members get a better understanding of what “a perceived conflict of interest” may actually be?

• (1715)

Ms. Karen Hogan: That entire paragraph in our report actually highlights some conflicts of interest that might be real or perceived that were really not addressed by the conflict of interest policies in the foundation.

There are so many best practices out there that boards can use to help establish what their conflict of interest policies look like. There are the federal values and ethics. There is the Conflict of Interest Act. The OECD has guidelines in the public service when it

comes to conflicts of interest. There are other countries. My counterpart, the ANAO, actually has a guide on conflict of interest.

I think there are lots of areas where best practices can be sought. This is about ensuring that from a public perception, individuals never appear to have put themselves in a position where they may benefit from public funds. When you're involved with public funds or in the public service, you need to be held to a higher set of standards.

I'm going to turn to Andrew, because I know this is an area that he's really passionate about. I'm sure that he probably has something he might like to add.

Mr. Andrew Hayes (Deputy Auditor General, Office of the Auditor General): There's just one thing to add to your question: The individual we're talking about there, the general counsel, is also one of the two members remaining on the member council.

Ms. Valerie Bradford: Thank you.

Mr. Kennedy, getting back to the constitution and how the board of directors was arrived at, eight people on the board of directors were appointed by the Governor in Council. Can you explain the process and the backgrounds of those who were appointed in this way?

Mr. Simon Kennedy: For GIC appointees, there is a standard process the government follows. Typically, there's a poster or an advertisement made about an opening. People are invited to apply. There's a deadline set. There is a screening process that is typically managed by the Privy Council Office, in partnership with the lead department. Through that screening, a more limited set of candidates are identified. There is then an interview process.

I apologize. I don't know what happened with these individuals, but having been involved in a lot of these processes in the past in other contexts, there are sometimes psychometric assessments. There are usually reference checks, and so on. At the end of this process, the government decides, of those who make it through the screen, which ones will be selected, and then they are approved by the cabinet through the GIC process.

There's a very elaborate process. It typically includes conflicts of interest checks, security checks, etc.

Ms. Valerie Bradford: Were any of the seven members who were elected by the board directly involved with these conflict of interest cases?

Mr. Simon Kennedy: I would have to look at my notes to determine who was implicated or not, but as it was noted, the majority are appointed by the members of the organization, which is at arm's length from the government, and then there are GIC appointees.

I don't know whether the Auditor General might want to speak to that. I'm sorry.

Ms. Karen Hogan: I can actually provide some information on that.

In the 88 cases that involved directors, there were 10 directors. Out of the 10, seven were Governor in Council appointees.

The Chair: Thank you very much. That is the time.

Mr. Cooper, this begins our fourth and final round. You have the floor for five minutes, please.

Mr. Michael Cooper: Thank you, Mr. Chair.

Mr. Kennedy, you stated that your department, ISED, acted swiftly upon learning of mismanagement at SDTC when it received information from the whistle-blower on February 16, 2023.

With the greatest of respect, I say simply that this is not sufficient. Your department was responsible for overseeing compliance with the contribution agreements and ensuring that there were no conflicts of interest. We now know that \$400 million of taxpayers' dollars improperly went out the door. Much of it went to pad the pockets of Liberal insiders who sat on the green slush fund board.

As deputy minister, do you accept any responsibility for that?

• (1720)

Mr. Simon Kennedy: Mr. Chair, I was on the record at the beginning of the meeting, agreeing with the findings of the Auditor General's review that—

Mr. Michael Cooper: Do you accept responsibility? Answer yes or no.

Mr. Simon Kennedy: Mr. Chair, as I said at the beginning of the meeting, we agree with the Auditor General's report and the necessity of ISED doing additional oversight of the organization, and we have a fairly detailed plan to—

Mr. Michael Cooper: You don't accept any responsibility. That's what you're saying.

Maybe you can help Canadian taxpayers, who have been ripped off, understand how it is possible that your department never received or requested conflict of interest records from the green slush fund.

Mr. Simon Kennedy: Mr. Chair, as I noted at the beginning, we agree with the Auditor General's finding that there needs to be additional oversight done by the department.

Mr. Michael Cooper: No kidding.

How is it possible that your department didn't even ask for any receipts? While we're at it, maybe you can explain why your department failed to conduct even a single audit to determine SDTC's compliance with the contribution agreements with your department.

Mr. Simon Kennedy: Mr. Chair, as I noted in my comments at the beginning, this is an organization that has an unusual status. It isn't even normal—

Mr. Michael Cooper: The Auditor General found, sir... It's very clear. Paragraph 6.67 of the Auditor General's report sets out the responsibilities that your department has, which I referenced.

The notion that it's at arm's length doesn't mean your department has no responsibility. There was \$1 billion in taxpayers' dollars that went to SDTC, so don't tell me that because it's at arm's length, it somehow gives your department the basis to say, "Well, it wasn't our fault," when you never requested conflict of interest records,

when you didn't conduct a single audit and when your department failed to request any information from SDTC about terminated funding agreements.

Quite frankly, sir, I would ask if you can point to anything your department did right.

Mr. Simon Kennedy: The Auditor General's report notes a range of activities we did as part of our oversight.

Clearly, those were not sufficient to catch the problems at the board level, but I would note that this is not an organization that even typically would be subject to audit by the Auditor General, unlike, say, my organization or the NRC, which are regularly audited. This is a private sector organization that is far removed from the government. It is not government property.

The principal responsibility for enforcing these rules was with the board. Our oversight was not sufficient to catch the fact the board wasn't fulfilling its duties—

Mr. Michael Cooper: You had an assistant deputy minister sitting in on the meetings, observing conflict after conflict. Your assistant deputy minister did nothing, your department did nothing and there was no direction from the minister for your department to do anything. It is a complete and utter breakdown from the standpoint of proper oversight, and Canadian taxpayers are out \$400 million as a consequence.

I want to ask you about the \$38 million in unlawful COVID payments that the board approved, millions of which went into their own companies.

They didn't recuse themselves. The chair even moved the two motions in which her company was enriched by several hundred thousand dollars as a result of those COVID relief payments. The Auditor General's report is very clear that your department was aware at the time that the board approved those payments.

Can you explain why your department turned a blind eye to what amounted to a black and white violation of a contribution agreement with respect to \$38 million that went out the door?

Mr. Simon Kennedy: Mr. Chair, I've already spoken to this issue. I would simply note that the reason that this organization is being moved to the NRC—

Mr. Michael Cooper: You knew about it.

Mr. Simon Kennedy: —is that it's very—

Mr. Michael Cooper: You knew about it, right, sir? You knew about the \$38 million that went out the door unlawfully, in violation—

Mr. Simon Kennedy: Mr. Chair, I feel like I've already spoken to this issue.

Mr. Michael Cooper: I'm asking you—

Mr. Simon Kennedy: I'm happy to provide some elaboration.

The Chair: Mr. Cooper, your time just ended.

I'll give Mr. Kennedy time to respond. You have the floor, sir.

Mr. Simon Kennedy: I would simply note—and I think there has been extensive testimony today—that the very design of this organization, which by statute has to have members on the board with deep experience in the clean-tech industry, is that it's at arm's length and is not subject to a lot of the usual checks and balances that call for additional oversight and scrutiny.

We agree—

Mr. Michael Cooper: I sounds like you're washing your hands clean of any accountability. Canadian taxpayers deserve so much better.

The Chair: We will move on now.

Mrs. Shanahan, you have the floor for five minutes, please.

Mrs. Brenda Shanahan: Thank you very much, Chair.

Actually, I'd like to address the design of this organization, because obviously there's reasoning behind that.

We're in the tech sector. It's not normally an expertise of public servants to be choosing what we call winners and losers when it comes to identifying technology that's going to be the technology of the future, so I'm just trying to understand, Mr. Kennedy.

Is it common practice to have this kind of organizational structure?

I guess ISED would be a place where we would see government working with the private sector.

• (1725)

Mr. Simon Kennedy: Mr. Chair, this is very unusual in the stable of organizations that we support. We would either be working directly with a Crown agency, such as the Space Agency or Statistics Canada—there are a number of these in our portfolio—or we would be engaging with a third party that would be an agent to deliver against a very specific set of criteria in terms of what we're asking them to do.

This is a very different circumstance. This is an independent organization. They are flowed money through our contribution agreement, but many of the choices and decisions about how they structure their programming, about how they govern themselves and their various processes, are with the board and the management team. That doesn't remove the obligation on ISED to be carefully monitoring and overseeing the contribution agreement, but the design is such that a lot of the day-to-day aspects of how the business is done is entirely the responsibility of the board.

The lesson here is that even with a board of private sector experts brought in to provide oversight, the kinds of activities we undertook to ensure the contribution agreement was being followed—reviewing minutes, doing regular evaluations, even sitting in on meetings—wasn't sufficient to identify these problems and correct them.

I would make the following analogy. If you're a large bank, a private sector organization, you have a board. The board is composed of people who are experts and are well regarded. They actually have the responsibility for the oversight of the bank. However, when it comes to things like finances or certain kinds of issues, like cybersecurity, they have a third party, like an accounting firm, that comes in and audits the books and independently verifies that the bank is doing what it's supposed to do.

We did not have the kinds of control frameworks that might have actually caught these kinds of issues. There was too much reliance on what I might call more informal processes, like reviewing the minutes. The Auditor General has noted that the minutes occasionally didn't include the kind of information you would need. Even if you were reviewing the minutes, if the minutes aren't complete, you're not going to catch the issues.

What I can assure the committee, in terms of the fallout from this episode, is that under the action plan, we're replacing these measures with much more formal control processes, requiring sign-off by a senior official, requiring regular auditing, requiring third-party validation. The checking of the homework of the board is going to be much more diligent and much more rigorous.

The observation I would make is that if there's a lesson here, it's that even for an organization with a well-regarded board, there needs to be additional infrastructure to closely verify whether a board is following its own rules.

Mrs. Brenda Shanahan: Thank you for that testimony.

I think part of the work of this committee, and the good work of the Auditor General's office, is addressing deficiencies and gaps, identifying them and going forward.

I see by your letter that you have an action plan. Is there anything in your action plan that you would prioritize going forward?

Mr. Simon Kennedy: Mr. Chair, we believe all of the measures in the action plan are important.

The action plan touches on issues of eligibility. The Auditor General has noted that as an issue. Conflict of interest is a very serious issue.

The various dimensions of the audit findings are captured by the action plan, and we have been diligently pursuing all of them. At this point, all of those elements of the action plan are fully implemented.

Mrs. Brenda Shanahan: Thank you very much.

I want to ask the same question to the Auditor General.

What would you consider a priority out of the recommendations? I know there are a number of recommendations, quite detailed, but what is the overall priority?

Ms. Karen Hogan: I'm assuming that it's not a good answer to say that it's all of the recommendations.

I think addressing immediately the conflicts of interest—and that's why I was happy to see that greater accountability would take place as this moves under the umbrella of the public service—for sure is an important one.

I do think it's important that the government do the extra work needed to identify if there are other projects that were ineligible, and then either take measures to recover those funds, or at least be transparent with organizations about whether they will or won't.

I've always been on record that if a corporation receives funding from the public service or the government that they shouldn't receive, it should be recovered, or the government should be clear with them what they're going to do.

• (1730)

The Chair: Thank you very much.

[*Translation*]

Ms. Sinclair-Desgagné, the floor is yours for two and a half minutes.

Ms. Nathalie Sinclair-Desgagné: Thank you, Mr. Chair.

Mr. Kennedy, I would like to pick back up on the Auditor General's remarks. Can you provide the committee with the measures taken concerning the recommendations the Auditor General has made? Can you give us a general overview of all the projects, including their eligibility? When you have the results, could you send them to the committee?

Mr. Simon Kennedy: Yes, I will send that information to the committee.

Ms. Nathalie Sinclair-Desgagné: Excellent. Please also send the other information that the Auditor General referred to earlier as being necessary, given that this is taxpayers' money.

So the National Research Council of Canada will have all the funds it needs while awaiting the creation of the Crown corporation. Have all the employees been reassigned?

Mr. Simon Kennedy: Employment with the National Research Council of Canada is part of the offer made to the Sustainable Development Technology Canada employees.

Ms. Nathalie Sinclair-Desgagné: How many are there?

Mr. Simon Kennedy: There are between 60 and 70. I don't have the exact number.

Ms. Nathalie Sinclair-Desgagné: Okay. So they are going to be reassigned to the National Research Council of Canada.

Can you also provide the committee, when that is done, with confirmation that the recommendations made in the Auditor General's report—not just the ones she referred to earlier, but all the recommendations in the report—have in fact been implemented by the National Research Council of Canada, given that Sustainable Development Technology Canada no longer exists?

Mr. Simon Kennedy: We can work with our colleagues at the National Research Council of Canada to coordinate our reply to the committee.

Ms. Nathalie Sinclair-Desgagné: Perfect, thank you.

Regarding how the hierarchy is organized, have you identified the person or persons who will be doing the necessary follow-up in relation to project eligibility and conflicts of interest at the National Research Council of Canada? Have you identified who will be doing that work in your department?

Mr. Simon Kennedy: I would like to point out that responsibility for managing the department lies with me and I am therefore prepared to answer questions. For the National Research Council of Canada, the president is Mitch Davies. Ultimately, we are both responsible, along with our team.

Ms. Nathalie Sinclair-Desgagné: So is it Mr. Davies himself who will be making sure that the projects being funded now are in fact eligible?

Mr. Simon Kennedy: Discussions about these matters are already under way. I don't know whether ultimately, in a year or eight months, we will still be at the same point with it. We shall see. It is certainly important that we study these projects from the perspective of the Auditor General's recommendations, to decide the next step.

Ms. Nathalie Sinclair-Desgagné: In the case of the projects that should not have been funded, are you also going to send us confirmation that the money has been repaid, when that is done?

Mr. Simon Kennedy: I don't know whether the committee members are aware, but I have already sent the committee a letter promising to provide it with our action plan and to be transparent with the committee about the actions we take.

The Chair: Thank you.

[*English*]

Up next is Mr. Desjarlais.

You have the floor for two and a half minutes.

Mr. Blake Desjarlais: Thank you very much, Mr. Chair.

I want to return now to the serious issue of the recovery of taxpayer money. You mentioned several times, Mr. Kennedy, that, as a matter of fact, there would be a process undertaken to actually deliver some of this money back into the hands of taxpayers.

In order to do that, is there a plan in place, or has a plan been developed, to actually see to it that this money will be recovered in a timely fashion?

Mr. Simon Kennedy: We're working on that now with the new board, which, as members may appreciate, was only recently appointed.

The issue of recoveries, I think, is pretty clear. Monies that were paid out to ineligible activities should be recovered.

My organization does that. When we discover there's money that goes to an ineligible activity, we offset that with future payments if it was an honest mistake, or we recover the money because it wasn't supposed to be paid out. We would expect SDTC to do the same. We will be taking measures with SDTC to make sure those steps are taken.

• (1735)

Mr. Blake Desjarlais: What level of accountability do you take as deputy minister of this department for the recovery of this fund?

Mr. Simon Kennedy: There are two things here.

One of them is our agreement with SDTC. That is the principal instrument we use. We would have to look at the kinds of methods or steps we're able to take through the contribution agreement to help effect that. The actual recoveries have to be done by SDTC.

[Inaudible—Editor] the legal point, Mr. Chair, but just for the member's question, the legal—

Mr. Blake Desjarlais: I understand.

Mr. Simon Kennedy: Okay.

Mr. Blake Desjarlais: In relation to the contribution agreement, you're saying that you can take all matters that you have.... At least, I hope you would take all powers you have under the contribution agreement to actually recover funds of ineligible expenses. Is that what you're saying?

Mr. Simon Kennedy: Yes, that's right. For example, if there is—

Mr. Blake Desjarlais: Why wouldn't you, at the onset of this work, knowing that there were already instances of conflict of interest coming back in an internal audit as early as 2018, undertake the work of making sure your contribution agreements actually had that kind of power to begin with? Absent of my questions on transparency, why doesn't it have a basic level of accountability when it comes to even recovering projects for ineligible funds? It sounds as if you're describing a limitation.

Mr. Simon Kennedy: No. Just to be clear, what I'm saying is that we agree with the importance of recovery of funds. Any measure we take has to be through the ambit of the contribution agreement. It was just simply to note, as I said at the outset, that we are not directly administering these funds. This is not like this money is—

Mr. Blake Desjarlais: Just because of time, could you table with us your plan to have this money recovered to our committee, please?

Mr. Simon Kennedy: I think, as I said in response to the last member's question, we will be happy to come back with a fuller picture of what we are doing in response to the Auditor General's findings.

Mr. Blake Desjarlais: Can it be a detailed plan, in writing, please?

Mr. Simon Kennedy: I think, as we normally do, we have a written follow-up plan to the public accounts committee. We'll be very happy to do that.

Mr. Blake Desjarlais: I'm sorry that I have to ask basics, but there's been a basic level of misconduct here, and I would appreciate your understanding the gravity of the situation and our need for basic documents.

The Chair: Mr. Desjarlais, I think, if I'm going to read this a bit, Mr. Kennedy is telegraphing that they're in the process of sorting this out and he's prepared to come to us and update us on that progress.

Perhaps we'll do that after the summer recess, so I'm going to let his answer stand. I realize that you're trying to get an answer now, but I just don't think they're in a position to provide it yet. I'm hoping that will come—

Mr. Blake Desjarlais: At least by the summer, then.

The Chair: The committee will pick it up again, and we might well have Mr. Kennedy back.

Mr. Perkins, you have the floor for five minutes.

Mr. Rick Perkins: Thank you, Mr. Chair.

Mr. Kennedy, last week the former Liberal minister of industry, Navdeep Bains, was in the industry committee testifying on this issue.

He began by saying that his only responsibility for the green slush fund was actually appointing the directors. When I questioned him on his five appointments—Annette Verschuren as chair, Guy Ouimet, Andrée-Lise Méthot, Stephen Kukucha, who was the former Liberal organizer in British Columbia, and the fifth one, a government person who chaired their governance committee—I asked him if he was aware that all of those folks were basically funneling—shovelling—money to their own companies. He declared amnesia at even appointing them and didn't remember anything. It was very useless testimony.

Then, when I asked some of the staff, including a former PMO staffer who worked at SDTC at that time, she also declared amnesia. I guess that's the Canadian version of taking the fifth. What I need to know is, why did Minister Champagne not fire any of these directors?

Mr. Simon Kennedy: I think that's a question probably best put to the minister. I don't—

Mr. Rick Perkins: You provide him the advice.

Mr. Simon Kennedy: I think it would be better, if there's a question about why a minister didn't take a certain action—

Mr. Rick Perkins: Did you provide him advice to fire these five?

Mr. Simon Kennedy: I think, as members will know, deputy ministers don't discuss their advice to ministers in a public setting.

Mr. Rick Perkins: I hear that. You're taking the fifth.

I want to know, then, going forward.... These five directors feather-bedded maybe almost as much as \$400 million to companies they had financial interests in. I was able to find out through the Internet, on my own, about \$150 million of it. It's readily available on public sources.

I want to know that, in going forward in your new world with this, one, we will ensure that we try to get some of that back and, two, that the fund, under NRC control, will not have business with the companies that these people have already taken a huge amount of money for in abusing their public position for their own interest—they will be banned.

I don't buy.... Because there was no chair of this fund in its 20 years before Annette Verschuren, who had a conflict, I don't buy that you can't find people without a conflict to put on the board. That's a failure. I want to know, going forward, will you ensure that they no longer get to skim taxpayer money anymore from this fund, when they've gotten almost \$400 million already?

• (1740)

Mr. Simon Kennedy: I think I would say that we believe that the fundamental structure of this organization has contributed to these problems. The design of the statute is such that people are going to be on the board who are at high risk of conflict. I think the move to the NRC, actually—

Mr. Rick Perkins: They don't have to be on proper screening to have a conflict. That's total BS.

Mr. Simon Kennedy: I'm simply noting that the move to the NRC is a major step towards eliminating what is a kind of ongoing—

Mr. Rick Perkins: As part of the condition of it moving to NRC, will you make sure, as the deputy advising the minister, that this fund—under its new governance rules, they will take direction from you on improving their conflict of interest—will not do business with these companies, so that these directors and former directors, Liberal hacks and cronies, cannot steal taxpayer money anymore?

Mr. Simon Kennedy: There will have to be—and there will be—a consideration of all of the findings of the Auditor General's report and the Raymond Chabot report. Decisions will have to be made on what to do in cases in which, as the Auditor General said, for example, money went out to an organization that would not, under the terms of the contribution agreement, normally be entitled to receive it. I will say that I am in 100% agreement with the need for increased probity and additional scrutiny.

I do have to note, though, in response to the member's question, that at this point we don't have any evidence of deliberate malfeasance, criminality, etc., so I think it's simply to say—

Mr. Rick Perkins: Look, I have to stop you there. We have asked that it be turned over to the police, that's true, the RCMP, but it's very clear from the evidence that at least \$150 million is available on the website. We've had directors admit that they sat in board meetings and voted their own money. We have to stop that, at least going forward. You can set the terms going forward that these companies and these individuals that have this interest cannot profit from the taxpayer in this way anymore. That has nothing to do with police charges.

Mr. Simon Kennedy: I appreciate the member's question. My only point was to say that, in order to respond to it, I think there's a measure of due diligence that's needed. In the case of recoveries, the money that was put out to ineligible activities, that's black and white. In the case of companies where there's a conflict, the facts on the ground matter—

Mr. Rick Perkins: They broke the SDTC act and the Conflict of Interest Act.

Mr. Simon Kennedy: I would simply say that you have to look at each case individually. In the case, for example, of organizations that received money but weren't necessarily compliant with the contribution agreement, the contractual arrangement between the company and SDTC may be such that the company wasn't aware that SDTC was colouring outside the lines. They may have entered in good faith into an agreement—

Mr. Rick Perkins: Colouring outside the lines.... Give me a break.

The Chair: Thank you very much.

Our last member, Mr. Weiler, is joining us online for five minutes, please.

Mr. Patrick Weiler: Thank you, Chair.

I want to ask another question of Mr. Kennedy.

I have a number of clean-tech companies in my riding that have worked with SDTC in the past, and some were in the process of seeking funding from SDTC when the funding was frozen. This organization provides a critical service for clean-tech companies in Canada, where we do have challenges with access to finance.

I was hoping you could provide a very clear statement to me and to this committee to outline what these companies and other companies across the country can expect with the timeline of what is going to happen with funding and the funding freeze and when they may expect to reopen those conversations so that those processes can continue.

Mr. Simon Kennedy: Yes, I'm happy to answer that question.

Very briefly, my point in the last question is that we have to look at the facts of each case, because there are going to be cases in which people acted in good faith, and the fact that there is a deviation does not constitute criminality or malfeasance. If we had found evidence of criminality and malfeasance, we would have acted. I think there have been some very incendiary allegations made. As officials, we have a duty to look at the facts and the evidence and make judgments on the basis of the facts on the ground, so it's going to take some time to be able to answer some of the questions that have been raised. That was my only point earlier.

With regard to the restoration of clean-tech funding, this is a major priority. There have been many evaluations over the life of SDTC, going back to its foundation, notwithstanding the serious issues that have been uncovered through these audits and reviews, that have suggested that this organization has played a pretty important role in the development of a clean-tech ecosystem that is regarded, not just by the government but by many independent reviews by international organizations, business periodicals and others, as a leader in clean-tech start-ups.

We have an ecosystem of clean-tech companies in this country that is envied by many other jurisdictions, and SDTC played a role in that. There's a very strong interest in not losing the ecosystem or having permanent damage to many SMEs and others that are working, whether it's in the oil sands, in clean water or in many, many other sectors of the economy all across the country, that we don't sort of lose the ecosystem by virtue of the crisis that's unfolded with SDTC. There's a very strong interest in not having the business sector that has been assisted by this funding be harmed in the long run because of the problems that have been identified.

This is the reason for the minister's action plan and the efforts to transfer the funding to the NRC, to put this back on a sound footing, have oversight mechanisms that are much stronger and give people confidence that the kinds of diligence that you would want to see are in place, largely driven by these concerns about the many companies. There was testimony, to my understanding, before Parliament by members of the clean-tech community, who have spoken about the damage that's been done by the arresting of the funding. That is something that we're very alive to.

• (1745)

Mr. Patrick Weiler: Your point is very well taken, Mr. Kennedy.

In terms of timelines about when the resumption of funding might be able to take place, is there a ballpark of what you might be able to say for companies that are asking for such?

Mr. Simon Kennedy: The funding resumption has already started. There has been some recommencement of funding.

As I noted, we have been working with SDTC as it puts its management response action plan in place. We're now satisfied that all those measures are in place.

Companies in their stable have been put through additional diligence to make sure that we are satisfied and that everyone is satisfied that they meet criteria around eligibility and around conflict of interest. Actually, SDTC has been assisted by a third party audit firm in doing that.

There has already been some funding that's been going out to organizations. That has happened only when there has been fairly extensive diligence to demonstrate that the funding is not going out in a way that's problematic or suffers from the issues the AG found in her review.

Mr. Patrick Weiler: Thank you very much.

Lastly, you mentioned it very briefly earlier, but the transition plan for employees from SDTC...?

Mr. Simon Kennedy: Employees have been informed that it is the government's plan to offer them employment at the National Research Council. That transition work will be overseen by the new board, in particular by Paul Boothe as the board chair. The minister has asked Mr. Boothe and the new directors to take this on.

I have had a meeting with the employees and with the new board chair to explain that it is the government's plan to offer them roles in the NRC. We don't want to lose the expertise of the rank-and-file employees because of the events of the last year.

That will be overseen by SDTC, working closely with the NRC.

The Chair: Thank you very much.

There's just a point of clarification from the analyst.

For recommendation 6.29, which I'll note was one of the two priority recommendations as referenced by the auditor earlier, SDTC partially disagreed with the recommendation to reassess projects approved. They stated that "written records did not fully capture the robust deliberations made".

Today, ISED, through you, Deputy, stated that it would proceed to review.

Does ISED, therefore, agree with the recommendations made to SDTC by the Auditor General? You seemed to imply that you supported it, whereas SDTC did not.

Could you just clarify that, please?

• (1750)

Mr. Simon Kennedy: I'm sorry. I'm just reviewing the material here.

The Chair: It's recommendation 6.29.

Mr. Simon Kennedy: Just to clarify, this is language from SDTC. SDTC is saying it will work in co-operation with us to reconfirm that active projects—in other words, projects that are not historic and in the past—will meet the goals, objectives and eligibility criteria set out in the contribution agreement.

We would say that this is job number one. I mean, there are conflict of interest issues and so on, but clearly, our very strong insistence will be that future projects fall within the four square walls of the contribution agreement, and that will be part of the oversight activities we undertake to ensure that.

I think that last paragraph is accurate. It's coming from the organization, but I would agree with that. We will be working closely with them to make sure they follow the rules.

The Chair: SDTC partially disagreed. Do you reflect that disagreement? Do you share that disagreement?

Again, I ask for clarification because earlier you seemed to suggest that a review would be done.

I just want to know if you're in agreement with that partial disagreement with the auditor's recommendation.

Mr. Simon Kennedy: What I will say is that I'm speaking for ISED, and we have findings from the Auditor General and from RCGT that raise questions around things like eligibility. I'm just using that as an example, but funds went out, so there's a question that members have put to the government, which is, what are you going to do about that?

We as an organization have to make determinations of what to do in these various circumstances. I already testified today on recoveries, and we see that as pretty cut and dried: We need to be taking action on recoveries. We will be looking at the other areas. We committed that we'll come back to the committee to explain what we're doing in that space.

Again, you have to appreciate that there's new management at SDTC since this report was drafted, so there will be a new management team that may or may not be in exactly the same place. Clearly, SDTC partially agreed with this recommendation, but they would have come to their own assessment of whether projects reviewed during the audit period met the terms or not.

However, that's also a judgment ISED makes. We have a contribution agreement. We will not necessarily, in all cases, come to the same conclusion about whether or not an organization has been following the rules. I can't predict exactly where we'll land, but we will come to our own determination in these cases of whether or not projects that were funded met the terms of the agreement, and then what we're going to do about it. The Crown will come to its own view.

The Chair: Thank you.

I appreciate as well the recommendation here from the minister. Of course, as the motion was passed by this committee, we are

looking forward to hearing from the minister sometime after this spring session.

On that note, I thank Ms. Hogan, Mr. Hayes and officials from the Office of the Auditor General, and Mr. Kennedy and Mr. Bilodeau for their participation today in relation to the study of "Report 6: Sustainable Development Technology Canada". Any information that's forthcoming can go through the clerk, please.

On that note, I adjourn this meeting. We will see you next Tuesday.

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