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Tuesday, March 10, 2009

—
Chair

Mr. Rodney Weston

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• (1110)

[Translation]

The Vice-Chair (Mr. Raynald Blais (Gaspésie—Îles-de-la-Madeleine, BQ)): Let us begin the meeting now. So that we can get to our witnesses as quickly as possible, I would like us first to deal with the motion that I have introduced and that you have before you. In order to do so, I am going to yield the chair to Randy Kamp who will act as chair. After we deal with that motion, we can come back to the agenda and have our discussion with our witnesses.

I would also like to tell you that Mr. MacAulay is not here today because, I am told, he fell on the ice and broke three ribs. I do not know whether it was the performance of the Boston Bruins or what happened to the Montreal Canadiens that made him laugh and fall on the ice, but I am still sure that Mr. MacAulay will recover very quickly.

If I may, I am going to yield the chair so that we can deal with my notice of motion.

Mr. Lévesque?

Mr. Yvon Lévesque (Abitibi—Baie-James—Nunavik—Eeyou, BQ): I would like to ask Julia a question.

You sent us the notes from Mr. Applebaum's presentation. Did you also send the French version? Yes? Fine.

[English]

Mr. John Duncan (Vancouver Island North, CPC): I have a quick point of order. I think it would be appropriate for the committee to recognize that it is Mr. Lévesque's birthday today. Let's wish him a happy birthday.

Some hon. members: Hear, hear!

[Translation]

The Vice-Chair (Mr. Raynald Blais): It is my girlfriend's birthday today too, but that is another story.

[English]

The Acting Chair (Mr. Randy Kamp (Pitt Meadows—Maple Ridge—Mission)): Okay. I've been promoted.

Mr. Blais, are you moving this motion?

[Translation]

Mr. Raynald Blais: I would like to introduce the motion you have before you. It deals with the seal hunt, which will be starting very soon. I could have waited until Thursday so that we could have got to our witnesses more quickly, but chances are that this discussion will be very quick, I think, at least, I hope. I also hope that this

motion is going to receive unanimous consent. It has two objectives. The first is to reiterate the message contained in our report on the seal hunt that we tabled in April 2007. It asks the government to take all necessary measures, one of which is to make representations to the European Parliament, particularly at this stage in the year, and to conduct an information campaign for the general public.

The second objective is the safety of the hunters. Just a few minutes ago, in fact, I met with a Liberal senator who has made it into the news recently by introducing a bill on the seal hunt. His name is Mac Harb. I tried to influence him and make him see the light; the attempt was unsuccessful, but, for all that, my discussion with Mr. Harb was very interesting. The second part of the motion before you asks the government to do everything in its power to ensure the safety of the seal hunters. As you know, of course, when the abolitionists come onto the ice, it is not just as observers. Unfortunately, they engage in a lot of provocation because they are looking for pictures showing an outraged hunter clubbing away with his hakapik, or simply losing his cool. It is important to introduce this motion in order to ensure their safety.

Thank you very much.

• (1115)

[English]

The Acting Chair (Mr. Randy Kamp): The motion has been moved and explained. Is there any further discussion?

Mr. Calkins.

Mr. Blaine Calkins (Wetaskiwin, CPC): Thank you, Mr. Chair.

I just wanted to preface my comments to Mr. Blais. He knows very well that all parties, with the exception of a few parliamentarians, or at least that's what we thought anyway, generally support our traditional seal harvest.

My concern with the wording of the motion is that while I agree in principle with bringing this forward and I certainly don't have trouble supporting it, I'm just wondering sometimes if some of the things you try to do are better left undone. And I'll preface it like this. I think the public opinion campaign in Europe has already been won by the abolitionists. I would argue that it would probably be in Canada's seal harvesters' best interests if we didn't try to provoke that sentiment any further, but rather focus our activities on the diplomatic channels that are available through intergovernmental relations through things such as World Trade Organization agreements, by challenging the very principles of the European Union, which seeks to only bring about change within its own territory, not to influence actions of other governments outside its jurisdiction.

All these things are very valid approaches. I just think that the Government of Canada investing heavily in a public education campaign off our shores might be more harmful than helpful.

The Acting Chair (Mr. Randy Kamp): Thank you for that point, Mr. Calkins.

Mr. Weston.

[*Translation*]

Mr. John Weston (West Vancouver—Sunshine Coast—Sea to Sky Country, CPC): Mr. Blais, I very much admire the skill and the passion with which you defend your constituents. I am going to support your motion, whether or not you accept the recommendation that my colleague and I are making. Mr. Calkins and I agree that if we put more emphasis on the pressure on the European Parliament and less on the wider and vaguer campaign, this motion could be more effective.

[*English*]

The Acting Chair (Mr. Randy Kamp): Further discussion?

Mr. Byrne.

Hon. Gerry Byrne (Humber—St. Barbe—Baie Verte, Lib.): I think the motion itself is pretty clear.

Just dealing with Mr. Weston's point about providing substantive measures for the government to embark upon, I don't necessarily agree with that particular notion, simply because if the government has indeed been involved in any campaigns in the past in Europe, they should know what to do. We've prompted them as to what to do.

I'm sure, Mr. Weston, that the appropriate response would be from the government benches. If I could read into the minds of the government, we've been doing a good job in Europe in the past. If you were to make the notion that what we need to do is define for the government what it needs to do in the future, then that's an admission of defeat of the government's past actions in Europe.

On Mr. Calkins' point that the battle is now lost when it comes to public opinion, I could not disagree more strongly. I remember extremely well back in the mid-1980s, when the whitecoat hunt was abolished and people said the seal hunt industry, at that point, was dead. It was not. We did indeed fight back.

In 2005, I'll remind my committee members, 349,000 seals were harvested, up substantially from an all-time low in the mid-1980s; seal pelt values ranged from \$98 to \$104 per pelt; seal protesters

were few and far between on the ice floes; and the European Union was actively engaged in increasing trade in seal products, not in banning them. By 2008, harvests were down to 270,000, quotas had been cut by the government, seal pelt values were reduced by 400% to \$25 per pelt, and seal protesters outnumbered the number of sealers on the ice.

To take a position now that we're defeated in Europe is simply to say that what happened in the past and the rebounding we made in terms of this industry from the darker days of the mid-1980s was not possible. So I would put my full weight behind Monsieur Blais's motion as it currently stands and suggest that this is a nice, positive reminder to the government not to give up on this battle.

• (1120)

The Acting Chair (Mr. Randy Kamp): Mr. Andrews.

Mr. Scott Andrews (Avalon, Lib.): Thank you.

I'd like to add to what Gerry just said.

Mr. Weston, I'd like to know exactly what else you'd like us to include in this, just for the simple fact that we're running out of time. We had the deputy minister in here, and Mr. Sullivan, and Senator Manning. We're down to the last two weeks of this particular campaign to try to influence the vote in Parliament. We offered, as a committee, what we could do as parliamentarians. I think Mr. Manning and Mr. Sullivan have done a small job, but they need much more help.

What else do you think we could add to strengthen this?

The Acting Chair (Mr. Randy Kamp): Mr. Weston, do you have a brief response to that?

Mr. John Weston: Thank you, Mr. Andrews. I'm glad you asked the question, because I guess I didn't make my point clear enough.

Because time is of the essence, because, as we've heard, there are 724 parliamentarians, I wouldn't add anything. I would just delete "and implement a widespread educational campaign in Europe" so that we would focus our efforts. We only have months—weeks, really.

As I said, I will support this motion as it stands. I think it would be improved if we, like a laser beam, focused on the parliamentarians who have the vote rather than the millions of Europeans who don't.

The Acting Chair (Mr. Randy Kamp): Okay. I've heard no motion to that effect.

Mr. Duncan.

Mr. John Duncan: I'm trying to synthesize some of the things I've heard. I'm just wondering if an amendment would be in order that would maybe cover some of the concerns.

Where it says, "increase pressure on", I do have a concern that the message we're sending with those three words is that our government and previous administrations were not doing enough. I agree with Mr. Byrne that there has been a lot done; I don't think we want to send a message otherwise.

So I would suggest that we say, instead of “increase pressure on the European Parliament”, the following: “continue urgent dialogue with the European Parliament”.

I think that's a constructive amendment that would make this a more supportable motion for all parties.

• (1125)

The Acting Chair (Mr. Randy Kamp): Are you moving that?

Mr. John Duncan: I would move that, yes.

The Acting Chair (Mr. Randy Kamp): The amendment is to remove the words “increase pressure on” and to replace them with “continue urgent dialogue with”. This is in terms of the European Parliament.

Is there any discussion on the amendment?

Mr. Blais is next. Then we should move this along fairly quickly here.

[*Translation*]

Mr. Raynald Blais: I do not really want to prolong the debate, but I do not feel that my motion is trying to put the government into a corner or anything.

At the moment, time is a major factor. We have seen that, and we are still seeing it. They will soon be making their decisions over there. I do not know the exact time lines in the European Parliament, but those who know how it works know that it is not possible to say that the bill will be tabled on a given date, and so on. Unfortunately, it does not work like that.

The word “increase” is intended to recognize the present situation. So I invite my colleagues to reject the amendment and to pass the motion as it stands. First, the motion recognizes that time is not on our side at the moment. Second, we have to send the message that we want to have a information campaign for the European public.

We already discussed this matter; we tabled a report in 2007. We were thinking about conducting a campaign for the general public even then. We know that senators and members of Parliament are influenced by public opinion. If we do not reach the population, we are going to fail.

The proposal as worded tries to deal with the matter appropriately. That is why I ask my colleagues not to see things in that way. Otherwise, the effect will be to ignore the context that is forcing us to act quickly.

[*English*]

The Acting Chair (Mr. Randy Kamp): Thank you, Mr. Blais.

I think Mr. Weston was up.

Mr. Andrews, a brief comment on the amendment.

Mr. Scott Andrews: On the amendment, Mr. Byrne just gave an example of how the hunt is now at an all-time low, compared to the 2005 effort, so the words “increase more pressure” I don't think are strong enough. I think if we're going to do anything, we need to go stronger on this.

Again, I get back to the point. With all due respect to the government members, in the last two months we've sent one

parliamentarian over to discuss this issue with other parliamentarians, and one ambassador, to try to cover off 700-plus parliamentarians, to try to influence the vote. I disagree. I don't think we've done a good job on this. I think the motion by Mr. Blais is fine. As a matter of fact, I would probably go as far as to say that we need to strengthen it, but I think this is a pretty conciliatory motion. If you want to get stronger, we could get stronger.

The Acting Chair (Mr. Randy Kamp): A final comment on the amendment, Mr. Weston.

Mr. John Weston: I think the French and the English aren't consistent here. I think more consistent with Raynald's motion in English would be something like “increase the number of deputations to the European Parliament”. I think “*d'accélérer les représentations*” is different from “increase pressure”. So I'm happy with the French, not so happy with the English.

• (1130)

The Acting Chair (Mr. Randy Kamp): We're not going to fix that right here.

Let's vote on the amendment at this point. The amendment is to—

Mr. John Weston: Mr. Chair, it's inaccurate.

The Acting Chair (Mr. Randy Kamp): Well, no. The amendment is whether we replace “increase pressure on” with “continue urgent dialogue with”. If this amendment passes, then the French translation would also have to be passed in that regard. If it doesn't, then we have another issue. But we do have some witnesses waiting to speak to us.

Mr. Scott Andrews: On a point of order, Mr. Chair, the notice of amendment was moved, but I didn't hear someone second it.

The Acting Chair (Mr. Randy Kamp): There is no seconder required.

All those in favour of the amendment to replace “increase pressure on” with “continue urgent dialogue with”?

(Amendment negated)

The Acting Chair (Mr. Randy Kamp): I think we can probably move right to a vote on the motion itself in the unamended form, unless there's any urgent discussion needed on this. I think we probably heard both sides of the issue.

All in favour of the motion?

Mr. John Weston: The French or the English? We'll deal with the French?

The Acting Chair (Mr. Randy Kamp): Yes, that's fine.

I'm not sure whether we have a protocol.

It's translated by those who tend to know what they're doing, so I'm a bit surprised if it's really deficient. I think we understand the general tenor of the motion, that the government should do everything possible to advocate on behalf of the seal hunt.

Let's vote on this and then I can get back to my place.

(Motion agreed to) [See *Minutes of Proceedings*]

[Translation]

The Vice-Chair (Mr. Raynald Blais): Thank you very much.

Well done, Mr. Vice-Chair, you did a very good job.

Thank you for unanimously supporting the motion. I think that the message will be stronger as a result.

We now welcome our witnesses, Mr. Earle McCurdy, Commissioner, and Mr. Raymond Andrews, also Commissioner.

I invite Mr. McCurdy to make his presentation first.

[English]

Mr. Earle McCurdy (Commissioner, Northwest Atlantic Fisheries Organization): Thank you, Mr. Chair. I appreciate the opportunity to come today. I don't have any kind of detailed presentation, because I didn't come looking for this gig. I was asked if I wanted to appear, and I said I'd be glad to.

Members might like to hear that an interesting thing developed in my taxi ride over from the hotel this morning. I hopped in the back and asked if the driver could take me to West Block. I don't know if the guy was new or if he didn't hear correctly, but he asked if I could direct him how to get there. I told him that first he has to secure his party nomination, then he has to get himself elected, and I believe after that it's pretty straightforward.

Some hon. members: Oh, oh!

Mr. Earle McCurdy: On the matter of the NAFO, I just want to give a real brief background on my role in NAFO. I'm not obviously a government representative, so therefore I've been to a great many NAFO meetings and never once had the opportunity to speak one single word officially at the table, because the way it works is that the only spokesperson for each country is the government representative who heads the delegation. So while we're called commissioners, with respect to the amount of authority we have, commissionaires might be a little closer to the mark.

In any event, I went to my first NAFO meeting in 1983 and have been to all but perhaps four or five of the annual meetings since. I proposed as sort of a guaranteed solution to fishing violations that if violators are subject to being sent to witness the entire NAFO meeting every year, you'd soon clean up any abuse to the regulation, because it is a pretty tedious process to go through. I've been there with various administrations in power in Ottawa, and at best, it's always a frustrating proposition.

The choices in NAFO, as are most things in life, are generally between two or more not particularly palatable options, and it's never exactly as you might see it. When the issue of the possibility of a new convention came along, what it ultimately came to was whether the new or the old convention was better.

One thing that I think is important to be mindful of is that at the time it was debated, the new convention, hand in hand with the proposed changes in the convention, had some quite significant changes. One in particular was to the NAFO enforcement and control mechanisms or measures, which was a significant deterrent to serious violations. That was really what the choice came down to at the time.

I think what put some people off was the characterization that the outcome of this NAFO reform was equivalent to custodial management, which in my opinion is nonsense, to claim that. Now, having said that, custodial management is kind of a nebulous term; it's nowhere fully defined. But if you accept, roughly speaking, that it means something along the lines of the coastal state not controlling the fish so much, but enforcing the shares of others in the zone outside 200 miles, I think that's probably what most people think of by way of custodial management. But it isn't a term that has any international standing. It's almost as much a slogan as anything. Nonetheless, just for the record, if we could get something along the lines of what I just described under the heading of custodial management or whatever other name anyone chose to give it, we'd jump on it in a flash.

I'm certainly of the view that the amendments to the convention, if passed, would not be as attractive an option by any stretch to the people who traditionally depended for a living on those stocks that straddled the 200-mile limit.

I neglected to mention up front that our organization represents both fish harvesters and plant workers throughout Newfoundland and Labrador. So the brunt of the overfishing by NAFO member states, and for a while by non-member states, has directly caused a great deal of damage, economic hardship, personal hardship, community dislocation, family dislocation, and so on, for 2,000 of our members throughout the province. It's been a very bitter experience ever since the formation of NAFO, really; I believe it was in 1978 or 1979 that the first NAFO meeting was held.

•(1135)

Anyway, I didn't have anything in particular to vent about. I was asked to come as commissioner, and said I would. I think this is probably sufficient to get the ball rolling.

I'm more interested in responding to questions and having a dialogue now.

[Translation]

The Vice-Chair (Mr. Raynald Blais): Thank you very much. That is a good way of going about it. It lets us have more questions when we come to the questioning rounds.

Mr. Andrews, do you have any comments that you would like to make?

[English]

Mr. Raymond Andrews (Commissioner, Northwest Atlantic Fisheries Organization): First of all, I came under almost the same conditions as Mr. McCurdy, in that I was invited to come, so I didn't think it would be wise or necessary to present a long dissertation on the background, and things of that nature, but I'd just like to point out a few.

First of all, I started out in DFO, of all places, in 1962, so I do have a little bit of history attached to some of this. Having been at my first NAFO meeting in 1979 and having covered about 60% of them since then, I've had the unique experience of wearing at least three hats, one with the federal government as a bureaucrat and a political adviser, a second as a provincial deputy, and a third while being involved with the territorial government in Nunavut and the Nunavut Wildlife Management Board and their activities in fisheries.

For a long time, I guess, I was one of those who was very concerned about the way NAFO was operating and the lack of progress. I don't mind saying that, because there's a long history of very difficult situations.

The other obvious part I've played in this is that for a few years I was with Fishery Products International, the big fish company that disappeared a couple of years ago, and that gave me the industry perspective on the whole NAFO scene and indeed an expanded background in fisheries generally. I retired a few years back, but still do work in fisheries, primarily out of Nunavut, and some activity in Newfoundland and Labrador, as well as Nova Scotia.

I appreciate the opportunity to come here. Like Earle McCurdy, I'm much more interested in trying to the best of my ability to answer questions, as opposed to pontificating on my background and experience with NAFO.

Thank you.

• (1140)

[Translation]

The Vice-Chair (Mr. Raynald Blais): Thank you very much.

Mr. Byrne.

[English]

Hon. Gerry Byrne: Thank you very much, Mr. Chair, and to both of our witnesses.

Those of us who had an opportunity to read the Senate report on NAFO reform would be very much enlightened by your backgrounds. You gave very thorough and comprehensive presentations there, and I'm sure that all members of the committee read the transcripts of the Senate proceedings, as well as the final report. So thank you very much for your candour.

Both of you are current-day commissioners of NAFO. This committee heard evidence that in the lead-up to ratification of the revised convention, various countries are now at the table and seeking revisions to quota shares. One particular example that was noted to us was the Faroe Islands, which are looking for a much greater share of shrimp.

As NAFO commissioners, would you have been made aware of that request or expectation by the Faroe Islands—that is, by Denmark in respect to the Faroe Islands? Or is your role as commissioners mostly at the level of the annual general meetings and the buildup to those?

For example, are you aware, Mr. McCurdy, that the Faroe Islands have a pretty substantial request for increased shrimp shares right now?

Mr. Earle McCurdy: Yes, but at one time our involvement was less than it has been more recently. In the last several years, DFO has developed a practice of having several Canadian industry consultations a year on NAFO issues, perhaps three or four during the course of the year prior to the meeting, in which there are updates on various NAFO files and an opportunity for input from industry people on whatever the options might be for dealing with the issues of the day.

So, yes, we would certainly have been familiar with that, and it's a longstanding sore point with the Faroe Islands, dating back a decade or more.

Hon. Gerry Byrne: Are you aware of any other requests that are currently on the table by EU member states, or contracting parties to NAFO generally, looking for increased shares prior to ratification?

Mr. Earle McCurdy: I don't know if any others have linked demands for shares, and I'm not sure if there is a link.

Hon. Gerry Byrne: With or without linkage, though, Mr. McCurdy.

Mr. Earle McCurdy: With or without linkage. Certainly the United States clearly has been continuously looking for something so they can go home and say we got something out of NAFO. There are a couple of parties who from time to time will pop up and say "What about us", but don't really seem to press the point much beyond that, Korea being an example.

The other outstanding objection that's been filed for a number of years under the objection provision is by Iceland with respect to shrimp on the Flemish Cap, where it's managed according to the number of days you're permitted to have a vessel on grounds, versus the normal way of doing it by quota. They're of the view—which I happen to agree with—that by quota is the more appropriate management measure. So they object on principle. They manage their fisheries by quotas, not by days on grounds.

Those are the only ones I can think of offhand that are currently outstanding. The Europeans and ourselves are probably the strongest advocates of the status quo on quota shares, for the obvious reason that we have the most to lose by any tinkering with current or traditional quota shares.

Hon. Gerry Byrne: These basically have been longstanding requests that have not been agreed to by contracting parties, longstanding grievances. In this particularly delicate year, we'll call it, of ratification, or period of ratification, if any of these requests were suddenly agreed to by Canada, for example, or supported by Canada, it would create that linkage towards ratification, but that's a subjective opinion and we'll leave it be for now.

What I want to zero in, to you both, is the whole notion of this NAFO control inside of 200 miles. The provisions of the revised convention do actually allow NAFO, at the direct intervention or request of the coastal state, to manage inside of the exclusive economic zone of the contracting party, the coastal state.

We noted at the committee level that there was no such reciprocal or comparable agreement for Canadian control outside of 200 miles. I called it a quid pro quo. I expressed the belief that it would be a natural flow or extension that if you're going to accede to the possibility of NAFO foreign control or majority foreign control inside of 200 miles, then it just seems naturally flowing that you'd also negotiate the possibility of the coastal state, Canada in particular, having control outside of 200 miles.

From your own points of view as commissioners but as well as long-time participants in the industry, how's that going over?

• (1145)

Mr. Earle McCurdy: My take on that particular point and my understanding of where that language came from was that it was modelled on NEAFC, which is the North East Atlantic Fisheries Commission, which deals with the other side of the Atlantic. I'm not absolutely certain, but that's my recollection. But in any event, there is one stock I can think of that Canada does exercise a degree of control over outside 200 miles, namely the northern cod stock, where in the quota NAFO has a practice of accepting the Canadian total allowable catch and doesn't actually set that figure. But having said that, that's a kind of an outlier; it's not the norm.

On this business of what could notionally happen under that wording, Canada would have to propose the measure, they'd have to go to NAFO and ask, would you please manage a stock inside our zone, and then they'd have to also support the measure in the ensuing discussion for it to happen.

Currently, under the old convention that's in place today, right now as we speak somebody on behalf of the Government of Canada could go to the Spanish government and say you can take your whole armada and fish in Conception Bay if you'd like. In other words, if the government of the day were to say we're prepared to do that, then they're not defending our sovereignty at all. So while notionally that could happen, to me it's unimaginable.

I participated in a debate in about 1986 where industry people and government officials of the day concurred that the business of trading access to fish in the Canadian zone in return for support on NAFO measures, in return for market access and so on, had to stop. So that hasn't been in place, even though today there's nothing to stop the government from saying to whoever they want to give it to, whether it's NAFO or an individual NAFO member country or whoever, come on in to our zone and fill your boats with fish.

Hon. Gerry Byrne: Mr. McCurdy, time is limited, unfortunately. What you're saying is very valuable, but times are changing. We have the European Union. We began with the seal hunt. The EU appears to be engaged in a process. All international experts have declared illegal under WTO rules the banning of the Canadian seal importations by the EU. The European Union is moving towards certification of seafood imports. In other words, in those countries, those importers or exporters that wish to import seafood into the EU will actually have to have it certified by the EU in order for that to occur. Sustainable harvesting practices would be included as a measure for that certification. The world is changing. Is it plausible or possible that the very tactic or tool that you suggest the Canadian government would never agree to will become a pretty big carrot and a stick under pressure of someone saying "we will not certify you

unless you allow us access inside of 200 miles to observe your practices and enforce your own practices"?

Mr. Earle McCurdy: I think they could do that currently. I don't think they need a change in the NAFO convention in order to be able to say—

Hon. Gerry Byrne: But it's built into the NAFO convention now. So in other words, Canada has agreed to the process. It's not built into the RFMO currently, but Canada, under the proposed ratified convention, is agreeing to it as a legitimate procedure. From a moral point of view, Canada could simply object to it. I agree with you that we certainly could right now. You know, Mr. McCurdy, what would happen if Canada ever did that right now. There would be political chaos. My take on it is that if it were signed into an RFMO, into NAFO, it would become somewhat more plausible and almost expected by the European Union or any other contracting party. Why did you agree to it, if you never wanted or expected to have it invoked or requested?

• (1150)

Mr. Earle McCurdy: I've been at NAFO with several different administrations heading up the government in Canada at different times, and I can't imagine any of the ministers who've been on either side of the current House or their predecessors ever saying.... There was a time, as I said, when we had a practice of trading fish for access to market and all that stuff. In this day and age, I don't see that happening. I think there'd be the same chaos either way, and I can't imagine how Canada would.... The political backlash would be just as strong, whether it was done through the NAFO convention or it was done under the current NAFO convention by other means. They're just saying to people to come on in and fill your boots in our waters, or observe our fisheries or whatever. It would be a simple matter of sovereignty that we would clearly expect the Government of Canada to never go to NAFO with any request to do that. In the absence of a request, it wouldn't happen.

If had my druthers, would that clause not be there? Yes, it would probably be better, but in the real world, if they were of a mind to do that, then I think they could easily trade off our sovereignty over our fish stocks in other ways, without that amendment.

[*Translation*]

The Vice-Chair (Mr. Raynald Blais): Thank you very much.

Mr. Lévesque.

Mr. Yvon Lévesque: Thank you, Mr. Chair.

When we met with Mr. Applebaum, I asked a question about the money spent on off-shore helicopter surveillance, beyond 200 miles. Sorry, that was when we met with the minister.

If an infraction is observed, can Canada seize the vessel and lock up the catch that is deemed to be illegal before dealing with the vessel's country of origin?

[English]

Mr. Earle McCurdy: In terms of outside 200 miles, I guess that happened once in the case of the Spanish vessel the *Estai* back in 1995, the so-called Turbot War. I believe the vessel had a Canadian flag, not a NAFO flag, when it made the arrest, if my memory serves me well. Currently, Canadian vessels operate under a NAFO flag, and there are provisions where they have the right to board. They do a couple of hundred boardings a year, I guess, out in that area, and there are procedures for laying charges against vessels.

In conjunction with the NAFO convention reform, one of the rule changes, in my view the most significant one, was that for serious infringements—specifically, fishing a moratorium stock or over-fishing at a certain prescribed level—the vessel can be directed to home port. That's happened on three occasions. If your home port happens to be Vigo, Spain, and you're fishing on the Flemish Cap, that's a significant penalty. That is a new regulation that was agreed to at the NAFO meeting in conjunction with the changes to the convention.

I'm not sure if I got your question correctly or not.

Mr. Raymond Andrews: I'd just like to add, not to repeat anything that Mr. McCurdy has said, that while we can do a lot of monitoring and we can do boardings, and with the new clauses we can insist on going to port for further inspection, the one thing that remains sovereign is that only the flag state of any of those countries can actually lay charges and prosecute. That's just international law; that's the way it is.

But certainly the big change or the big plus is being able to say to serious offenders that they must now come to port for a re-evaluation, an accounting, and to get the right numbers. That in itself is a big penalty.

•(1155)

[Translation]

Mr. Yvon Lévesque: Is that just for vessels flying the flags of NAFO member countries, or for all vessels? Or are penalties for vessels belonging to NAFO member countries different from those for countries that are not members?

[English]

Mr. Raymond Andrews: This in particular applies to NAFO member states, but I'm sure the part that only the flag state is able to lay charges and prosecute would still exist in all the other countries.

[Translation]

Mr. Yvon Lévesque: During the negotiations on small craft harbours, there was concern about the possibility of the costs of repairs to the harbours being considered funding to fishers. There was even the fear that employment insurance could be considered a subsidy to the fishery.

Was that part of the new NAFO agreement?

[English]

Mr. Earle McCurdy: I don't think that has any connection with NAFO. There is an ongoing dialogue internationally on fishery subsidies through the FAO, the fisheries department in the Food and Agriculture Organization of the United Nations. They've been having endless trade meetings, part and parcel of the Doha Round or

the Uruguay Round, whichever is the most recent one—Doha, I think. It's a host of proposals back and forth about what constitutes a fishing subsidy. But that's unrelated to the NAFO convention.

[Translation]

The Vice-Chair (Mr. Raynald Blais): Mr. Stoffer.

[English]

Mr. Peter Stoffer (Sackville—Eastern Shore, NDP): Thank you, Mr. Chairman.

Thank you, gentlemen, for coming today.

I have just a few questions for you.

Mr. McCurdy, you had indicated that if that provision of the so-called possible management within our 200-mile limit could be taken out you'd be okay with that. I am wondering, why not take it out? The concern I have, and I think you are right, is it's foreseeable for any minister on either side of the fence to allow a foreign state to come in and manage some stocks within our water. That would be politically unsuitable, but if it is in there then Canada would have the legal right, if they are in trade talks with the EU for manufacturing or pharmaceuticals or something else, to go over to Europe. Europe is saying in that regard they would like to have a little bit more of this. These are some of the trade dialogues. For that to happen, Canada would then have, within NAFO, the legal right to say that to meet this they could link the management of some of their stocks within our waters. They'd have permission to do so. We would agree with that on the provision that this element of our discussions will then take place over in Europe.

Those are the trade-offs I can see. You're right, just on its own I can see them not doing it, but if there were a larger discussion about trade in general this would give Canada the legal right to say they have NAFO and they can do this. Thus you get your quid pro quo in that regard. That's the danger I fear.

Also, we heard from Mr. Applebaum and Mr. Parsons regarding the objection procedure. They were concerned about what that means in that regard, and I'd like you to clarify, if that's at all possible.

The last one, of course, was on the agreement. We had to have two-thirds. Right now it's 50% plus one, then it was going to be changed to the two-thirds agreement with regard to quotas or whatever. I'd like your views on that.

The last question for you is this. Obviously one person is speaking on behalf of Canada at these negotiations, but I assume, and correct me if I'm wrong, that prior to and after those discussions you guys will all meet in a room and hash it out, saying we should go this way or that way. I'm just wondering if there were any objections, from your perspective as a long-time commissioner, on the two-thirds agreement amount and the objection procedure in that regard.

Mr. Earle McCurdy: On the first one, just briefly, Canada can already do that, and did exactly what you described for years and years, by trading access to fish in the Canadian zone in return. So there is nothing new in what's proposed in the convention in that regard.

The objection procedure, which I often refer to as the objectionable procedure, was automatically used by the Europeans for a number of years. They objected to every quota they got, and took much more than their quota of fish. That would have been back in the day when Mr. Applebaum and Mr. Parsons and so on were actively working for the department, and it was very tough. There was no real remedy to problems, and in the world at the time there was less scrutiny of fish stocks and overfishing than with the current interest in sustainability and related issues. There wasn't the same focus at that time, so those were pretty grim years to go to NAFO meetings.

The new convention does have a dispute settlement procedure. It's tedious to go the whole route, but under the current regime.... For example, Mr. Byrne referenced the Faroe Islands. They file an objection annually and fish more than their quota, and there is no further remedy under the current NAFO regime. Under the proposed new regime, Canada, for example, as a coastal state, could intervene and take that to the dispute settlement mechanism, starting with an ad hoc panel within NAFO. If it is not resolved there, it can go to a more formal international dispute settlement panel. In that regard, it is an improvement on the regime that's currently in place.

On two-thirds versus 50% plus one, for the most part it's probably one vote. On the difference, personally, I think the Canadian interest is better served with the two-thirds than it was with the 50% plus one because of the interest Mr. Byrne raised of the other contracting parties sizing up Canadian allocations and saying to themselves they'd like a piece of that and maybe they could get enough support from other countries to get a share of it. We're marginally better protected with the two-thirds. On twelve votes, it is eight votes compared to seven votes. It's not an earth-shattering difference. But having said that, on the balance of the choice, I don't think it's a showstopper either way. My advice, as a member of the Canadian delegation, is if we get the two-thirds it is preferable to the 50% plus one.

On the Canadian delegation, you're quite correct. In the course of the meetings our opportunities really were in the Canadian delegation meetings, which are held maybe even two or three times a day between NAFO sessions.

• (1200)

[Translation]

The Vice-Chair (Mr. Raynald Blais): Thank you very much, Mr. McCurdy.

Perhaps Mr. Andrews has something to say before I give the floor to Mr. Calkins.

[English]

Mr. Raymond Andrews: On the first point, too, the important thing to remember is that in terms of NAFO having some jurisdiction inside for either of the two big issues, which are access and enforcement, I think the chances of that are so remote. Yet in cases like science there may be an opportunity to work together. In fact, there are examples now of straddling stocks, whereby you try to work together. But the chances, in my opinion, of any minister of the crown—having worked for a few—suggesting that there's Canadian fish available to a NAFO country or that NAFO would be asked to come in and police Canadian activities would be a little remote.

On the second point you raised, on the dispute settlement, just to reiterate what Earle has said, over many years with just a simple objection and being able to do anything you wish in that regard, without some ad hoc panel or compulsory decision-making process, we have made a good step forward in getting a process in place that allows us to at least deal with objections.

In voting, I would just add one thing to what Mr. McCurdy has said, and that is, from a Canadian perspective, what we want to be most certain of is that we won't lose some of our percentage of the share of fish we have. Hence, in the case of voting, I would remind you that 90% of the NAFO stock—90% of all the fish—is basically held by three countries: Canada first, the European Union, and Russia. And in a voting process, I have to agree again that I'd much prefer us to protect the percentage we have with those three voting, as opposed to even the 50% rule. It's only a difference of one, but it's nice to be able to protect your quotas in the process that gives you the number of votes you need.

I'll just use one example. There's one stock out there, in particular, right now, and the Americans would love to have some of it. It's 97.5% Canadian, under the current rules. For us to be able to protect

—

• (1205)

Mr. Peter Stoffer: Is that yellowtail?

Mr. Raymond Andrews: Yellowtail, that's correct.

We would love to protect that as a Canadian allocation, obviously. Getting the votes to take that away from us will be quite difficult, to find two-thirds to knock off the European Union, Canada, and Russia in that regard.

On the last point, just to reiterate Earle's commentary, there's a lot of opportunity to have a discussion prior to and after any of the activity in the NAFO annual meeting. What gives me comfort, as a totally objective and independent individual—as opposed to wearing hats as before, because I now have no affiliation with government per se—is the fact that when we have those meetings and discussions, we kind of look around the room, as you people do here. When we see all of our industry, literally, without exception, as advisers to the Canadian delegation, and when we see them and the provincial governments supporting what's being proposed, it gives us that level of comfort, as a commissioner and being as objective as I can be, that this is for our betterment, so let's go with the improvements we're going to gain from it.

[Translation]

The Vice-Chair (Mr. Raynald Blais): Thank you very much for your comments, Mr. Andrews.

Mr. Calkins.

[English]

Mr. Blaine Calkins: Thank you, Mr. Chair.

I appreciate getting the opportunity to ask some questions here.

Actually, I was very encouraged by the comments you made as you summed up, Mr. Andrews. I'm wondering if you would like to use a little bit of my time to extrapolate on that a little bit further. Who exactly? Obviously, the provinces are outside.

My understanding is that, basically, NAFO is operating more or less in line with what the proposed amendments are going to be anyway, and we've had some success. What are some of the wins the provinces and the industry perceive gaining from these new proposals?

Mr. Raymond Andrews: I think the main thing is that as we look forward there is a way to deal with the objection procedure and to correct the limbo that allowed it to go on and on.

The second thing that's really important here is that, with the increased Canadian surveillance monitoring and enforcement, coupled with NAFO and the new measures that are under the convention.... I always consider the convention language as the act, and all the stuff that is needed, the measures, being the regulations, or the way we operate on the water. What we see as a big plus in all of this is that the thing putting at least some fear into the captains of the ships coming to fish the NAFO area is the measures under the convention. A lot of the improvements are in enforcement and surveillance, and especially when you get something like what we call the "shall" clause. When we find you in error with two major issues, as Earl has explained, we don't stop there. We can now insist that the captain and his crew and the boat come to some port. That in itself is probably a bigger penalty and deterrent to any illegal activity than a lot of the other regulations you might have on the books—just the fact that we can do that.

Let me go back to one point I made. You have an individual at our meetings as an adviser who represents all of the offshore fleet, be it in groundfish or shrimp, and you have somebody like my colleague, Mr. McCurdy who represents all of the fishers in Newfoundland and Labrador. When you see the whole group coming together and saying this is an improvement, I think we have basically found a level of comfort that says proceed and do the best you can, knowing it's not going to be perfect—you'll never get all you need out of 12 countries. At least this looks and sounds and is better than what we had, so let's do it.

Mr. Blaine Calkins: Is there anything in particular, if you look at the Senate report, if you go to the NAFO website.... One thing that concerns me is the role the observers play. I think observers play a critical role. In your opinion, has there been any improvement in how that role is happening? The NAFO website says that observers are supposed to be independent and impartial, but my understanding is that they're basically chosen from their own countries: we would have a Spanish observer on a Spanish ship, we would have a Canadian observer on a Canadian ship, and so on.

Are there any changes or proposals, or was there any discussion at all, about increasing the appearance of objectivity of observers in the role they might play in communicating with enforcement—bringing testimony to any court proceedings, and so on?

•(1210)

Mr. Raymond Andrews: I don't think there were specifics on the observer issue, because as you say, they are representatives of the company. But in what we call the "shall" clause—having to come to

port—the whole point is that if there isn't a certified NAFO inspector available to do a further investigation into what's perceived to be a wrong, that lack allows the complaining country, if I can use that term—Canada—to say that the boat has to come to port. The inspector must be a NAFO person, and at the port both of us, hopefully, can verify the information on what went on while on the water and what's stored in the boat.

There wasn't a big discussion, as I recall—maybe Earle can recall one—on observers; it was more on the inspectors and the NAFO enforcement process.

Mr. Blaine Calkins: Mr. McCurdy, do you want to add something?

Mr. Earle McCurdy: I'd say that overall in NAFO, the benefit of the onboard observers on vessels has probably been less than had been hoped for in the initial stages. With all of this stuff, we're talking about incremental progress. It isn't some glorious breakthrough we're talking about here; at best we're talking about incremental progress.

I would have to say that the single biggest step towards enhancing Canada's position with respect to protection of the stocks out there, certainly in the last 13 to 14 years—though someone could argue whether or not the turbot war might eclipse it—was the decision initially made under Mr. Regan's ministry and thereafter maintained by subsequent ministers to double the enforcement presence. That made a big difference in the level of compliance. We now have a pretty strong enforcement presence. The boardings and so on are a significant deterrent, in conjunction with the rule that if you're caught in a serious infringement you can be sent home. For somebody who's planning to come fishing for six months in the Northwest Atlantic and is caught after three weeks and has to go home, in today's world, with fuel costs and so on, that's a huge penalty, and far more significant than any fine you're likely to ever have.

We would hope to always have a commitment from the Government of Canada to pay for that level of surveillance, because it's a simple matter of sovereignty. Without it, I don't think it would be long before they went back to their old ways—some of them, at any rate.

Mr. Blaine Calkins: If I have any time remaining, Mr. Chair, I'll share it—

[Translation]

The Vice-Chair (Mr. Raynald Blais): You have three and a half minutes left.

[English]

Mr. Blaine Calkins: —with Mr. Duncan. I'm sorry, I mean with Mr. Weston.

[Translation]

The Vice-Chair (Mr. Raynald Blais): Mr. John Weston.

[English]

Mr. John Weston: Merci.

Thank you both for your very helpful observations.

Mr. Andrews, if I can summarize, I think you said that this seems to be an improved convention. The objection procedure has improved. The MCS backs that up. There are raised expectations of prosecution by the home state. It's not going to be perfect. You're never going to get everything you want out of 12 countries, but it's better than it was before.

I want to get back to Mr. Byrne's objection. I think that in any convention, you have a host of terms and conditions. There are going to be some you like. I bet even Mr. Byrne likes some of them. Then there are some you really don't like. The one he doesn't like is on this issue of sovereignty. It would trouble me as well, unless I understand it the way you're portraying it.

As I understand it, and I'm quoting from the DFO website: "The high seas is the area beyond the EEZ. No state has sovereignty or jurisdiction over the high seas" and "no state may claim sovereignty". So as I understand international law, we couldn't have gotten sovereignty beyond 200 miles, even if we had negotiated for it. NAFO couldn't give it. Nobody could give it. Correct me if I'm wrong, but if we couldn't get it, then there's no point in asking why we didn't bargain for it. The flip side he's concerned about is the intrusion on our sovereignty and that we may have given something up. I've heard you both say, well, without the consent of Canada—and it's unlikely to happen—we could have given up our fish stock management before NAFO anyway, so we haven't really given anything away.

The two parts to the question are whether we could have gotten more outside 200 miles if we had bargained for it, and really, whether we have given anything up within our 200-mile limit.

• (1215)

Mr. Raymond Andrews: On the first count, I would just like to say that outside 200 has always been an area that some people.... I guess, without a full understanding, even I myself would have said that "custodial management", that fancy term that keeps coming up, would solve this whole issue. By that, of course, one would simply mean that Canada sets the quotas and Canada does the enforcement and all those things outside 200. But I defer to the experts who last studied this, one of whom was Dr. Arthur May, a former deputy within the federal system, and Derrick Rowe and Madam Russell, from one of the law schools in Nova Scotia.

Basically, what it came down to was just two simple things. First, on the high seas, outside 200, no country that I know of is anxious to entertain that kind of management. Second, no country I know of would want to give up their sovereignty when it comes to legal matters and have some coastal state do the actual management outside, lay charges, and take people to court.

All of that stuff is good, if there's international willingness and support to do it. But while you would have liked to have seen it, the same as we would have liked to have seen an extension of jurisdiction to the end of the Nose and Tail, as of now, sir, I couldn't see us getting anything much beyond what we got beyond 200 with this process.

As far as giving up, I just have to go back, again, and say that while this clause deals with people or countries coming inside 200, I think, in all fairness, that Mr. Applebaum gave a very clear answer to that when he was here last week. Can somebody come into Canadian

jurisdiction without the request of the state, which is Canada? The answer he gave was one word: No. And that's the one I rest on, because he's an international lawyer who did this for many years. I was with him at many of the meetings. He was the lawyer for DFO in Canada. And when he categorically said no, that nobody can come in unless Canada requests it and then votes for them to come in, I take all the comfort in the world from that. I know that if a minister of the crown, whoever that person might be, were to acquiesce and say "Come on in and do whatever, I could get more access or get enforcement measures," I would just say no. That's the simple way I would respond, the same as Mr. Applebaum said. It can't be done.

[Translation]

The Vice-Chair (Mr. Raynald Blais): Mr. McCurdy.

[English]

Mr. Earle McCurdy: I'd like to briefly speak to Mr. Weston's comment.

I haven't read that particular part of the DFO website. International law evolves. If I were in charge of communications for the Department of Fisheries and Oceans in Canada, I would not have on our website that you can't do it out there. As to whether we'll ever get there, or whether it is imminent, no, it's not. But would I put out that it is not possible? No, I wouldn't have that on our website. I don't think that's the right foot for us to put forward. Who knows what will happen long after I'm long forgotten about in the fishery? At some point things may change. I wouldn't tell people we can't do it. The fact that it's not within our grasp at the moment doesn't mean we shouldn't strive for it and push for it, and at least not be out there telling the world that we can't do what it is that a lot of our citizens would like us to do. I don't understand why they have it there.

[Translation]

The Vice-Chair (Mr. Raynald Blais): Thank you very much.

Now we start the second round of questions and answers with Mr. Scott Andrews.

[English]

Mr. Scott Andrews: Thank you, Mr. Chair.

I'd like to get back to custodial management. Right now, even though DFO's website is saying one thing, the government is claiming that they have custodial management of this because of this new NAFO convention. They're using this as a reason to say yes, we now have custodial management.

Is that true, yes or no?

Mr. Earle McCurdy: I think it's nonsense to claim that, in respect to what most people claim as "custodial management". I do not agree with it. The new regime that we have is, in my personal opinion, and if given the choice between the old regime and the proposed new regime—on the balance of all considerations—an improvement. But to claim that it is equivalent to custodial management...? I don't buy that for a minute.

• (1220)

Mr. Scott Andrews: Mr. Andrews.

Mr. Raymond Andrews: If you take the simplest definition one can get of custodial management—and excuse me, it's mine, but I think a lot of people have used it—it basically says that the coastal state can decide who can fish, and what allocation they get, and thirdly, that the coastal state would be responsible for management and enforcement outside the 200-mile limit. All of the facts pertaining to that—again I repeat—were best summarized by three people who spent a year discussing it, studying it, and presenting a report to the Government of Canada. In my humble opinion, none of the three conditions is met that pertain to custodial management. I have to be very honest and say that in my opinion, after many years in government, custodial management is not a reality.

Mr. Scott Andrews: I'd like to get back to discussion about inside the 200-mile limit. Both of you have said it would never happen that we would give jurisdiction inside the 200-mile limit. The question I have is why that clause is there.

Mr. Earle McCurdy: The background of that clause, as I understand it, and I'm not an advocate or a supporter of it, is that there have been cases in other regional fisheries management organizations in which either the capacity of the coastal state was in question or there was another reason why a coastal state.... Actually, I think there are specific examples of a coastal state looking to have some assistance with enforcement inside their waters; this was in an organization other than NAFO. That's my recollection from the debate around it. When I say it would never happen, I suppose I should qualify by saying that it has happened in the past on numerous occasions, but not at all in the last number of years—I think in excess of 10 years. For all practical purposes, the practice ceased about 20 years ago. Even though any minister up to and including the current minister could at any time have said, come on in and catch whatever you want to catch in here, it hasn't happened.

It's a matter of sovereignty that we protect our 200-mile zone. It's safe to say that within that zone, for the past succession of administrations, it has been done with respect to the issue of allowing foreign vessels in. I don't see what would happen, with that provision in place, that would lead the Canadian government to go to NAFO and say we wanted to forfeit our sovereignty on a matter that is important to some of our citizens and were using NAFO as a vehicle to do so.

Mr. Scott Andrews: You said it has come from another organization. Have any of the 12 member countries within NAFO ever asked for that type of jurisdiction?

Mr. Earle McCurdy: From time to time they've asked for the right to catch quota in the Canadian zone, and the answer for the last umpteen years has been no. At one time the answer fairly frequently was yes, in return for other considerations.

Mr. Scott Andrews: But you said that some other countries would ask for jurisdiction within their own zone, like for help. Is it the reason why this clause was put in?

Mr. Earle McCurdy: That was my recollection from some years ago.

Mr. Scott Andrews: Were any of those countries in NAFO, or was it in this other organization?

Mr. Earle McCurdy: No one in NAFO asked for.... There are three coastal states in NAFO: us, the United States, and St. Pierre and Miquelon. But for all practical purposes it's us.

Mr. Scott Andrews: None of them have ever asked.

Mr. Earle McCurdy: No one to my knowledge has ever asked for any kind of policing role in the Canadian zone. I've only heard of another country asking for access to fish in the Canadian zone and the right to use Canadian ports. That's the only thing I'm aware of that they've ever asked for.

The Vice-Chair (Mr. Raynald Blais): Monsieur Stoffer.

Mr. Peter Stoffer: Thank you, Mr. Chairman.

Mr. Andrews, we've heard in previous Parliaments that there may be a legal argument for Canada to expand its seabed jurisdiction another 150 miles past the 200—not above, but right on the seabed itself. One of the big concerns in the Arctic right now is the extensive mapping by everyone to determine their continental shelves for oil and gas concerns.

On my view of custodial management—and this is where it all came from—when Mr. Hearn was a member of the official opposition he moved a motion in the House of Commons that the entire House and all parties in Newfoundland and Labrador supported. We expected that to be a campaign promise and it was. It was a 2006 campaign promise.

My understanding of custodial management was that NAFO would determine the stock—if a particular country was to have yellowtail, shrimp, or whatever—and they would get x number of tonnes of that stock. We would go out, manage it, and check the holds. If everything was according to Hoyle, that ship was free to go back home and do whatever. If not, it would get hauled into St. John's for discussion.

That was my view of custodial management, and that's why we fully supported it. We only assumed that the official opposition would know whether there was legal jurisdiction to this or, as you had indicated, that you couldn't do it.

Those are some of the concerns we have. And we've heard governments compare this current agreement to custodial management. We're glad to hear you say that it's not.

Mr. Andrews, on one of the concerns we have—and you would know this, being up in the far north—we have evidence of ships coming into the 0A line, fishing Canadian turbot, and sending it to Greenland for processing. I believe that was through the BFC and other vessels of that nature. So there is evidence of ships coming in, fishing Canadian stocks, and sending that fish somewhere else to be processed. So if it happens up in the 0A line, which is not NAFO, I believe, it can happen again. Right now the only way countries can come in to Canada and fish the stocks is illegally—doing it without observation, and then trying to scoot past the line again.

If the objection Mr. Applebaum raised so strongly about the management inside was just removed, would this be a deal breaker to the other parts within the NAFO agreement? I agree with you there are certain elements, reading it carefully, that are an improvement over the previous NAFO, but there are still some major concerns that put these red flags out there. If the agreement to let the vessels come inside the 200-mile limit were removed, would this be a deal breaker in your NAFO talks, in your experience?

•(1225)

Mr. Raymond Andrews: I'd like to refer to your point first that foreign vessels are fishing within Canadian waters in Nunavut. I personally don't know of that occurring in the recent past, but I do know that Canadian fishing vessels sometimes offload in Greenland.

Mr. Peter Stoffer: I meant that they're Canadian flagged but owned by other countries.

Mr. Raymond Andrews: Yes, that's a very technical legal question of ownership. I understand what you're saying.

I really can't say whether or not it would be a deal breaker to remove that clause from the proposed changes to the NAFO convention, because I haven't been privy to any of that discussion. But as I read it now, the document that all 12 countries have before them is the one they're working with and trying to ratify at their own Parliament. So I really can't honestly answer that. I don't know if Earle has heard anything to that effect either.

Mr. Earle McCurdy: I guess it's always easy to second-guess negotiations done by somebody else. In the world I have to operate in, you have to make choices between the real choices—not the ones you wish for—on the table.

On that one, the full debate on NAFO reform did not take place at the full NAFO table. A lot of that was done by side working groups and in heads-of-delegation meetings. So to a degree we're subject to what we're told by the people who conduct that. I think ultimately what they came back with was that the total package that emerged appears to be as good as it's going to get. The question for the Canadian delegation was whether to proceed or let it drop, because Canada really was, I think as much as anyone, the instigator of the whole process. The view of the delegation was that the warts on that one were less objectionable than the warts on the current agreement.

•(1230)

The Acting Chair (Mr. Blaine Calkins): Thank you.

Mr. Kamp, please.

Mr. Randy Kamp: Thank you, Mr. Chair.

Thank you, gentlemen, for coming. I think you've made an important contribution to our analysis of this issue.

Let's return again to this thorny issue of custodial management. I agree with you that it's been defined in a number of different ways. By the most obvious definition, it's a difficult one to achieve.

Let me give you a couple of others. This one is from this committee's report in 2003, a report on custodial management, actually:

By custodial management, the Committee did not intend that Canada should claim sovereignty over or exclusive rights to the resources of these regions of the ocean but that Canada should assume the role of managing and conserving the fisheries resources of the NAFO regulatory area in a way that would fully respect the rights of other nations that have historically fished these grounds.

Then in 2002 in a report on overfishing we said:

The essential purpose of custodial management would be to establish a resource management regime that would provide comparable standards of conservation and enforcement for all transboundary stocks, inside and outside the 200-mile limit.

One of the notions of custodial management has to be this notion of conservation. If, by having as its goal custodial management, the government means—and I think it does—that we need to do something that brings foreign overfishing to an end, do you think we're closer to achieving that through what we've achieved through NAFO since 1978, and in the changes we're proposing to NAFO, and in the way NAFO is operating today? Obviously conservation and sustainability need to be important concepts here, rather than having every country keep its share. Do you think we're closer to that?

Mr. Earle McCurdy: I think what's fundamentally different about the concept of custodial management, in the minds of most people who advocated, as compared to what's proposed under this new draft convention for NAFO, is the question of the power to enforce. We can force vessels in certain circumstances into Canadian ports, but we can't force them into Canadian courts, and that's the fundamental difference.

Under the proposed reform of NAFO, the flag state would have to relinquish its sovereignty over its own vessels in order for Canadian courts to have the authority to penalize offenders. I don't see that happening, and I don't think there's any chance of that happening under that proposed regime. Through the changes we have, I think, some improved enforcement measures, but the proposed regime, if it comes into effect, will still leave the enforcement authority over those vessels with the flag state, not with the coastal state. So that's where it's fundamentally different from what most people view as custodial management.

Mr. Randy Kamp: Yes, I understand that point.

Mr. Andrews.

Mr. Raymond Andrews: I certainly think it's not just the convention and the measures themselves, but that another thing we have to look at is the attitude of the people who are doing the fishing. In my humble opinion, the attitude has changed. The amount of overfishing has been reduced substantially over the last few years; there's no question in my mind about that. And although I did not see a commitment to improved conservation for a long number of years—and I mean decades—I am now beginning to see it, particularly over the last three or four years. The amount of overfishing is down. The catch of moratoria species, which was basically way up there for many years, is now down as close as it can get to zero.

One of the best indicators I've seen recently of a commitment to conservation and the rebuilding of stocks was this year, when the scientists came to the NAFO table and said two of your species, two of your stocks, are in much better shape than they've been for maybe ten years. If we had followed science in a pure science management relationship, we would have said okay, start fishing some redfish and cod in 3M. But the decision of NAFO, collectively, was not to start fishing but to give the stock additional time to rebuild and then to go and catch it.

So I've seen these things happen. And I guess, in many respects, stock recovery is now starting to happen in areas I didn't expect it would happen. At our last meeting we listed off four or five of the stocks that were showing some improvement and a trend upwards, as opposed to flat or downwards.

So I would have to say yes to the measures and the convention, but more importantly, the activity on the waters has changed substantially, and we are seeing big improvements.

• (1235)

[*Translation*]

The Vice-Chair (Mr. Raynald Blais): Thank you very much.

Before starting the third round of questioning, I would like to ask a question about goodwill.

When we are dealing with sovereign states, I always thought that we could count on goodwill. In the past, that has not been the case. You mentioned it, of course, when you brought up the question of the objection procedure.

Whatever the formula is, if we do not show goodwill, are we not at an impasse once more? If that is so, what would the solutions be?

[*English*]

Mr. Earle McCurdy: That's a tough question.

I think it ebbs and flows over time. I agree with the comments that Mr. Applebaum and Mr. Parsons made last week—I forget who, but I think it was Mr. Applebaum—that there were signs these countries were cleaning up their act after the turbot war. But over time, the reverberations of that bullet died down, and they started to slip back into their old ways. By 2002 or 2003, we had a real mess out there. Shortly after that, the increased enforcement came along, and that's given rise to an improved environment now—probably aided and abetted by the heightened ENGO interest in fisheries matters, the focus on sustainability, and so on. I don't think the kinds of horror stories that happened in the eighties and early nineties could really happen again. I can't see the European Union, for example, being able domestically to get away with what they did over here 15 or 20 years ago.

But having said that, goodwill is strained at best in NAFO. There are some who regard Canada as being greedy and trying to have it all for itself, and who don't think they're getting a fair shake out of NAFO. At best, it's an uneasy process to manoeuvre through.

[*Translation*]

The Vice-Chair (Mr. Raynald Blais): Mr. Andrews, do you have anything to add?

[*English*]

Mr. Raymond Andrews: No, I would just say that it has been most difficult. I think I've seen very small traces of a better working relationship or improved goodwill, I suppose, in the last couple of years, but certainly it's not one that you embrace fully and say we've arrived, we have all the goodwill we need. But I think, as Earle has just said, with the improved attitude of some of the countries and their people.... And I find some of the work of NGOs particularly encouraging, because they have access into countries in a different form than we have as government. I think that has been making a difference in improving the attitude, if not the overall goodwill.

[*Translation*]

The Vice-Chair (Mr. Raynald Blais): Thank you very much.

Mr. Byrne.

[*English*]

Hon. Gerry Byrne: Thank you very much, Mr. Chair.

A good soldier, a good manager, a good diplomat anticipates what direction things may go down the road in terms of providing effective leadership. The impact of unintended consequences has to guide you and you have to actually work hard to anticipate.

The concern I want to relay to you and get your feedback about is the effect of reversal of moral authority. Right now, Canada is in a position where we assert that foreign overfishing is a major problem on the nose and the tail of the Grand Banks, and we implore upon our partners in NAFO to clean up their act. And we have a certain moral authority to be able to do that because there seems to be a clear body of evidence supporting it.

With the provisions that are prescribed in the revised NAFO convention there seems to be a reversal of moral authority, or a potential thereof, in the sense that we made concerns about the progress, or lack thereof, of conservation of a particular stock. Our contracting parties say “Just a second here, Canada, that's on both sides of the border, of the 200-mile limit. Let's invoke the clause we all agreed to within the convention to allow NAFO, all of us—more inclusive, all of us—to manage the entire stock.” It's up to Canada to say no. It's a reversal of moral authority.

We formally implored upon the contracting parties to clean up their act. In New York City, Emma Bonino, who had a stellar reputation as an environmentalist, the former fisheries commissioner for the EU, was proven to be utterly on the wrong side of the issue when she implored upon the world that Canada was acting irresponsibly in its efforts against the EU on turbot. Now it's up to us to say no, we will not allow the NAFO to come into Canada and to participate in a 12-member state of patrols, enforcement, and management of stocks.

In a world of certification, where the EU is going to certify Canadian fish products as to whether or not they're harvested sustainably, they will be the decider as to whether or not we import those fish products into the EU. They can now say that we have asked for our participation inside of the 200-mile limit, and it's Canada that refuses us, even though Canada has agreed to it within the context of the NAFO convention, and Canada now has something to hide.

That's my concern, gentlemen. It's that, like the EU is doing now on seals—they're acting, we would argue, illegally—they could act just as mischievously when it comes to the provision to act inside the 200 miles by reversing the moral authority.

Do you have any comments on that?

•(1240)

Mr. Earle McCurdy: I suppose they could do a lot of things. In past NAFO meetings, what is particularly galling to me—and certainly, I'm sure, it would be to you if you had to sit there and listen to it—is they've lectured Canada. If there's one area where I took issue with the various heads of delegations for Canada over the years, it's for tolerating it without coming back and throwing a fastball right at their head. They've gone in and lectured us about this very tiny index fishery of northern cod, and they've lectured us about the damage we're doing to the stocks, and on and on, holier than thou. This is the same authority whose member countries caught hundreds of thousands of tonnes of the stock that they weren't allocated back a number of years ago.

Hon. Gerry Byrne: It's just for context, Mr. McCurdy—

Mr. Earle McCurdy: They tried to do that, but the end result was that we just simply said no, we're doing what we're doing, pound sand with a heavy mallet, and we're going to carry on. And that is clearly what we have to say under that provision in the thing.

Hon. Gerry Byrne: Quickly, for context, there is a ban on directed fishing for cod outside the 200 miles, but we indeed had an index fishery inside, and the European Union said this is very hypocritical, didn't they?

Mr. Earle McCurdy: Yes, and they cried foul and we said that was too bad, that's what we're doing anyway. So I think that's an example of where, yes, they've used that, and they got on their high horse. I think that's one area. In fact, I frequently volunteered to take over the microphone, on behalf of Canada, on that particular issue, but for some reason they didn't take me up on it. It was galling. But having said that, Canada simply said no on that.

Hon. Gerry Byrne: Why have this in here, then?

Mr. Earle McCurdy: I'm not defending it or looking for it. That's what emerged from those negotiations. I look at what the total package is and which is our better option. That's really what it comes down to. If someone had said “Here, Mr. McCurdy, would you please write the NAFO convention”, I'd have been pleased to oblige, but unfortunately, nobody did.

[Translation]

The Vice-Chair (Mr. Raynald Blais): Mr. Andrews, do you have any comments on the matter?

[English]

Mr. Raymond Andrews: I have a question and a comment.

You referred to the fact that the EU will soon start to require certification of fish products coming into their jurisdiction. I'm not familiar with anything that “wears the hat of the European Union”, but I am aware of the fact that the Marine Stewardship Council is starting that process and it already has occurred in Canada and in many other countries. I suppose under those conditions, generally speaking that's what's considered to be a processing and marketing activity. If you're buying something from somebody, you require the right to come in and look at the product and the way it was produced, as opposed to the way it was caught. Maybe there is something happening in the European Union that says it goes all the way from the water to the market, but up until now, independent agencies like MSC decide, or companies say, “We will buy only if you do certain things.”

Maybe you could enlighten me, because I'm not sure of anything that the European Union is doing in that regard.

•(1245)

Hon. Gerry Byrne: The concept actually involves an assessment, a judgment of sustainable harvesting practices, including management plans per se.

Mr. Earle McCurdy: But that's done currently on a volunteer basis through the Marine Stewardship Council. In fact, there was one just recently on our shrimp fishery, for example.

Hon. Gerry Byrne: Bulk shrimp is certified. This is the EU independently acting through EU legislation.

[Translation]

The Vice-Chair (Mr. Raynald Blais): Thank you for that additional exchange. I was very generous in letting you carry on, but it was very interesting.

[English]

Mr. Peter Stoffer: I have a quick question, and I'm just ballparking here; I don't have any evidence of this. Is it not possible that a foreign company could Canadian-flag their vessel, have it registered in Canada with a Canadian flag but owned by someone else, and then fish Canadian stock within Canadian waters, then transit that fish back to, say, Estonia, Russia, or Taiwan, wherever? This happened in the north when a Norwegian company, through BFC, arranged a Canadianization of a vessel, put a Canadian flag on it, but the quota was caught in Canadian waters and sent back to Greenland for processing.

Is it not possible under these NAFO regulations that Spain, Portugal, or any other country could do the same?

Mr. Raymond Andrews: Personally speaking, I know of no situation whereby a foreign-owned boat in the pure legal, commercial, business sense of ownership can actually fish in Canadian waters and transfer out the fish. All I know is that in places like the north, generally speaking, or in all cases, the majority ownership—albeit maybe a small percentage, if that's what it is—is a Canadian-flagged vessel. If it's a Canadian-flagged vessel, regardless of who's behind it with dollars and commercial interest, it has a Canadian flag and hence is then managed as a Canadian unit by DFO.

That's to the best of my knowledge.

Mr. Peter Stoffer: Okay, and I appreciate that summation, because you've indicated who's behind it—the money and the dollars behind it, right? It may be Canadian-registered, it may be Canadian-flagged in the legal sense, but the money and the power behind it could be somebody else. Then those fish stocks are caught in Canadian waters and then transitted back to wherever they wish it to be done. That happens now.

Does NAFO change any of that in the future, that you're aware of?

Mr. Raymond Andrews: Not that I would say.

Mr. Earle McCurdy: I'm not all that knowledgeable on the issue of flagging. I'm not aware of anything in the proposed new measures or the proposed new convention that would change whatever the status quo is in that regard.

Mr. Peter Stoffer: Okay.

Just to ask you a straightforward question, if you were voting in the House of Commons to reject or accept the current negotiations of NAFO, would you vote for or against it, as it is right now? Because we hope that NAFO will be brought to the House of Commons for further debate and analysis. We asked for that on the Pacific Salmon Treaty, and it didn't happen. Now with NAFO we have heard from Mr. Bevan that it will come back to the House for discussion, and eventually, I would assume, some sort of vote process.

Mr. Earle McCurdy: With the proposed change, I'd vote for it.

Mr. Peter Stoffer: Okay, thank you very much.

Mr. John Weston: I have a point of order on that.

Mr. Stoffer, from what I read, you can have a discussion in the House but no vote on such a thing, because it's a treaty or a treaty convention.

Mr. Peter Stoffer: Right, I understand that, but with the Pacific Salmon Treaty, we were told by Paul Sprout and others that it would come to the House for discussion and a vote.

I know there's no legal requirement to have a vote on it—

Mr. John Weston: No, I think you can't have a vote on it.

[*Translation*]

The Vice-Chair (Mr. Raynald Blais): Forgive me for interrupting you, but I do not think that is necessarily a point of order. The way in which the question was asked illustrated the point Mr. Stoffer wanted to make in the time he had.

If Mr. Stoffer has finished, I will move to Mr. Kamp.

• (1250)

[*English*]

Mr. Randy Kamp: Thank you very much, Mr. Chair.

And just to clarify even further, the way the procedure is set up is that it's tabled for 21 days, allowing parliamentarians to do with it what they like. So somebody could raise it, somebody could use an opposition day if they wanted to highlight the issue, but it doesn't automatically come to any kind of vote.

I have just a comment and then a quick question.

I've been in a couple of international settings where IUU fishing—illegal, unregulated, and unreported fishing—has been discussed, and I really think there is a growing appetite and commitment to

port-state control because that is part of the chain. And if you can't find a place to offload or to sell your illegally caught fish, you're probably going to quit catching it. So I do think there's a growing commitment to doing that internationally, and that will be part of the solution, I think. That's basically what I wanted to say there.

I appreciate your comments that you would vote for this.

In a number of different meetings, we've kind of had in our minds a picture of these blue boats with NAFO stamped on the side, coming up the St. Lawrence looking to patrol. My understanding is that most of the patrolling in NAFO is done by Canada, and there are some patrols occasionally done by other countries. But can you inform us a little bit in terms of the enforcement and patrolling that is being done? Who is doing that, and what sort of regime is set up to do that?

Mr. Earle McCurdy: Canada would be the dominant enforcement player, but the European Union has a patrol vessel that spends a considerable portion of the year in NAFO waters as well. I don't think there's anybody else. I think those are the only two parties, as far as I know.

Mr. Randy Kamp: So one EU vessel and.... Okay, good.

[*Translation*]

The Vice-Chair (Mr. Raynald Blais): Perhaps Mr. Harris and Mr. Van Kesteren have questions. They can go ahead if they like.

OK? Thank you very much.

Witnesses, gentlemen, do you have a closing statement?

No? Thank you very much.

Before adjourning the meeting, I have two pieces of information for you. Next Thursday, we are going to meet with witnesses from the Fisheries Resource Conservation Council to talk about the lobster industry. On the seal hunt—good news again!—Nature Québec, an ecological organization in Quebec, is sending a letter to European parliamentarians asking them to oppose the plan to ban seal products. We have an ecological organization supporting our struggle in Europe. I felt that it was important to give you that news.

Until next Thursday. Thank you.

The meeting is adjourned.

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