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## Standing Committee on Fisheries and Oceans

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EVIDENCE

**Tuesday, October 20, 2009**

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**Chair**

**Mr. Rodney Weston**



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• (1535)

[English]

**The Chair (Mr. Rodney Weston (Saint John, CPC)):** I call the meeting to order.

I'd like to begin by welcoming our first guest this afternoon, Minister Hedderson.

Thank you very much for joining us this afternoon. I know you've appeared before the committee in the past, but I'll start with a few housekeeping items.

Committee members are constrained by timeframes. So that we're able to get as many questions answered as possible in the time allotted, we generally allow 10 minutes for presentations from our guests. The committee members understand the time constraints they're under, so they certainly do their best to adhere to them and stay as close to them as possible.

Minister Hedderson, please proceed whenever you're ready.

**Hon. Tom Hedderson (Minister of Fisheries and Aquaculture, Government of Newfoundland and Labrador):** Good afternoon to all.

Mr. Chair, committee members, thank you ever so much for giving me an opportunity to come to talk about the fishery, especially as it applies to our nation and to my province, Newfoundland and Labrador—a fishery, I might add, that is of vital importance to the people of Newfoundland and Labrador.

The prosperity of our province has always been highly dependent on the resources of the sea. As a result, developments in international law relating to the concept of territorial seas and the rights of coastal states have always been followed with keen interest in my province.

The fish stocks on our Grand Banks have been significant contributors to the Newfoundland and Labrador fishery and economy. Unfortunately, the Canadian 200-mile exclusive economic zone, the EEZ, does not encompass the entire bank. The nose and tail of the Grand Banks are in international waters, and several fish stocks very important to Newfoundland and Labrador straddle that 200-mile limit.

Historically, the most noteworthy of these stocks is the northern cod. Prior to the establishment of the zone, this stock felt the impact of foreign overfishing. If we go back to the late sixties, foreign vessels in I think 1968 landed approximately 800,000 tonnes of northern cod. This stock has never really fully recovered from this unsustainable fishing.

With the extension of the jurisdiction in 1977 came the establishment of NAFO, a multilateral organization responsible for managing fish stocks in the northwest Atlantic. The objective of NAFO is to contribute to consultation, cooperation, the optimum utilization and rational management, and the conservation of the fisheries resources of the convention area.

We contend as a jurisdiction that NAFO has failed to live up to those objectives. Many others agree. The House of Commons Standing Committee on Fisheries and Oceans and the report of the Advisory Panel on Straddling Fish Stocks reached the same conclusion after examining the performance of NAFO.

The problems of the eighties and nineties are well documented. The objection procedure was used regularly to grossly overfish stocks, and NAFO could do nothing—I say nothing—to stop it. Flags of convenience were used to fish outside the rules, and NAFO again could do nothing about it. Many countries were misreporting, and again NAFO could do nothing about it.

The result was the collapse of just about every straddling stock off the coast of Newfoundland and Labrador. Reform efforts have failed to remove the objection procedure or achieve an internal binding dispute settlement. Having one vote out of twelve clearly does not afford the protection this country needs for adjacent and straddling stocks.

Some improvements were made after the infamous turbot war, but the improved fishing behaviour came at a very high price in terms of resource access. And illustrating the poor fishing behaviour, in 2003 the estimated foreign catch of species under moratoria was upwards of 15,000 tonnes, over half of which was American plaice, a stock for which Canada holds 98% of the quota, which historically was fished and processed primarily by Newfoundlanders and Labradorians.

The Government of Canada did respond to the problem, by increasing its patrols and surveillance in the NAFO regulatory area. This action, combined with the lack of fish and increasing cost, has reduced activity by foreign vessels on the nose and tail of the banks. However, what happens if—or should I say when—the fish return? We believe that without an effective management regime, there's a very high probability, almost a certainty, I would think, that many of the problems will return and that we'll go down that same road.

The motivation behind our province's stand with regard to custodial management is not only to rebuild the fish stocks but to protect them as well. It is about ensuring that the fish stocks that straddle the 200-mile EEZ are given a chance to recover and be sustained for the benefit of all those who fish in the northwest Atlantic. To reach this goal, custodial management involves enhanced fisheries management by the adjacent coastal state. It's an approach that could be used by other coastal states but which would be initiated on the nose and tail of the Grand Banks. By applying this custodial management out to the edge of the continental shelf, Canada would manage the stocks that currently straddle the 200-mile limit. This would ensure consistent application of resource conservation measures.

As a coastal state, Canada would assume responsibility for ensuring that conservation and scientifically based management was applied. Canada would be responsible for surveillance and enforcement. This is the start of a solution that could work in a multilateral context. NAFO, as the regional fisheries organization, could continue to be responsible for access and allocation decisions, scientific recommendations, and the management of discrete stocks outside Canada's 200-mile EEZ zone.

• (1540)

Let me be clear: it's not an extension of jurisdiction and it's not a grab for resources or territory. It would respect historical shares, it would promote conservation, and it would enhance our role as a nation, as a coastal state. It would strengthen compliance with management measures and provide greater deterrence for fisheries violations outside the 200-mile limit. Straddling stocks, such as cod, American plaice, flounders, redfish, and Greenland halibut would all be given a better chance to rebuild.

However, if this cannot be implemented within NAFO, then in the interests of allowing the stocks to rebuild, we will continue to urge the Government of Canada to pursue this option through other means, such as creating an alternate regional management organization, as suggested by the advisory panel chaired by Dr. Art May.

The current federal government did promise the people of my province, Newfoundland and Labrador, that it would indeed pursue custodial management if elected. Both Prime Minister Harper and the former Minister of Fisheries and Oceans, Loyola Hearn, committed in writing and verbally that they would indeed pursue custodial management. The failure in this instance is that they never even tried. Instead, the Government of Canada, along with other NAFO members, undertook a NAFO reform process.

As part of this process, the NAFO convention has been amended. We indeed have great concerns in regard to some of these amendments. The amended NAFO convention will serve as a vehicle for other nations to impose their management over stocks inside Canada's sovereign 200-mile limit. History has shown the tragic ecological results of mismanagement of stocks by foreigners outside our 200-mile limit. We must ensure that this never happens again within our own borders.

We wrote to then minister Hearn in September 2007 and stated that "The Government of Newfoundland and Labrador will not support reforms to a convention that may allow NAFO to set measures inside the Canadian zone."

Our position today remains the same as it was then.

**The Chair:** Minister Hedderson, would you be able slow down the pace a little bit? We're going to be all right for time.

**Hon. Tom Hedderson:** That ten-minute restriction just drives you, you know. It just drives you.

**The Chair:** I apologize. We'll be all right for time. It's just for the interpreters.

**Hon. Tom Hedderson:** Okay. My apologies.

Our province and many experts, including DFO executives with extensive NAFO experience, are extremely concerned with the clause in the amended NAFO convention that in certain circumstances allows NAFO to apply measures in the waters under our national jurisdiction. The new wording could very easily and clearly lead to the increased influence of NAFO inside the Canadian 200-mile limit.

I wrote to Minister Shea in July 2009, concerned that the Minister of Fisheries and Oceans alone could make this decision. I asked that any request of any management of NAFO within the zone certainly at least be a decision of cabinet. Since then, the high-calibre representation that we've had from former DFO executives has demonstrated that the risk is simply too great to proceed with the amended NAFO agreement. Indeed, there are no other persons in Canada who have such an intimate knowledge of NAFO conventions as these officials. Their sage advice cannot be ignored.

The province has certainly again reiterated that we can take no risk and that the amended convention should not be ratified by Canada. Particularly in these times when arctic sovereignty issues abound, Canada must demonstrate with clarity and certainty that we will not accept such measures in any jurisdiction in this great country.

Some have argued that we need not worry because the opposed amendment would only put that option into the NAFO convention and Canadian politicians would never allow it to happen in practice. Unfortunately, no one can predict how any future minister or government will act. Therefore, it's critical that this option not exist in any manner, shape, or form that opens the possibility of foreign management or enforcement in Canadian waters.

One of the primary objectives stated by the federal government when heading into NAFO reform was to prevent the continued abuse of the objection procedure. The EU has historically used this clause to grossly overfish stocks off our coast during the 1980s and early 1990s, with the blessing of NAFO. The agreed-upon NAFO objection review procedure in the new convention continues to be inadequate. While it puts a process in place, nothing in this process is binding on the contracting party or prevents unilateral action that could seriously jeopardize conservation. Nations can continue to use the objection procedure. While this can be challenged by others at NAFO, unilaterally decided quotas will continue to be fished, further eroding the precious and often valuable resources off our shores. Indeed, such quotas are being set today in relation to shrimp stocks off our coast.

Just a few days ago, in Bergen, NAFO agreed to set the TAC for a number of stocks, again above the scientific advice. This is indeed time that we did something different. We know that the NAFO approach has and will continue to require that member states, particularly Canada as a key coastal state, compromise either their historic attachment to the resource or conservation of these important stocks.

The Province of Newfoundland and Labrador believes that Canada should not be willing to stay on such a destructive path. Custodial management is a multilateral and collective opportunity to restore, protect, and share resources in the future. It speaks to Newfoundland and Labrador's awareness that the current system is not working. It just might serve as a model for other parts of the world as well.

I ask for your support for Canadian custodial management of straddling stocks off the coast of Newfoundland and Labrador.

Thank you very much.

• (1545)

**The Chair:** Thank you, Minister.

**Hon. Tom Hedderson:** And I'm sorry about the speed.

**The Chair:** It's just the translation; the interpreters have difficulty. I myself have been accused of going a little fast at times as well.

We'll proceed right into questioning.

Mr. Byrne.

**Hon. Gerry Byrne (Humber—St. Barbe—Baie Verte, Lib.):** Thank you very much, Mr. Chair.

Hopefully, this committee can wrap up its work sooner rather than later.

Minister, thank you for appearing before us. I can assure you that not only I, but the Liberal Party of Canada was extremely interested in wrapping up the sessions of this particular committee with a vote to nullify the revised NAFO convention. However, apparently we still need some more evidence—at least some members do before they decide on where this convention should go and what Canada's position should be. I would repeat again that we've made up our minds on this particular convention. I think, in listening to your testimony here, so have you.

Could you tell committee members, was Newfoundland and Labrador satisfied with the outcome of the recent NAFO meetings in Bergen, Norway? Particularly, does the decision on 3M cod and Greenland halibut follow the precautionary approach that NAFO proposes to follow?

**Hon. Tom Hedderson:** Again, as I alluded to in my opening statement, we were not satisfied with the decisions that were made by the Canadian delegation at the negotiating table, or the NAFO table—whatever you want to refer to—in the current year at Bergen.

There are a couple of them. One is the Greenland halibut or the turbot. There's a 15-year plan and we're five years into it. Because it's a recovering stock, the plan was to reduce each year, as the years went on. Canada went in, and the position they put on the table immediately was a rollover, which then got away from the plan, against scientific advice. Of course, that worried us, to have a nation go in and again ignore scientific advice.

But the 3M cod is worrisome for us because it's the first year off moratorium. We have northern cod, which is under moratorium as well, and some scientists are telling us that it is coming back. I think the Europeans are getting a whiff of that as well. I think this was a first test of Canada.

At the table, again, the scientists indicated that they wanted to be very precautionary. It was a stock coming back from a moratorium. They suggested that it would be—I don't have the figures in front of me—somewhere around 4,000 tonnes. They had some dissenting people around the table, some nations. The United States and Norway voted to stick with science and the Scientific Council, which gave the advice. The European countries went for the bigger quota. Surprisingly, as we have an interest of probably 1% of that stock, Canada, against scientific advice, said and voted with the Europeans to increase the quota. It might not seem like a lot, 5,000 tonnes or whatever, but it's just the fact that our country had a chance around the table to make a statement that when our northern cod comes up we're going to be precautionary, but it ignored that.

So those were two incidents, and there are some others that I won't belabour. But again, it was disappointing.

It was not our position, by the way, as a province, because we certainly indicated to the minister prior to going over there what our positions were. It was to reduce the halibut, to basically stick with scientific advice.

• (1550)

**Hon. Gerry Byrne:** Thank you, Minister. That's an interesting perspective. It seems you feel very strongly that there's some dysfunction still that remains in NAFO to this day, even pre-revised NAFO convention ratification. There's dysfunction within NAFO.

**Hon. Tom Hedderson:** I don't mean to cut you off, Mr. Byrne, but we have a history of this. We've been under a moratorium on cod now since 1992. It has been devastating to our coastal communities. Another transition is coming, if the cod come back. We depend heavily on this, and we want to make sure that we do it right this time. We need the support of our country.

**Hon. Gerry Byrne:** Minister, you reminded us that it was the Prime Minister and the former federal fisheries minister, the Honourable Loyola Hearn, who, prior to becoming Prime Minister and fisheries minister respectively, while in opposition, promised and committed custodial management of the nose and tail of the Grand Banks as well as the Flemish Cap.

Were you surprised, Mr. Minister, to learn, subsequent to those two honourable individuals becoming Prime Minister and Minister of Fisheries and Oceans respectively, that we actually already had custodial management? Apparently there was a declaration made in 2007 or 2008 that Canada had achieved custodial management. Were you surprised with that statement, with that policy position?

**Hon. Tom Hedderson:** I wasn't the only one surprised. There was a great hope in the province with the commitments that were made from a potential prime minister, and a potential minister, as we knew Mr. Hearn would probably be. In opposition, they were very adamant in indicating to us that it was the only solution to the mismanagement of the resources off our coast. They gave a verbal and a written commitment that they would pursue custodial management.

Nothing had changed in NAFO, and when it came out that we were to accept this as custodial management, it simply didn't make the radar. It wasn't even close.

I hope I've explained in my opening comments what I believe "custodial" is. It is the coastal state taking responsibility for the management of stocks within our 200-mile limit and those that straddle. There's nothing in the conventions that give us that.

**Hon. Gerry Byrne:** So in your opinion, and in the position of Newfoundland and Labrador, the policy position that Canada now asserts, custodial management is a fabrication.

**Hon. Tom Hedderson:** People can confuse both of them, but there are conventions and there is custodial management. There's no way that they're in any way related, because the conventions are perhaps, some might argue, marginally better than what was already there—marginally, but not enough to even come close to getting the coastal management that's required as these stocks rebound.

• (1555)

**Hon. Gerry Byrne:** Thank you.

Mr. Chair, could I share my time with my colleague?

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

Not to repeat ourselves, Minister, but there has been some confusion around the term "custodial management" and what it means. I know you alluded to it in your statement and you just alluded to it again. Could you clearly tell us what your definition, the definition as you see it, would be of "custodial management"? There are different opinions out there on what custodial management is.

**Hon. Tom Hedderson:** Again, it goes back to the coastal state whose stocks are off, in our case, a 200-mile limit. These stocks do straddle back and forth over the bank. Unfortunately, when we carved out the 200-mile limit, we did not close the door, and that's the nose and tail of the bank and the Flemish Cap. So what we're saying is that we need to be able to manage our stocks and have control of that management so that we can make sure that the conservation practices are in there, that there is sustainability. And in no way, shape, or form are we saying that we're not going to share that stock with those who have fished it historically.

With our northern cod stock, I think we basically have 95% of the quota. So in actual fact it's pretty much our stock, right? With regard to yellowtail and American plaice, again, it's in the high nineties. Why in heaven's name do we have to depend on NAFO to come in and manage stocks that we just about have total control over? And why do we have to sit around a table, then, with 12 others and have one vote and hope they don't eat into our quotas or prevent us from doing the conservation?

So custodial management is protection of our stocks and our having the control to manage it, to maintain it, to make sure it's there forever and a day.

**Mr. Scott Andrews:** So custodial management is that we'll manage the stock; as we would manage inside the 200-mile limit, Canada would manage outside the 200-mile limit.

**Hon. Tom Hedderson:** Our straddling stock. As I pointed out, with the discrete stocks outside that don't straddle, NAFO is quite welcome to continue on in their management and that sort of thing.

**Mr. Scott Andrews:** So this convention does not give Canada custodial management, just to be crystal clear.

**Hon. Tom Hedderson:** Absolutely not.

**Mr. Scott Andrews:** Absolutely not. Okay.

One quick question. You mentioned there in your statement about compromising, and through NAFO it seems that sometimes we have to compromise on our historical attachment to the stock. Do you want to just elaborate a little bit more on your views on how you think we end up compromising our stocks and our resources?

**Hon. Tom Hedderson:** When you're around that table, what can you give up? That's the big question. We're politicians. It's the art of compromise, and the Europeans are very good at it. So you have to compromise, because there are only two things you have. One is that you're going to make decisions with regard to the conservation of your stocks by saving sustainability, and the other is that you're going to try to hold on to the quotas you have. So if you want conservation and you're around a table, you're probably going to have to say, "In order for me to get this, I'm going to have to give up some quota," or vice versa. So there are only two things, and where we have almost total control of the stocks, why should we be compromising? That's the big question.

**The Chair:** Thank you, Minister.

Monsieur Blais.

[*Translation*]

**Mr. Raynald Blais (Gaspésie—Îles-de-la-Madeleine, BQ):** Thank you very much, Mr. Chair.

Good afternoon. With regard to your appearance today, you know that I have no votes to win or lose. Be that as it may, it is important for you to tell us how the situation has changed between September 2007 and October 2009.

As I understand it, to get to the amendments tabled in the House of Commons last June, your government, or you specifically—I do not know if it was you or someone else—had to be following the negotiations very closely. I believe that, to a certain extent, you participated quite actively in moving the situation forward. When did you feel that it was beginning to go against you?

The meeting that Mr. Applebaum and others had with the Prime Minister last September was a defining moment. I imagine that you were following what was happening very closely before that, prior to that meeting.

I would like to understand more about the way things unfolded, how you were involved and what alarm bells you rang to warn of the situation we see today, your objection, pure and simple, to the amendments before us.

• (1600)

[*English*]

**Hon. Tom Hedderson:** The correspondence going back and forth between our government and this government was stacked quite high. Obviously, anyone can single out any one letter and try to spin it. But since February 7, 2006, when Premier Williams wrote to Prime Minister Harper about custodial management, we have stated our position. I just go down to September 2006, February 7, 2006, down through to 2009. As well, before we go to NAFO, as a minister, I always write to the current fisheries and oceans minister and clearly articulate our position.

You have to try to separate two things: one, you're talking about conventions; and, two, you're talking about custodial management. We have never wavered one iota in asking this government to fulfill its commitment to us as a province that they pursue custodial management. That continues right until this present day.

With regard to the conventions, you said we had participated quite actively. From my department, I have two officials go to the NAFO meetings in an advisory role. Before they go, whatever's on the agenda, I certainly write to the minister and indicate our position on those issues. So as clearly as we can make the case, we have continued to push the federal government, the current government, towards custodial management. We haven't wavered on that, not one iota.

[*Translation*]

**Mr. Raynald Blais:** Okay, but when?

[*English*]

**Hon. Tom Hedderson:** There are two other commissioners who represent our jurisdiction. Maybe that's the confusion, because they represent the industry, and they, of course, are not tied into government. Certainly, we would obviously like to influence them and we would hope they would be standing up for custodial

management as well. But of these commissioners, one represents the FFAW union and I guess the other gentleman represents the industry. We have no way of answering to them, just as they have no way of answering to us. So what they do and what they say are not necessarily the position of our province.

[*Translation*]

**Mr. Raynald Blais:** If I am not mistaken, two definitions of satisfactory progress were circulating in Newfoundland when the negotiations were going on. One was being put around by people in the industry and the other, your department's official version, in fact, was warning the federal government about the negotiations. The two versions are not the same. Do I understand correctly?

[*English*]

**Hon. Tom Hedderson:** What you have to understand is that my officials are in an advisory capacity. They do not sit at the table. The delegation meets and they discuss their positions, and so on, but then the Canadian delegation goes forward. They are the ones, then, who are at the table, making whatever decisions need to be made in light of that particular table.

My people are just, again, in an advisory role. We don't participate in the actual negotiations.

• (1605)

[*Translation*]

**Mr. Raynald Blais:** In Mr. Williams' letter to Mr. Harper, he mentions that, despite a previous request from your department to include changes and new information...

When exactly was that previous request made?

[*English*]

**Hon. Tom Hedderson:** I don't know which one you're referring to. I don't have it here.

[*Translation*]

**Mr. Raynald Blais:** It is the letter to the Prime Minister signed by Mr. Danny Williams. He mentions it in the final paragraphs.

[*English*]

**Hon. Tom Hedderson:** Would that be the latest letter?

I just want to be clear, because I've referenced one from back in 2006.

[*Translation*]

**Mr. Raynald Blais:** It is dated in 2009. It is still hot off the press, you might say.

When was the previous request?

[*English*]

**Hon. Tom Hedderson:** Regarding the previous request, again, I don't know what the reference is, but we have requested, right back to 2006, that custodial management be the order of the day.

**The Chair:** Mr. Stoffer.

**Mr. Peter Stoffer (Sackville—Eastern Shore, NDP):** Thank you very much, Mr. Chair. And, Minister, thank you for coming here today.

One of the confusing things for me is that a few years ago, Mr. Scott Simms, who was the then Liberal critic for fisheries and oceans, and I met with Mr. Tom Rideout. Mr. Rideout was affectionately known as “the minister for everything” at that time in Newfoundland and Labrador. We had just finished meeting with the four gentlemen you talked about, here in Ottawa and in Newfoundland, and they were very concerned about NAFO and what it meant.

Thus we took it so seriously, and we wanted to do it in a non-partisan way and go and meet Mr. Rideout, who was speaking on behalf of the government. He basically said he had no concerns about the amendments. He seemed to think everything was fine and that Mr. McCurdy, who was the president of the FFAW, representing thousands of inshore plant workers and fishermen, seemed to think this amendment or this particular recent NAFO discussion was okay. It put me in a bind, because I was personally against the amendments, but if the Province of Newfoundland and Labrador at that time seemed to be okay with it, if the people most affected by it seemed to think it was okay, I didn't have much of a leg to stand on.

First of all, when did this sort of...not necessarily change of opinion, but reassessment of the situation take place within Premier Williams' government?

Secondly, when Earle McCurdy, whose name I mentioned earlier, appeared before our committee, he seemed supportive of the amendments. So my simple question is, do you agree with Mr. McCurdy's assessment of the NAFO amendments?

The last one, which I'm concerned about as well, is the 3M cod. Why would Canada allow a higher outtake of that cod species than science would allow?

When you listen to VOVM or to other people in Newfoundland and Labrador, a lot of them—Senator George Baker is prominent on this—say that for years, fish stocks off the coast of Newfoundland and Labrador were used as a sort of bartering chip for other aspects of the Canadian economy. And we know that Canada-EU talks are ongoing.

I don't necessarily need you to respond to that particular assessment, or I guess you could call it more a conspiracy theory than anything else. But on the other two, could you possibly respond to when the government amended its opinion on the agreement, and also on Mr. McCurdy's position?

Lastly—and you can take this one home with you, because it has nothing to do with what we're talking about—there is the issue of light stations in Newfoundland and Labrador. The government's position is that it is reviewing the possible de-staffing of light stations. We'd sure like to know, at a later time, the province's position, your view on that possibility if indeed it were to happen.

Thank you so much, and thank you for appearing today.

**Hon. Tom Hedderson:** Thank you, Peter.

First, I obviously can't speak for Minister Rideout. I'd like to be able to say that I knew where he was coming from. I've been the minister for less than a year now, and from my briefing when I came in, it was clear to me that we were not satisfied with the conventions. This was last Hallowe'en, as a matter of fact—a scary proposition, I know. Basically, when I did my briefings I went to NAFO and I found nothing there that indicated to me that we were happy with the conventions.

With regard to Earle McCurdy, to respond to a previous MP, obviously if he's comfortable with the conventions...I don't agree with him, nor does the province. What you have to understand is that these conventions were brought back and we reviewed them. As a matter of fact, in a letter I wrote to Minister Shea I explored the possibility.... I could not believe—it was incredible—that a minister of the crown could allow our sovereignty to be breached simply on his or her say. I asked whether he would even consider going to a cabinet level. The response I got was no, it would be things as usual.

That again raised big concerns. It was shortly after this that we went back—some of these gentlemen I referred to, these former executives, and I—to the premier and said we wanted to do a review. When we looked back on it, we came to the conclusion that regardless of whether it was cabinet or a minister, if there's any sense of a risk that NAFO will get inside the 200-mile limit and compromise our sovereignty, we're not there. That's the long and short of it.

**Mr. Peter Stoffer:** Thank you very much.

**Hon. Tom Hedderson:** With regard to the 3M cod—as I pointed out, we weren't around the table—my officials got back to me and said, “You won't believe what happened today”; our nation had voted with the EU, against Norway and against the United States, to increase the quota from a recovering stock. The reason was that something had happened around that table, I suspect, because when the Europeans came in, with regard to the halibut, it's my understanding that they wanted it to be reduced; Canada wanted it to be rolled over.

I guess it was a case of “you scratch my back and I'll scratch yours”. That's my conjecture, because, again, I wasn't around the table, but I know that around that table you don't get anything unless you give something up. So Canada had to have made some sort of deal, and it will be up to those who were around the table to make good on it.

● (1610)

**The Chair:** Thank you, Mr. Minister.

Mr. Weston.

**Mr. John Weston (West Vancouver—Sunshine Coast—Sea to Sky Country, CPC):** Minister, I want to join with my colleagues in welcoming you here and thanking you for being here. You've been a minister for less than a year; I've been an MP for only a year, and I know I have lots to learn.

I want to say that what I come here with is some assumptions: certainly that a man's word is his bond; that in politics, as in anything else, when you take a public stance on something, it means a lot; and that in the world of international treaties, where Canada is required to work with our international partners to preserve our fisheries because we can't do it alone, we have to depend on the provinces and the federal government working coherently and cooperating if these treaties are to be negotiated to make sense. Those are assumptions that I come with.

I want to recite to you a chronology of events that has been revealed to me, based on my research, going back to 2005, when there was a conference in St. John's, well before you were minister. At that conference it was held that NAFO reform was a key plank in an effort to modernize Canadian fisheries. The governments of the day were the Williams government provincially and the Martin government federally.

Then we move to 2006 and 2007. Our party forms the government, and Minister Hearn pushes to modernize NAFO "to give it teeth". The negotiation team, like every other group that represents Canada at NAFO, consists of DFO bureaucrats and scientists, industry representatives, as well as representatives from the Province of Newfoundland and Labrador. Isn't that right?

• (1615)

**Hon. Tom Hedderson:** We've acknowledged that.

**Mr. John Weston:** Then we have Minister Rideout saying that he goes along with the proposed amendment. Newfoundland is actively involved in negotiations to amend the convention. Throughout, there have been exchanges of information. Newfoundland is at the table. The most contentious issue is the amendment to article VI that would allow NAFO management inside the Canadian EEZ. Canada asks for it and then votes in favour of such management. I think we agree on that.

Then in July of this year you wrote to Minister Shea saying that the protections offered by Canada's having to ask for NAFO measures inside our EEZ and having to vote for them was an acceptable package. These are your own words; I'm quoting you back what you said:

The fact that Canada would have to support a NAFO measure and then request its application in the [EEZ] seems to provide the necessary safeguard against an unintended consequence of the amended convention.

This along with securing the Canadian shares of NAFO-managed stocks makes an acceptable package.

You wrote that on July 6, 2009. I can only presume that you were looking, as you said, at the compromises required to achieve our objectives. You said it, and Canada, based on what you said, told our international partners that we're prepared to go along with this.

So tell me, what happened? What was the critical event in your life or your government's assessment that led to this diametrically opposed position?

**Hon. Tom Hedderson:** I think it's in your mind, because again I say, as I responded to a question from the other side of the table, that I did write that letter, obviously, and I'm willing to stand behind it. But you're looking at...to use the word "seems", it is not what it seems to be. Basically, I made a statement that I couldn't believe that a country would allow any intrusion on their sovereignty, and to

have it done by a minister without any recourse to cabinet or otherwise is just unacceptable.

From that point in time, again as we said, we did a re-analysis of where we were, and I tell you, it's not palatable for us to support the conventions. That's as simple and straightforward as we can possibly make it.

**Mr. John Weston:** You realize how, to use the word again, it "compromises" the ability of Canada, of our government, to complete any negotiation in which a province is so primarily involved, if the province is switching its position—

**Hon. Tom Hedderson:** Again you're assuming.... Go back to your original assumption that we supported it around the table. I'm telling you, we're not around a table; it's a delegation by the country around that table. We don't get a chance to go and sit around that table. As I pointed out, my officials were there in an advisory role. If you're talking about the two commissioners, it's a different story altogether. Our position, as I clearly stated, has always been that we will not accept anything less than custodial management.

We did an analysis of these conventions. As I pointed out, marginally you could maybe argue about the vote, to require two-thirds, perhaps, rather than 50% plus one, but when it comes to sovereignty and you are in a situation where NAFO countries could come in and literally manage inside the 200-mile limit, given the history of it all, it's not acceptable to our province.

**Mr. John Weston:** The sovereignty issue is clearly one that required lots of analysis and thought, but—

**Hon. Tom Hedderson:** I can go down through any number of letters and match that one a dozen times—

**Mr. John Weston:** Okay, but my problem is that—

**Hon. Tom Hedderson:** —if you want to get into that kind of game. But you have to look at what we're about here right now. It's about conventions that clearly will compromise this country's coastal position with regard to the 200-mile limit. It's not acceptable to our province. It's been clearly stated any number of times. Now you either accept it and move on, or...I don't care what you do.

Basically we want to make sure, and we're asking in your Parliament, that this at least get on the floor to be debated so that we can hear all sides. We're not supportive of it, and we're hoping that it will be voted down and that this government will again look at ways to take better control of the resources off our coast. Our only option would be custodial management, either within NAFO or outside of NAFO.

**Mr. John Weston:** I understand what you're saying today and I understand what you've said before. I'm just having trouble bridging the difference.

Could I share my time with my colleague Mr. Allen?

**Mr. Mike Allen (Tobique—Mactaquac, CPC):** How much time do I have, Mr. Chair?

**The Chair:** You have three minutes remaining, Mr. Allen.

**Hon. Tom Hedderson:** Okay, now you have to talk fast.

• (1620)

**Mr. Mike Allen:** I'll talk as fast as I can, even though I'm not from Newfoundland.

I have just a few questions. You commented on the 200-mile limit. Just for clarification, because I'm not going to put words in your mouth but just want to make sure this is clarified, my understanding of the NAFO convention is that a country has to invite someone within their 200-mile limit. So is your concern not that it would happen but that someone may use it in the future? You agree that a country would have to invite somebody in.

**Hon. Tom Hedderson:** Yes, sure, Canada can do that now.

**Mr. Mike Allen:** Okay. We can do it now, that's right. So basically

**Hon. Tom Hedderson:** What I'm saying is that in writing this is not as strong as the first convention, so why is it in there? And you might be able to speak for your government, but a government down the road can take that wording and.... If there is any risk involved at all, again, we can't go there.

**Mr. Mike Allen:** You talked about your advisers, saying that you have your advisers, but they do not participate.

**Hon. Tom Hedderson:** No, they don't participate at the bigger table.

**Mr. Mike Allen:** Right, but they're part of the process, not at the table but as part of the advisory role to the Canadian government lead negotiators who are there.

In that role, if there were reservations that the advisers were having as part of that process, it seems rather odd to me that.... What were their terms of reference for reporting back to the Province of Newfoundland if they were having issues with what was going on there? Surely, part of their role as advisers is to advise you, to say, "Minister, holy God, we don't like this. What the hell is going on?"

**Hon. Tom Hedderson:** Again, I can only deal with Bergen, because I wasn't minister back in those times. I'd be a fool to go back and say, well, they did this or that. But basically, as I pointed out to you, once a NAFO meeting is going to be held, obviously there is an agenda. We know what's on the agenda. Greenland halibut, hake, and all that kind of stuff was on it.

Before we go, I sit down with my officials and other officials to look at where we're going as a province. I then pen a letter to the minister indicating our positions, and then my people go off with that and that position. And throughout the meetings, of course, we get some feedback on how things went and so on, because they take place over probably a week.

**Mr. Mike Allen:** What is the process for that documentation? Are there opportunities for them, as part of this negotiating process, to feed back information to the Government of Newfoundland and say, "Minister, we think we're going astray on this. What's going to be our position?" Why wouldn't this come up earlier?

**Hon. Tom Hedderson:** They're told to hold on to their position and the position of the government, and obviously any time they go forward they would have to follow the position of the government. When decisions are made at the table, they don't know when the delegation goes forward what's going to happen. You know that when you're at a negotiating table, my heavens.... And I say that the Canadian delegation have instructions from their ministers as to how far they can go. Then, when it's all said and done and the decisions are made, the meeting is disbanded, the results come down, and we do an analysis.

**Mr. Mike Allen:** Thank you, Minister.

**The Chair:** Thank you, Minister.

For our second round, we're going to have two minutes per party.

Mr. Andrews.

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

I just have one question. Minister, have you or has your department had any discussions with the United States and the eastern seaboard representatives on this particular convention? We haven't heard much from them. We know one other country has approved the convention, but we haven't heard anything come out of the United States showing their thoughts on this. Have you had any discussions?

**Hon. Tom Hedderson:** No, except, I guess, that when the officials were over they were all talking together and that sort of thing. There's been nothing official. I guess in talking with delegations it would be more the negotiating group that would know the position of the United States and so on.

We do know that they voted against the increase in the 3M. We know those sorts of decisions, but as for their position, I'd have to leave it up to External Affairs or whatever to have dealt with that.

**Mr. Scott Andrews:** Okay. Because we haven't heard anything, and I think—

**Hon. Tom Hedderson:** We do know that Norway has ratified it. That's as much as I know.

**Hon. Gerry Byrne:** I think, Mr. Minister, we also know that the United States has not ratified the Law of the Sea yet. Of course, that's fundamental to this NAFO convention in some respects, I guess, so we do know something about the U.S.

Once again, could you explain to me or provide some perspective—you took some prodding—on the flip-flop? How do you feel about the flip-flop when someone says there's going to be custodial management and it's devastating to Newfoundland and Labrador, to Canada, that there is not custodial management, and when someone says the previous administration was negligent for not instituting custodial management, but then within days—if not weeks—of forming office suddenly describes how there was always custodial management, apparently, saying that it always existed? As for the very people who were criticizing the previous government for not instituting custodial management, well, lo and behold, there was indeed custodial management back in 2005.

Do you have any comments, Mr. Minister?

• (1625)

**Hon. Tom Hedderson:** In response, I can again express the disappointment we had in regard to the commitment not being fulfilled. We kind of lost a bit of faith. This convention is kind of creeping in and pushing custodial management aside, because these conventions are nowhere near custodial management.

Like I said, they're marginally different from the original, right? It's more fluff and stuff than anything, but there's some dangerous fluff and stuff, especially with regard to the sovereignty issue and of course a process that is now binding with regard to arbitrating disputes.

But to get back to it, you're right, we felt let down. We still feel let down. We're still adamant about custodial management. We can banter back and forth about what was said in this letter and what was said in that letter, but I think we had to be clear. And I think the position of the government is clear: they're supportive of these conventions and they believe these conventions give us the management we need. We say it's totally inadequate, we have no faith in NAFO under the present system, and again we're calling upon our government to really dig down into this.

We're pleading with you to dig down, put aside all this rhetoric, and really get to the meat of it. Perhaps the best way to do that is to put it for debate in the Parliament of the country and let everyone have a good, solid debate. Then we can get into not who said this or who said that, but what this is going to do for our country.

**The Chair:** Thank you, Minister.

Monsieur Lévesque.

[*Translation*]

**Mr. Yvon Lévesque (Abitibi—Baie-James—Nunavik—Eeyou, BQ):** Thank you, Mr. Chair.

Mr. Minister, you will agree that two minutes is not very long. I am going to ask two questions; after I finish, you can answer them both, if that is okay with you.

In your presentation, you mentioned the objection procedure that had allowed people to fish within the 200-mile zone and you indicated, if I am not mistaken, that other countries have used an objection procedure that allowed them to continue to fish.

Do you think that the new convention will put an end to that way of operating?

Then, in an explanatory note tabled in the House of Commons in June 2009, the Government of Canada declared that by ratifying the 2009 amendments, Canada would resume its leading role in NAFO reform and in strengthening the governance of the international fishery. Do you agree with that?

[*English*]

**Hon. Tom Hedderson:** With regard to the objection procedure, there is some work done on process, but it still leads to the same thing. There can be objections, and these objections can be carried out over a period of time, but during the objection procedure, countries can still put on a unilateral quota and fish that quota, and even after a decision is made it's not binding.

So again, it's toothless as far as we're concerned. It's a little bit better in that there's a process, but no better in that the end result is that it's not binding and then it has to go to another body somewhere down the road. In the time all of that takes, a country can do great damage to any particular stock.

As for the strengthening, you say that these conventions are strengthened. Again, we don't see that this strengthens them in any way. As a matter of fact, especially with regard to the possibility of our sovereignty being breached, it weakens us.

**The Chair:** Thank you, Minister.

Mr. Harris.

**Mr. Jack Harris (St. John's East, NDP):** Thank you, Mr. Chairman.

Mr. Hedderson, welcome again to Ottawa.

Custodial management, of course, was high on the radar for the Province of Newfoundland and Labrador. I don't know what progress was made between 1993 and 2006 when the Liberals were in power, but there was some hope that the Conservatives would follow up on their promise. This obviously wasn't achieved.

I was concerned by the questioning from the other side about Newfoundland's position and how we can negotiate if the province is changing its position. My own view is that the ratification process is there for a reason. If you couldn't have sober consideration of what had been put on the table, then there would be no need at all for a ratification process for international treaties.

My understanding is that what's going on right now in this room and in Parliament is a consideration of this treaty as to whether it ought to be ratified. I gather you're telling us that your full consideration of this matter, from a sovereignty point of view in particular... I don't know if that was focused on. I know Mr. McCurdy didn't focus on it, according to what he said at public meetings in St. John's. It wasn't focused on, but now you're focused on it.

Would you care to comment on that? Am I getting this right or am I missing something here?

•(1630)

**Hon. Tom Hedderson:** Again, sovereignty is the big one. Like I said, we are a coastal state. We have three coasts, and what we do on one will have ramifications on the others. Right now, sovereignty in the Arctic, for example, is a big deal. I know the Prime Minister has made a statement on it, saying that it's important, but you can't go up in the Arctic and make a splash and then have language in conventions that opens up a door—ever so slightly, perhaps, ever so slightly, but it is open.

Again, maybe this government knows the difference of it or whatever, but for governments to come, I say.... Do you know what I mean? If there's any risk at all and you're talking about perception internationally, they're looking, and they're catching on every word. We need strength at our tables, at NAFO tables and at our trade tables. As a nation we're strong in resources, but we have to be strong in backbone too. We have to make sure that the world knows our resources are valuable, and for those that fall within our grasp, we should be managing them. In our province especially, we depend so much on it.

We've been down a tough, tough road, long before my time. Some of you here know that toughness that comes with overfishing and a resource that's just going out with no regard whatsoever. So again, as a plea, we ask you to make sure that if this is a ratification process, you give everyone a chance to sit at a table like this, or in Parliament, or whatever, and please listen. Don't jumble it up with things that are going to cloud the issue. There is an issue here. For us, it was custodial management. Now, it is conventions that we feel will weaken our position.

It's up to the government, I guess, to make sure that you clearly state where you're going and what you're doing. I say the best place for that is on the floor of Parliament.

**The Chair:** Thank you, Minister.

Mr. Kamp.

**Mr. Randy Kamp (Pitt Meadows—Maple Ridge—Mission, CPC):** Thank you, Chair.

With due respect, Minister, part of the reason this issue is clouded is because of comments you've made. We're having a difficult time. In fact, even today in your comments.... I don't have the actual words in front of me, so I apologize as I don't have this verbatim.

In your interpretation of the sovereignty clause, as you refer to it, you say that it allows foreign nations to “impose”—this is in your words, this is a quote—their interests within Canadian jurisdiction. Well, surely that's not accurate; there's nothing in the amended convention that allows another country to impose its interests within Canadian jurisdiction.

**Hon. Tom Hedderson:** If they're invited in, they can impose.

**Mr. Randy Kamp:** Well, that's not imposing anything. That's being invited.

**Hon. Tom Hedderson:** So you're saying it's all right for the NAFO countries to come in and manage our resource? That's all I wanted to hear.

**Mr. Randy Kamp:** That's being invited and also voting in favour—

**Hon. Tom Hedderson:** That's all I wanted to hear. I'm wasting my time.

**Mr. Randy Kamp:** —so that's not imposing their will. In fact, you're the one who, in this letter not that long ago, as has been pointed out a number of times, agreed with this approach, but you said it should be strengthened by having cabinet involved in any catch request.

So my question, then, is that if that were part of the amended convention as we interpreted it, would you then be in favour, as you implied in your July 6 letter, of the amended convention?

**Hon. Tom Hedderson:** Again, I restate my position and the government's position in case anyone hasn't heard. We took government in 2003. In our blue book we have always indicated that nothing less than custodial management would be the order of the day.

•(1635)

**Mr. Randy Kamp:** Well, I'm talking about this clause. You said—

**Hon. Tom Hedderson:** And we've kept on that and we are still there. We will still be there tomorrow and we'll still be there the next day.

**Mr. Randy Kamp:** You said you proposed that cabinet approval should be required prior to any request.

**Hon. Tom Hedderson:** Absolutely.

**Mr. Randy Kamp:** And this would ensure adequate review and debate of the issue.

**Hon. Tom Hedderson:** Yes.

**Mr. Randy Kamp:** So I'm asking whether, if this were part of the process—

**Hon. Tom Hedderson:** So that's agreement? In your words, that's agreement?

**Mr. Randy Kamp:** —would you support the convention?

**Hon. Tom Hedderson:** I can't ask.... In any of those conventions.... Could I ask if the objection process was binding? Could I ask that? What about the two-thirds majority? Was that good or bad? What I'm asking the government is how in heaven's name you could let that responsibility of incursion on our sovereignty just rest with one minister.

That was my point. My point was made. I got a response back in which the minister indicated that no, things are bubbly-boo now, so no change is required—

**Mr. Randy Kamp:** No, that's not what she said—

**The Chair:** Thank you very much, gentlemen.

Thank you, Mr. Minister, for taking the time today to come and meet with us. The committee will take a five-minute recess as we stop for the next—

**Hon. Tom Hedderson:** Thank you. It's always a pleasure, and I thank members on both sides for their questions. We'll go from there.

**The Chair:** Thank you, Mr. Minister.

- \_\_\_\_\_ (Pause) \_\_\_\_\_
- 
- (1640)

**The Chair:** We'll call the meeting back to order.

I'd like to take this opportunity to welcome our guests today.

Mr. Brodie, I believe you're going to lead the presentation here this afternoon. I'm sure you heard us earlier when we talked about the timer and the timeframes that constrain us, so without further ado, Mr. Brodie, I'll turn the floor over to you. Would you like to introduce your associate as well, the gentleman who is with you?

The floor is yours, Mr. Brodie.

**Mr. William Brodie (Senior Science Coordinator and Advisor, Northwest Atlantic Fisheries Organization (NAFO), Department of Fisheries and Oceans):** Thank you, Mr. Chairman.

With me today is my colleague from the Department of Fisheries and Ocean's science branch in Ottawa, Mr. David Gillis.

On behalf of the Department of Fisheries and Oceans, we welcome the opportunity to speak about the science within the Northwest Atlantic Fisheries Organization, NAFO, and also the important role of Canadian fisheries science and scientists within that organization.

Within NAFO, science and scientific advice is produced by a constituent body called the Scientific Council. Based upon their advice, the NAFO Fisheries Commission adopts measures to ensure the long-term conservation and sustainable use of the fishery resources in the NAFO convention area, which comprises both Canada's exclusive economic zone, the EEZ, and the NAFO regulatory area, the NRA, beyond Canada's 200-nautical-mile limit.

I'd like to start by providing the committee a brief overview of the Scientific Council, its function, and how it accomplishes its mandate. Within NAFO the Scientific Council is one body, which is equal in status to the other two bodies: the Fisheries Commission and the General Council.

The Scientific Council is responsible for a number of functions. They provide a forum for consultation and cooperation among the contracting parties—the member states of NAFO—to study and exchange scientific information and views on fishing activities and the ecosystems in which they occur. They study and appraise the current and future status of fishery resources, including environmental and ecological factors affecting them. They promote cooperation and scientific research among contracting parties to fill gaps in scientific knowledge. They compile and maintain statistics and records and publish or disseminate reports, information, and materials pertaining to the fishing activities in the NAFO convention area and their ecosystems. They provide scientific advice to the Fisheries Commission and coastal states as requested.

To address its mandate, the Scientific Council has established four standing committees.

Fishery Science, or STACFIS, is the committee that conducts the stock assessments that are the basis for the actual advice, which is then formulated by the Scientific Council.

Research Coordination, or STACREC, is the committee that provides a forum for the discussion of scientific research and studies in the NAFO area and compiles fisheries statistics.

Publications, or STACPUB, is the committee that oversees the publication of scientific information, including NAFO's *Journal of Northwest Atlantic Fisheries Science*, a peer-reviewed journal that focuses on environmental, biological, economic, and social science aspects of living marine resources and ecosystems of the northwest Atlantic Ocean.

Fisheries Environment, or STACFEN, is the committee that provides reviews of environmental conditions and advises on the effects of the environment on fish stocks and fisheries in the convention area.

Each contracting party of NAFO is a member of the Scientific Council and may appoint representatives, who may be accompanied at any of its meetings by alternates, experts, and advisers. These scientists generally participate in all the work of the Scientific Council and of some or all of its standing committees.

As a general rule, the Scientific Council provides its advice by consensus. All reports provided by the Scientific Council are published by the NAFO secretariat and are made available on the NAFO website as soon as possible after the Scientific Council meetings are concluded.

In addition to its standing committees, the Scientific Council establishes working groups and study groups as necessary to deal with specific terms of reference. Such groups created recently include a working group on an ecosystem approach to fisheries management and a study group on management strategy evaluation for Greenland halibut. These groups draw on a wide range of invited expertise, including scientists, fisheries managers, and industry representatives, including as necessary participants from countries that are not contracting parties of NAFO.

The Scientific Council provides advice to the Fisheries Commission on 18 stocks of fish and invertebrate species. These include species such as cod, flounder, Greenland halibut or turbot, redfish, capelin, shrimp, and squid. Some of these stocks, such as those on the Flemish Cap, are located entirely outside the Canadian EEZ. Other stocks, such as those on the Grand Banks, which are found both inside and outside the Canadian EEZ, are called straddling.

- (1645)

In addition to those 18 stocks managed by the Fisheries Commission, the Scientific Council is also requested to provide advice to coastal states on certain stocks. For example, Canada and Greenland agreed to submit joint requests to Scientific Council for advice on the northern Greenland halibut stocks in the Davis Strait-Baffin Bay areas. The Scientific Council reports on the status of all the stocks for which it receives requests and provides responses to requests for the total allowable catch or management advice, usually over a range of options. Where possible, the Scientific Council tries to quantify, or at least provide information on, the risks to the stock for each of the specified TAC or management options.

In addition to TAC advice, the Scientific Council is often requested to provide advice on issues other than TAC, such as an evaluation of existing or proposed management measures—for example, mesh size used in some fisheries, potential closed areas or seasons, etc.

The Scientific Council usually meets three times per year, generally for one to two weeks each time. The council meets for two weeks each June in the NAFO headquarters region, Dartmouth, Nova Scotia, to evaluate most of the stocks and respond to the various requests for advice. It also meets during the NAFO annual meeting each September, where it is often called upon to answer questions from the Fisheries Commission pertaining to its advice on the stocks. As well, the Scientific Council meets each October or November in conjunction with the International Council for the Exploration of the Sea, known as ICES, to provide advice on shrimp stocks throughout the North Atlantic.

There has been much recent discussion about the amended NAFO convention. Although the amendments to the 1978 NAFO convention are not expected to significantly change the way the Scientific Council conducts its business, some of these amendments will clearly be important for the Scientific Council to consider in its work and in its provision of advice. Particularly noteworthy to the Scientific Council are the amendments that state that contracting parties shall adopt measures based on the best scientific advice available, apply the precautionary approach, take due account of the impact of fishing activities on other species and marine ecosystems and in doing so adopt measures to minimize harmful impact on living resources and marine ecosystems, and take due account of the need to preserve marine biological diversity.

During the NAFO process that led to the adoption of the amended convention, the Scientific Council was fully engaged throughout and provided its input into the sections of the amended convention relevant to the council's mandate and activities. In addition to the four points noted above, one important organizational consideration was the continued recognition of the Scientific Council as an equal constituent body within NAFO.

The existence of the NAFO Scientific Council as a scientific body within NAFO contrasts it with an adjacent international fisheries management organization, NEAFC, the North East Atlantic Fisheries Commission. In NEAFC, the commission requests its scientific information from an external source, ICES; within NAFO, the existence of both scientific advisers, from the Scientific Council, and management, from the Fisheries Commission, allows extensive collaboration on issues such as implementing the precautionary approach and protection of such vulnerable marine ecosystems as those of coral and sponges.

In fact, joint committees involving members of the Scientific Council and the Fisheries Commission were instrumental in achieving substantial progress and implementation of key measures on both these issues. At the recent NAFO annual meeting, the ad hoc working group of fishery managers and scientists on vulnerable marine ecosystems produced several recommendations on closed areas for the protection of corals and sponges, which were then adopted by the Fisheries Commission.

The work of the NAFO Scientific Council is also important internationally in the field of fishery science. The council regularly holds symposia that draw experts from around the world and publishes these findings in editions of the NAFO journal. It also conducts various special sessions that focus on topics such as introduction of new stock assessment methods and tools to Scientific Council participants. It also works collaboratively with such organizations as ICES by forming joint working groups to examine wide-ranging species, such as shrimp and seals, and such issues as deep-sea ecology.

The chairs of the Scientific Council and its standing committees often represent NAFO in other international fora. It should be emphasized that the Scientific Council is not a research organization per se, so it does not conduct its own research projects, nor does it have the funding to allocate for such work. However, the relevant research that feeds the stock assessment process is carried out by the contracting parties of NAFO and brought to the Scientific Council for peer review. As noted earlier, the council does have a standing committee in which research projects can be discussed and coordinated among contracting parties.

• (1650)

Mr. Chairman, Canada takes its role in the Scientific Council very seriously. At any given time, Canada is likely to have two or more chairs within the Scientific Council. In fact, three of the past five chairs of the council have been Canadian scientists from the DFO science branch in Newfoundland and Labrador, and also chairs of the standing committees and well over half of the 18 stock assessment designated experts; these are the scientists responsible for taking the lead roles, conducting much of the analysis, synthesizing the available information, and presenting the individual stock assessments within the Scientific Council.

In support of its NAFO scientific commitment, Canada—DFO's science branch—conducts two major multi-species, ecosystem-based trawl surveys on the Grand Banks every year, in addition to substantial oceanographic research and other surveys aimed at species such as capelin. This work represents an ongoing science commitment in excess of \$5 million per year, which has contributed to the building of invaluable biological and oceanographic databases for many stocks dating back to the early 1970s or before.

The results of these surveys provide vital information on abundance and distribution and biology that underpins the Scientific Council stock assessment process for many species and stocks. Without these surveys, which cover the areas of the Grand Banks inside and outside Canada's EEZ, many straddling stocks would have significantly less data for the Scientific Council to analyze.

Canada continues to invest heavily in ongoing and new scientific research on the NAFO stocks: \$11 million over three years, 2006 to 2008, invested in new science projects under the international governance strategy umbrella to increase knowledge of offshore marine ecosystems and to enable sound management decisions concerning resources within these ecosystems. Much of this funding has come to researchers working on stocks on the Grand Banks for specific studies on Greenland halibut, skate, yellowtail flounder, redfish, capelin, and marine mammals.

Following the completion and success of this program in 2008, Canada renewed the funding for this program and it was made permanent. Canada now invests \$4 million per year on an ongoing basis for science in support of international governance. This funding, combined with new funding for projects in 2009 and onward, has been directed at the study of corals and biodiversity, improving stock assessments, and precautionary harvesting strategies for Grand Banks cod and flatfish.

Canada is also engaged bilaterally with many NAFO countries on scientific issues, and it has recently signed a memorandum of understanding for scientific cooperation with Spain. Funding provided under this agreement has led to much new cooperative research in areas such as reproductive biology of Greenland halibut, annual multi-species surveys in divisions on the Grand Banks and Flemish Cap on a Spanish vessel, and joint participation in a large-scale, multi-year study directed at vulnerable marine ecosystems in the NAFO regulatory area on the Grand Banks and Flemish Cap. This work is realized through multi-million dollar collaborations.

It is important to note that Canada's investments are very generously leveraged by Spanish investments. All this research is, or will be, peer reviewed through the NAFO Scientific Council.

Mr. Chairman, in closing, we would like to acknowledge the vital role that the Scientific Council advice plays in the management of stocks under NAFO's mandate, and we are encouraged by recent advice from the council on the recovery of some stocks. Canadian scientists have a long history of taking lead roles in the work of the Scientific Council, and this is continuing today.

DFO remains firmly committed to conducting the best possible research on the NAFO stocks to ensure that the Scientific Council has the data necessary to provide its advice.

Thank you, and I apologize for going over my time, Mr. Chairman.

• (1655)

**The Chair:** Thank you, Mr. Brodie.

Mr. Byrne.

**Hon. Gerry Byrne:** Thank you, Mr. Chair, and thank you to our witnesses.

Mr. Brodie, on the decisions related to NAFO within this year's meetings of the Fisheries Commission in Bergen, were you pleased with the outcome of those results, particularly with Greenland halibut and 3M cod? I understand the Fisheries Commission decided to accept the largest possible range of advice and did not necessarily stick with the precautionary principle. If you are pleased with it, would you prescribe that as a model for DFO to use internally within domestic waters, that fishermen should be able to expect DFO to accept catch limits that are at the far end of the range of scientific advice?

**Mr. William Brodie:** In the case of Greenland halibut, the Scientific Council provided catch options at two levels based on requests received. Under one of these catch options the stock showed an increasing trajectory. Under the other catch option the stock showed a stable catch trajectory. Both of these options were provided by the Scientific Council, with a recommendation to go with the

lower catch option if the objective was to rebuild the biomass more quickly.

In the case of 3M cod, the council provided advice at four different catch levels ranging from zero to a relatively high level of fishing mortality. I think the range of catch options provided in that advice was from zero to 12,700, with a recommendation to go to just over 4,000 at the lower end of the range. The decision that was taken at the Fisheries Commission was for 5,500, which was at the low end of the range. Under all the options provided for 3M cod, the Scientific Council noted that an increase in biomass was projected at all those catch options, and they favoured the low end of the range for quite a number of reasons based on the rebuilding of the stock.

**Hon. Gerry Byrne:** You noted that NAFO does not conduct research activities of its own. In fact, contracting parties decide to conduct those activities and then voluntarily submit the research findings to the Scientific Council, if I understand correctly.

We heard from your minister that the provisions within the revised NAFO treaties, specifically article VI, paragraph 10, are very important in order for NAFO to conduct scientific activities inside the 200-mile limit. If NAFO doesn't conduct scientific activities outside the 200-mile limit in the regulatory area, why would those changes be required in the convention to allow NAFO to conduct scientific activities within the 200-mile limit—extended in the entire convention area?

**Mr. William Brodie:** As I noted, the Scientific Council doesn't actually conduct the scientific research. This is generally done by the contracting parties under a cooperative arrangement. But Canada doesn't need anybody's permission to conduct surveys in its own or outside the 200-mile—

**Hon. Gerry Byrne:** Canada does require permission at the moment of countries—contracting parties or any other flag state—to conduct scientific activities within its exclusive economic zone. The provisions within the revised convention supposedly, according to your minister, meet the test of necessity to allow NAFO to conduct scientific and ecosystem studies within Canada's exclusive economic zone, yet NAFO does not conduct any scientific activities at all; it's only contracting parties.

It seems like a bit of a contradiction. It seems to be a rather forceful instrument to allow something to occur that never occurs anyway, either inside or outside the exclusive economic zone of Canada.

I'll refine my question a little bit. What is currently stopping Canada from allowing scientific collaboration with other contracting parties—or any bilateral or multilateral relationship with other countries—to conduct scientific research inside 200 miles? Why do we need to have this written into the convention? Under the convention it allows for a lot more than just scientific and ecosystem research; it allows for specific management measures.

Can Canada invite Spain, for example, to sign the memorandum of understanding, as we have outside of 200 miles...? Could we do so for inside 200 miles right now? I think the answer is yes.

• (1700)

**Mr. William Brodie:** That's correct. Canada can invite other contracting parties, other countries, into its zone to conduct scientific research, but only with their explicit permission and under very strict conditions as to what scientific research is to be carried out. We can also cooperate with those contracting parties and participate in the research, if we so choose.

**Hon. Gerry Byrne:** So if I understand you correctly, this committee was told that this provision was necessary to give Canada the legal option to invite other countries to cooperate on valuable scientific activities inside the exclusive economic zone. But what we're hearing now is that this is not actually the case. We can do that now if we so desire through the signing of bilateral and multilateral memoranda of understanding or treaties.

What's puzzling me is this: if that was the basis on which this was derived, why are management measures included? We're going well beyond the realm of scientific discovery. The convention specifically includes management and enforcement measures. That's quite off-scale with what this committee was told was necessary.

**Mr. William Brodie:** As a scientist and a member of the Scientific Council, I can't comment on the management or regulatory measures. Those are not issues that we deal with. I can say that in the drafting of the articles related to the Scientific Council, the Scientific Council was fully engaged and aware of the provisions listed in that article, as they pertain to article VII of the Scientific Council.

**Hon. Gerry Byrne:** Thank you. This testimony is quite revealing to us. We were told it was absolutely essential for conducting these vital scientific surveys and cooperating, multilaterally or bilaterally—it actually already exists. The revised convention is not required.

NAFO did sign an agreement to restrict the bottom-dragging, the auto-trawling, for sponges and molluscs in certain areas outside of the continental shelf. Right?

**Mr. William Brodie:** Yes, it was in effect outside the 200-mile limit, on the edges of the Grand Banks, mostly on the Flemish Cap.

**Hon. Gerry Byrne:** But if it's also on the nose and the tail of the Grand Banks, under the United Nations Convention on the Law of the Sea, UNCLOS, Canada has jurisdiction over the management of sedentary species for the full extent of our continental shelf.

If NAFO is now imposing a ban on auto-trawling, on bottom-dragging, to protect sedentary species, Canada already has jurisdiction for the management of sedentary species on the full extent of the nose and the tail of the continental shelf, even beyond 200 miles. What you're saying to me, then, is that NAFO has adopted a measure that will impose a management regime, a restriction on auto-trawling, bottom-dragging, on certain areas of the nose and the tail of the Grand Banks. This is clearly a Canadian jurisdiction. Sedentary species are a Canadian jurisdiction when they exist on the nose and the tail of the continental shelf. Can you elaborate on that? Can you verify it, deny it? Do the restrictions on auto-trawling, bottom-dragging, occur in certain areas of the continental shelf of Canada?

• (1705)

**Mr. William Brodie:** The measures that were adopted at the recent annual meeting apply to several areas in the regulatory area outside 200 miles. Most of these areas are on the NAFO Flemish Cap.

**Hon. Gerry Byrne:** But do some of them occur on the nose and the tail of the Grand Banks?

**Mr. William Brodie:** Yes.

**Hon. Gerry Byrne:** Then NAFO has just exercised a management measure in a Canadian jurisdiction. Under the United Nations Convention on the Law of the Sea, we clearly have jurisdiction over sedentary species that exist on our continental shelf. This has now been surrendered to NAFO.

**Mr. William Brodie:** A group of fishery managers and scientists met to consider this. The Scientific Council was requested to provide information on the location of vulnerable marine ecosystems in the regulatory area, including specific information on corals and sponges. I chaired this meeting. We reviewed the information from the Scientific Council and decided to put forward some recommendations to offer protection, according to international convention, to some of these areas of high concentrations of corals and sponges. These measures were agreed to by consensus and then adopted by the NAFO Fisheries Commission. That was the process as I understand it.

**The Chair:** Thank you very much, Mr. Brodie.

Monsieur Blais.

[*Translation*]

**Mr. Raynald Blais:** Thank you very much, Mr. Chair.

Good afternoon, gentlemen.

First of all, let me say that I am sure that your presentation was very interesting, but I really did not understand a lot of it.

I would like to know if you find the NAFO amendments satisfactory or not. Your presentation seemed quite theoretical to me: the kind of work you do, how you do it, and so on. But I am more interested in knowing whether or not you think that you will be able to do a better job under the amendments that have been negotiated, and why?

[*English*]

**Mr. William Brodie:** Thank you.

Mr. Chairman, I alluded briefly to that in my opening statement.

We don't think the proposed amendments to the convention would have a major impact on the functional work or role of the Scientific Council. However, we note that several important considerations are covered in the amendment, such as taking a precautionary approach, such as recommendation of the ecosystem approach, and biological diversity. So there are a number of important aspects of the amendments on which the Scientific Council will be asked to provide advice and to which it will be asked to pay attention to in its work. That's an important consideration with these amendments.

Also important is the continued recognition of the Scientific Council as an equal constituent body, as a member of NAFO equal to the management body, which would be the commission under the amended convention.

Those are important considerations, which I think needed to be raised and of which the committee needed to be aware.

[Translation]

**Mr. Raynald Blais:** In your opinion, those are important points. I repeat, in your opinion.

Are the changes to NAFO's Scientific Council going to make it stronger or not?

[English]

**Mr. William Brodie:** It will be able to provide advice under the precautionary approach. It will be able to provide advice under a wide range of ecosystem approach considerations. Those are strong scientific aspects to consider. The fact that it has been recognized as an equal constituent body and will be able to carry out its work independently and provide clear, transparent scientific advice within the organization of NAFO is important. Operationally, all the rights of the Scientific Council to participate in its work are clearly guaranteed under the new convention. I don't see any concerns from that perspective in the convention amendments. In fact, I see some things on which the Scientific Council will now be requested to provide information that were not the case under the old system.

So yes, I think it's a positive development in many ways.

• (1710)

[Translation]

**Mr. Raynald Blais:** If I am not mistaken, you work by consensus. In other words, if one of the contracting parties or one of the countries does not agree with whatever view, it can, scientifically speaking, just say that it does not agree with your position and that is that. So you have no power to require anything. It is an advisory body, you work by consensus.

That was the case before, and it would be the case if all countries, or most of them, ratified the document. So I am having trouble understanding what power the NAFO Scientific Council can have.

Could you give me a really concrete example? I get the impression that you are limited in the possible ways you can become involved, even after the amendments.

[English]

**Mr. William Brodie:** The Scientific Council strives to achieve consensus on all its advice, and with very few exceptions since the creation of the Scientific Council in the late 1970s, that has been

achieved. In the rare instance when the Scientific Council has not been able to achieve consensus, it still produces its report, plus it includes any minority views of other contracting parties that disagree. The Scientific Council chair would then present the report of the Scientific Council and note that there was also a minority position. It still produces its report with I guess you would consider it the majority view and any minority reviews.

As I say, I can remember one instance in approximately 25 to 30 years when that has occurred. It's an extremely rare occurrence for the Scientific Council not to be able to achieve its goals by consensus.

[Translation]

**Mr. Raynald Blais:** Could you tell us about the time when there was consensus, please? You say that it has happened at least once before.

[English]

**Mr. William Brodie:** Yes, it was this year. Japan had some reservations with the Scientific Council advice on the science for Greenland halibut and filed a minority report.

**The Chair:** Thank you.

Mr. Stoffer.

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

Thank you, gentlemen, for coming today.

Sir, I'm just paraphrasing you here now, but I believe I heard you indicate the amendments to the new NAFO agreement would allow for a more precautionary approach, an ecosystem-based approach to science on some stocks. Am I correct on that?

**Mr. William Brodie:** Yes. Those things are referred to specifically in the....

**Mr. Peter Stoffer:** Okay. What were we doing before then? I've been on this committee since 1997. I've always heard we've taken a precautionary approach, an ecosystem view of international straddling stocks and stocks within our own waters. Why would you need to put that in an amendment when you already do it?

**Mr. William Brodie:** It's something that has come in over a period of time. The precautionary approach, for example, was formally adopted by NAFO, I believe in 2003 or 2004. The ecosystem approach has come into full force, I would say, even more recently with the creation of some committees within NAFO, but it wasn't entrenched in the convention.

• (1715)

**Mr. Peter Stoffer:** Okay. So here's my problem with the so-called precautionary approach. When I hear that word, it means we're concerned about a particular stock, 3M cod, for example. We want to make sure that whatever we do, we take the strongest of efforts to protect the integrity of the biomass—so I assume—and you offer a sort of quota from, say, 3 million to 12 million. In my view, the precautionary approach would be that you take the minimum, the bare minimum.

We had DFO here the other time say no, it went up to 5 million, or whatever it was, because of the economics of it. Obviously, it may not be economically viable to go out and catch 3 million, but 5 million might be. It's not exactly what they said, but I think they looked at the economics of catching it as well.

I assume a scientist—and we're going to have Boris Worm on Thursday. I assume your number one concern is the biomass of the fish stocks. When governments or NAFO say they'll take the higher amount, even though it's on the low side, wouldn't you have concerns about that?

Also, while you're thinking of that, do you ever offer advice on the catch methods of various fish stocks, not just seiners or gillnetters, but dragners, trawlers, etc.?

Also, do you ever see these international observer reports unedited when they go back because of the bycatch and concerns of that nature?

My last one for you is—and I say this because many environmental groups say this—that dragging is the worst method of fishing you can have on any fish stock. As a scientist, would you agree with that statement?

That should do it. Thank you.

Take your time.

**Mr. William Brodie:** Thank you.

I think there were four questions in there.

**Mr. Peter Stoffer:** Yes, no, no, yes.

**Mr. William Brodie:** Yes to question three. I have seen observer reports and various other reports that offer details of fishing in the NAFO areas.

**Mr. Peter Stoffer:** The reason I say this is that we don't get to see them unedited.

**Mr. William Brodie:** On advice on catch methods, occasionally we at the Scientific Council are asked to provide information on certain catch methods. Usually the questions pertain more to mesh size, or maybe to bottom fishing versus mid-water fishing; I'm thinking of redfish now.

I remember many years ago looking at questions on longlining for Greenland halibut, for example, so yes, it does happen. It's not a common occurrence, but we are asked occasionally to provide information on fishing gear and catch methods.

A more recent example would be that of providing information on ways to reduce cod bycatch through gear technology. We've provided some recent information. In fact, there is a standing request from the Fisheries Commission to the Scientific Council to provide additional materials on ways that bycatch might be reduced. I think this perhaps would fall within that general type of advice. We've also provided advice on the use of what's called the Nordmore grate to exclude groundfish bycatch from shrimp trawls. I think there are probably a number of things within that category.

I think your last question was on whether dragging is the worst form of fishing. That's not a question we've considered. I suppose there's a potential for fishing gears of any sort to do harm on certain

types of habitat if not used properly, but we haven't evaluated or considered the impacts of dragging versus longlining versus gillnetting. Certainly there would be features with all of those gears that would have to be monitored closely depending on how they were used, what types of fish they were directed at, what types of bottom they were used on, and so on.

With regard to your question on the precautionary approach and 3M cod biomass, simply taking the lowest number all the time is not really how we would view the precautionary approach. We would view the advice provided by the Scientific Council as consistent with the precautionary approach. If, for example, the range of catch options provided gave a very low risk of something negative happening to the stock, such as dropping below a certain level of biomass or not increasing fast enough, under a range of options we would consider the precautionary approach under all of those features.

● (1720)

**The Chair:** Thank you, Mr. Brodie.

Mr. Kamp.

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

Thank you, Mr. Brodie and Mr. Gillis, for being here.

I'll begin, and if there is more time left, perhaps some of my colleagues will have a question or two as well.

Perhaps I can just start out with a clarification, because I think there is a little confusion around the table on the issue of Canada's jurisdiction over the nose and tail of the Grand Banks outside of the 200-mile limit. Perhaps you can tell me if I'm right in thinking that although the UN Convention on the Law of the Sea allows Canada to make that claim, it's a process that Canada must engage in.

In fact, Canada is currently involved in seabed mapping and so on in order to make that claim, which has to be submitted under that convention by 2013. We're making good progress toward that.

That's my understanding. Is it yours as well?

**Mr. William Brodie:** Perhaps I'll defer to my colleague, Mr. Gillis, on that one.

**Mr. David Gillis (Director, Fish Population Science, Department of Fisheries and Oceans):** I'll certainly provide what information I can.

As part of the issue you're raising, there are activities under way right now, as you've said, to increase our knowledge of the seabed outside 200 miles, and there's obviously a schedule that will be followed to bring this to completion.

My understanding of it is that Canada, in the meantime, through its arrangement with NAFO, is referring to the advice that comes from the NAFO Scientific Council for those areas outside 200 miles, and that advice is provided to the commission table. As for whether that will change in the future, I think we'll have to wait. It remains to be seen.

**Mr. Randy Kamp:** I guess my point would be that really it's not quite accurate to say that NAFO, by the recent decisions made in Norway, is intruding on what we could accurately call Canadian jurisdiction—at this point in time, at least.

Who pays for the science that NAFO does? You say NAFO doesn't do the actual research, but I guess the Scientific Council... Who pays the bill for all of that?

**Mr. William Brodie:** The contracting parties, the member countries of NAFO, conduct the scientific research. They pay the bills.

In Canada's case, for example, we have large-scale ecosystem surveys that cover the Canadian continental shelf and the areas outside the 200 miles. Canada would be a heavy contributor to the NAFO science, as would some of the other contracting parties. The European Union, for example, also conducts surveys in the regulatory area and would pay for that research as well. Some of this is done jointly with other contracting parties such as Canada.

As I say, the Scientific Council is not a research organization per se. It has no funding for research. But the contracting parties bring their research to the table. It's discussed openly. If there are things that need to be done, for example, the Scientific Council is free to make recommendations that the countries can then take back and make a decision on in terms of whether they can be added to the research programs.

The Scientific Council also provides a forum for a discussion of the different research, and it allows for coordination and collaboration where possible.

The short answer is that it's paid for by the member states of NAFO.

**Mr. Randy Kamp:** I guess as a follow-up, do all 12 member states pay their way? Do they do their share?

Is the Scientific Council—or is anybody—overseeing the process and deciding what research does need to be done to effectively manage sustainable fisheries in the regulatory area?

• (1725)

**Mr. William Brodie:** To answer your first question, no, not all the contracting parties are active in research in the NAFO area.

And second, yes, the Scientific Council does provide a body to oversee. One of its standing committees is research coordination. It does provide the oversight and the chance to review those research programs, and it offers contracting parties the ability to discuss these openly and to join in the research as necessary.

So there is that opportunity within the Scientific Council, but not all the contracting parties participate in research.

**Mr. Randy Kamp:** In your comments, Mr. Brodie, you said that NEAFC, for example, in the northeast Atlantic doesn't have the equivalent of the Scientific Council. It instead kind of contracts out its science work to an external body—ICES, I think, in this case.

What do you think about that? Do you think there would be some benefit in NAFO considering that? Do you think there are some downsides, perhaps, in having in-house science work? I know there are benefits as well, but in having the commission, the managers, and the scientists all working together, are there some downsides? Would there be some benefits to having some independence on the science side perhaps?

**Mr. William Brodie:** As I noted, it's important for the Scientific Council to maintain its status as an equal constituent body within NAFO. That ensures independence. The Scientific Council does not report to any of the other bodies in NAFO; it's equal. It does respond to requests for information from the Fisheries Commission and from coastal states like Canada, but it also conducts...and is free to provide information of its own accord. I think that's an important consideration.

With regard to the existence of the management body and the scientific body within NAFO, I think that affords some opportunities for collaboration. We've seen some very recent examples. With regard to implementation of the precautionary approach, that was done over a long period of time with joint meetings of science and managers. I think a more recent example is the working group of fisheries managers and scientists that looks at the vulnerable marine ecosystems, the corals and sponges. I think that enables the scientists and the managers to openly discuss the information and to go forward with reasonable management measures to offer protection. In fact, that was the case at the recent meeting, when that working group provided very specific recommendations that were then adopted within the commission.

So with regard to the existence of managers and scientists within the organization, I think those are two positive examples of cooperation and collaboration that led to some good measures being implemented.

**Mr. Randy Kamp:** Thank you.

We'll see if Mr. Stanton or Ms. O'Neill-Gordon have any questions.

**Mrs. Tilly O'Neill-Gordon (Miramichi, CPC):** I have one that's very straightforward. Being the new member on this committee and coming from a fishing community, I just wonder, are there any fishermen on this Scientific Council? Do they have any input on that?

**Mr. William Brodie:** No, the Scientific Council is made up only of scientific representatives. The council itself is made up only of scientists. However, in the process of discussing the science, there are discussions within Canada—I can only speak within Canada—with the fishing industry to get their views on particular stocks and what they think of the science, what they see on the water. That is conducted on an ongoing basis for all the stocks. There are various informal committees set up in Canada to allow us to hear the fishermen and the views of industry and its representatives.

**The Chair:** One minute.

**Mr. Bruce Stanton (Simcoe North, CPC):** I have just a short question.

In your opinion, do the NAFO amendments strengthen Canada's position in respect of its sovereignty over the fishery?

**Mr. William Brodie:** With all due respect, that's a little bit outside my area of expertise as a scientist.

• (1730)

**The Chair:** Mr. Brodie and Mr. Gillis, I'd like to thank you on behalf of the committee for taking the time to join us today. Thank you once again.

The meeting is adjourned.

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