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Chair

Mr. Rodney Weston

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• (1535)

[Translation]

The Vice-Chair (Mr. Raynald Blais (Gaspésie—Îles-de-la-Madeleine, BQ)): Let us get started right away out of respect for our witnesses who are here today.

Mr. McGuinness and Mr. Chapman, you may go ahead with your presentation.

Mr. Patrick McGuinness (President, Fisheries Council of Canada): Thank you very much, Mr. Blais.

[English]

I am Patrick McGuinness, the president of the Fisheries Council of Canada.

I thought I'd give you some background and maybe talk a bit about sustainability and, of course, end up with the position of the Fisheries Council of Canada with respect to the proposed amendment to the NAFO constitution.

First, I've been involved as an industry adviser to the NAFO delegation since 1985 as vice-president of the Fisheries Council of Canada, now as president, and in that reign have overseen the publication of three documents.

The first one was in 1987, *Foreign Overfishing: A Strategy for Canada*. Basically, what we took away from that is that Canada had basically developed good cooperation with East Bloc countries, but that type of cooperation was undermined by the activities of Spain and Portugal and, at that time non-NAFO members, South Korea, Mexico, and the United States of America. We did this report in-house.

In 1990, we hired the Oceans Institute Of Canada to produce the document called *Managing Fisheries Resources beyond 200 Miles: Canada's Options to Protect Northwest Atlantic Straddling Stocks*. This was a great document in terms of 101 for international fisheries management.

The take-away from that document was simply that the Law of the Sea was like reading a book with the last chapter missing, and that was simply to say there is nothing in the Law of the Sea that really addresses straddling stocks and the issues and demise of the resources that we saw on the high seas. Basically, what the Law of the Sea was saying is that if there is a difficulty concerning fishing on the high seas of straddling stocks, the countries should seek to agree to measures as to how that should be handled.

With this document and recognition that there was nothing in the Law of the Sea that could help us address the issue, we started a

campaign to try to see if there could be amendments to the Law of the Sea to address this issue. Really, the response from the international legal lawyers who are involved in oceans issues was this: you people in fisheries had your day in 1982 with the Law of the Sea, and what the Law of the Sea gave you was the fact that you have an economic zone out to 200 miles, so you should be very thankful for that; and as far as the Law of the Sea is concerned, your issues have been dealt with.

At the same time, what was happening was an emergence in terms of the issues of biodiversity, and there was the development of a convention with respect to environment and development. So what we basically did with respect to straddling stocks was to redefine the issue. The issue really became one of biodiversity—if you will, the destruction of fish stocks on the high seas, migrating in the straddling stocks, and so on. Our position was that something should be done internationally to deal with the straddling stock issue.

The UNCED conference in Rio de Janeiro in 1992, I believe, agreed with that concept and gave the message that the United Nations should look toward developing international rules and regulations with respect to the management of highly migratory species and, of course, straddling stocks. In the end, that led to the 1995 United Nations Fish Stocks Agreement, or UNFA. Of course, that was also one in which Canada took leadership, and we are very gratified by that development. Nevertheless, in NAFO the issue still seemed to be quite difficult in terms of bringing responsible fisheries management and to stock overfishing.

That led us to continue our quest, and in 2003 we contracted with Dalhousie Law School to develop this document, basically entitled *Straddling Fish Stocks in the Northwest Atlantic: Conservation Concerns and Options*. We actually got some funding assistance for this from the Department of Fisheries and Oceans, from the Government of Newfoundland and Labrador, and from Nova Scotia.

This document identified some recommended or possible amendments to the NAFO convention. Basically, it stated that if it's to be amended, it should incorporate UNFA principles. There should be, if you will, a bilateral type of diplomacy to see whether there can be some common vision among the major beneficiaries in terms of the allocation of stocks—Canada, the European Union, and Russia—on addressing or amending NAFO so that sustainability would be the vision of the future.

It identified decision-making problems in NAFO. It recommended that NAFO have an in-house, accessible dispute settlement mechanism.

Many of the issues coming forward are very important, but they're very much with respect to fisheries management issues. It recommended that the NAFO constitution really start to move and use words like "ecosystem-based management".

The Fisheries Council of Canada has been in the game a long time. We've actually been hiring people to help us develop a strategy.

I just want to talk about sustainability. One of the big issues the Fisheries Council of Canada has been working on, in concert with an organization we're members of, the International Coalition of Fisheries Associations, is the rehabilitation of the image of fisheries management. We have a problem in fisheries management in terms of the world's perception of us. We've had a record of considerable problems with fish stocks, both in national waters and in international waters.

The bottom line is that worldwide we're in the marketplace competing for a share of stomach with poultry, pasta, meat, and so forth. There's no question that food safety is not our issue. Food safety may be the meat industry's issue. Our issue, in terms of vulnerability, is sustainability. When you talk to retailers and food service operators, they want to ensure that when they're serving their customers, those customers can feel, with respect to the species they're eating, that they are part of the solution and not part of the problem.

What we've seen over the last number of years is that with major retailers in Europe, particularly in the U.K. and in France, and in Wal-Mart and Loblaw's here in Canada, with respect to fish and seafood, sustainability is the watchword. To a certain extent, that's a reflection of failures, if you will, in fisheries management either nationally or internationally. To try to address that issue, you basically have to modernize fisheries management.

Our job, in terms of the world marketplace, is to prove two things when we're out there selling fish. One is that we're not ruining the stocks. The other is that we're not ruining vulnerable marine ecosystems. There is pressure on our industry and on fisheries management from the marketplace and, in particular, from environmental NGOs.

As I say, I'm co-chair of the International Coalition of Fisheries Associations, which is the Fisheries Council of Canada, the National Fisheries Institute in the United States, the Russian fisheries federations, the Spanish fisheries associations, Australia, and New Zealand. Basically, industry gets the message. Industry gets the message that if we're going to be in this business, if we're willing to compete in the marketplace, we're going to have to demonstrate to consumers and to the world that what we're doing is sustainable.

• (1540)

In that background, around 2004-05 Canada decided to lead that message with respect to the modernization of NAFO. But really, for an institution that has been spending many years fighting over who gets how much fish—give me the fish, don't give it to you—there was a fairly quick pickup of this message that we have an outside world there, and just as Canada has to clean up its fisheries management regime, NAFO does also. So quite to my surprise, that was picked up.

With respect to the amended convention that we have in front of us, let me just say that the Fisheries Council of Canada has been involved in the process from the beginning. In that process, of course, we have our own industry advisory group that gives us advice as to how we should move, but I can tell you frankly that I've also had discussions and input from Bob Applebaum. His input and advice to us has been very important, as we've gone through the draft, in terms of getting specific types of changes that the Canadian delegation basically bought into and about which, at the same time, they were able to convince their colleagues from other countries.

But in terms of what we're looking at now, from the Fisheries Council of Canada's point of view we do not see any tangible negatives in the document. But we do see specific improvements with respect to the current NAFO regime.

We like the emphasis on consensus, and when consensus is not reached, in order for a proposal to be adopted there has to be a two-thirds voting rule. We like the fact that there's an accessible in-house dispute settlement mechanism. And we like the fact that the document codifies in NAFO a management regime that can be described as modern.

Our recommendation to Parliament will be to ratify the document as presented.

Thank you very much.

• (1545)

The Chair (Mr. Rodney Weston (Saint John, CPC)): Thank you, Mr. McGuinness.

Mr. Chapman, would you like to make some opening comments?

Mr. Bruce Chapman (Executive Director, Groundfish Enterprise Allocation Council): Thank you very much, Chair.

I am not going to repeat anything Patrick said. I'm here mostly, I suppose, as a witness to try to address questions, to the extent you have them. I jotted down a few things just as an overview for my own memory.

I started in the fishing industry in 1977, coincident with the extension of the jurisdiction to 200 miles. I suppose I've been covering the NAFO file since the early 1980s. So I've been kicking around the block on NAFO for quite a while, attending virtually all of the meetings.

When I look at the existing convention we have in front of us, I just reflect on the fact—from my observations over the 25 years or so I've been covering NAFO meetings—that we've had four very different phases of NAFO under the same convention.

I guess I'd like to describe the first phase as being from the early to mid-1980s. At the time, there were lots of fish and lots of quota on the go. Mainly based largely on these large amounts of quotas and fish, Canada controlled NAFO very much.

In addition to having lots of cod, which we had difficulty selling at the time—in a viable way, at least—we took some of our surplus cod and had a long-term agreement with the EU. In exchange for fishing rights in Canada, they provided us with reduced tariffs and with market access. In a similar way, we provided codfish to both Spain and Portugal through bilateral agreements. In addition to that, at NAFO and bilaterally—which affected NAFO—we provided underutilized species' quotas to the East Bloc countries.

So with that combination of trading away fish we weren't catching ourselves, we effectively controlled the NAFO environment during the first period of its life. And all was peaceful, more or less, at the NAFO table.

The mid-eighties changed things in a couple of different ways. These fish quota agreements, most of which were for market access, expired. At that time we saw the Germans lodge objections and saw them fishing cod on the nose of the bank—a lot of cod in one year in particular. We saw the EU change their approach at NAFO as well. Spain and Portugal joined NAFO in 1986. The EU very much didn't want Spain and Portugal, with their capacity, fishing in Europe; they wanted to find fishing opportunities for them elsewhere, including in the northwest Atlantic.

So the EU challenged the TAC-setting process and the quota shares. They basically challenged everything that was challengeable. At that time, Canada still had the underutilized species in its mix, and we were still able to secure votes, I suppose, at NAFO and cooperation at the NAFO table through the eastern European countries.

The decisions of NAFO at the table more or less went along well, but on the water we saw increasing problems with enforcement and cheating by fishing captains. It was systematic in the late eighties and early nineties.

Now, in the early nineties, in my view, we had the height of the overfishing problems and turmoil at NAFO. We had rampant use of the objection procedure by the EU, in particular, and we had the so-called discovery of the Greenland halibut or turbot resource at the time. It all led to the fighting over quotas for turbot, culminating in the *Estai* incident. There was conflict on the high seas.

When that was resolved—more or less around the same time, or in a similar timeframe, as the UN fish agreement came into place—we had a new phase. So in the last 10 years or so, we've moved into more of a détente and almost a cooperative arrangement with many of the former protagonists at the table, in particular the EU. Both Canada and the EU are cooperating on most of the issues at the NAFO table. How well all of this cooperation will continue is really unknown.

• (1550)

There are signs of fish stock recovery. There are signs that some of the countries who don't now have large quotas, notably the United States and Korea, would like to have a bigger share as these fish stocks recover. Canada and the EU have the largest quotas. It's in our interest to have a status quo in the quota-sharing regime.

That is why we support the move to a two-thirds voting system from the current 50% plus one. It helps us to defend our quota shares at the table. That's why we support an effective dispute resolution

procedure to deal with objections by countries such as the Faroe Islands, which are setting their own quotas for shrimp in 3L because they disagree with the outcome at the NAFO table.

When you get into these negotiations, the national interests come to the table. It's the international political environment and how it functions at the table, rather than the document itself, that will most influence the future. The document will help, but it won't dictate how long this will take to unfold. It may not be a made-in-Canada document. As in any dispute, you try to enter into negotiations in good faith to come up with a product that meets your basic objectives. In the end, you sit back and decide if it's in your interest or not. In our view, it is in our interest to ratify this new convention.

The Chair: Thank you, Mr. Chapman.

Mr. Byrne.

Hon. Gerry Byrne (Humber—St. Barbe—Baie Verte, Lib.): Thank you, Mr. Chair, and my thanks to our guests.

Mr. McGuinness, you laid a bit of a stink bomb here, but I'll ask you to respond to it quickly. You imply that Bob Applebaum has been advising you and that he's been integral to developing the current revised NAFO treaty. At least, that's the impression you left. You seemed to imply that Bob Applebaum supported the two-thirds majority and that he supports the provision of a NAFO mechanism inside the 200-mile limit.

Is that what you're telling the committee?

Mr. Patrick McGuinness: Absolutely not. All I'm saying is that this is a large document and that I sought and took his advice on some of the wordings. We debated the issue between 50% plus one and two-thirds, and we parted company on that issue. We debated a number of issues that at the end of the day we disagreed on.

Hon. Gerry Byrne: I appreciate your clarifying that, because I thought there might be a bit of confusion. Mr. Bob Applebaum would probably say to you that the UNFA provisions are pretty well similar to the NAFO ones except for one thing, the final thing. If a vessel is suspected of being in serious non-compliance with NAFO rules, under the UNFA the coastal state, say Canada, would be able to board, inspect, and require the flag state to impose appropriate sanctions and deal with it within three days. If the flag state did not, the coastal state would be able to draw those vessels into port and provide appropriate sanctions under domestic policy.

Under the revised NAFO convention, no such power would exist. UNFA provides the coastal state with a much more meaningful enforcement measure. The revised NAFO convention does not allow the coastal state to draw the infringing vessel into port.

Why is the NAFO solution better, in your opinion, than the UNFA solution? International law prescribes a way for Canada to board, inspect, and penalize an infringing vessel. Under NAFO, if the flag state doesn't do anything, then it's completely consistent within NAFO guidelines. Why would you want the revised NAFO rules instead of the rules under international law?

• (1555)

Mr. Patrick McGuinness: Basically, from an industry perspective, we are focusing on different issues than that. I must admit, in terms of my understanding of the document, I don't believe Canada has withdrawn its rights and obligations under the Law of the Sea or in UNFA. Have you asked that question of the legal representatives of the Department of Justice and the Department of Fisheries and Oceans and—

Hon. Gerry Byrne: The answer to your question, since you've asked it, is yes. When you sign on to a NAFO document providing a very specific enforcement measure or mechanism or process, that's the process you follow. As a ratifier of that NAFO convention, you don't then come out and say, "Well, we're not going to accept it. We're now applying a separate body of law called the UNFA law, which is outside of the NAFO revised convention." That's the response we got, so why would we do that? Why would you want to sign on to something like that?

Mr. Patrick McGuinness: I must admit you look at an agreement from an industry point of view and you ask what our fundamental objectives are here. Mr. Chapman and I outlined some of them. Seizing vessels and bringing them back and so forth is an element, but the issue is really trying to work in such a way where you're encouraging nations and fishing vessels to adhere to the rules and regulations.

It's an issue. As I said, we haven't focused on that from an industry point of view, nor is it necessarily the essential element in how you address the infraction. If you're saying that the only way to address an infraction is to cause an international incident, I'm not sure that's the way to go.

Hon. Gerry Byrne: I would disagree with your categorization of it, because it's in the Law of the Sea that the coastal state, the inspecting state, actually has the right to not only board and inspect, but if a serious infraction is committed to which the flag state is not responding appropriately, the Law of the Sea allows the inspecting state to seize the vessel, bring it to port, and pose appropriate sanctions if the flag state refuses. How that can be an international incident is beyond me.

Since you raised the question of the marketplace—and providing sustainable product is very important—let me ask you this about the whole circumstance surrounding NAFO's potential involvement inside 200 miles. In market certification it's very important that Europe certify Canadian seafood products before entry is allowed into the European Union marketplace. If they all of a sudden disagreed.... Shrimp, for example, is a transboundary stock that's managed by NAFO. A very small portion of it is actually managed within NAFO. Most of it is actually a Canadian stock or is managed by Canada. If Europe suddenly decided that the Canadian harvest inside the 200 miles was no longer very appropriate and that we were just catching too much turbot as a bycatch, or too much redfish, they could say that since it has actually been decided that Canada agrees

that NAFO has the ability to manage inside 200 miles—and it is a transboundary unitary stock....

Do you have any concerns that certain political pressures could be laid in the European Union? As a member of NAFO, they could simply say that since that provision exists within the NAFO convention, they want one management regime both outside and inside 200 miles. It is a NAFO-managed stock, so they could ask why we don't apply unitary measures. And if they don't get unitary measures, they could say, "You've got something to hide, Canada, so therefore we will not certify your shrimp product anymore." Is that a possibility, at least?

• (1600)

Mr. Patrick McGuinness: It is extremely far-fetched. I basically can't understand what you're trying to communicate, in the sense that the bottom line is that there are WTO rules with respect to how Canada has access to the European market. We have rights to the market under WTO.

There is no question, in terms of what's happening with the concern about sustainability, that there are retailers or whoever in Europe who want to ensure that the shrimp coming out of Canada is in fact being harvested responsibly and it's not illegal, unreported fish. The issue is that in terms of what's happening in Europe, they certainly are going to be requiring—it's still in negotiations—a catch certificate. Basically there will be an administrative agreement between Canada and the European Union wherein the Department of Fisheries and Oceans would be asked to certify that the shrimp was harvested in a registered Canadian vessel that had a quota and that when that fish was harvested the fishery was open—end of story.

That's the agreement we'll have. That's a trade agreement. This is called international trade. What you're talking about is some sidebar type of issue with respect to fisheries management. So the picture that you describe has no basis in reality.

Hon. Gerry Byrne: Mr. McGuinness, the seal issue is also a trade issue. It affects harvesters and processors in eastern Canada. Can I ask you, then, why do you think the Europeans asked for it? What is the basis on which the European Union particularly, as holder of the pen, wanted this special provision to allow NAFO to manage inside 200 miles?

If we know that the regulatory legal environment already exists in Canada to allow for cooperative science-based activities to occur in Canadian waters, that other mechanisms exist, that we've surrendered Canadian sovereignty on the banks, on the nose and the tail, to allow for protection of corals and sponges and other sedentary species, why do you suspect that Europe in particular wanted that specific provision to allow for management inside 200 miles?

Mr. Patrick McGuinness: I hope you've read the convention.

Hon. Gerry Byrne: I have.

Mr. Patrick McGuinness: Basically, there's nothing in this document that says a country has requested a provision so that it can manage fish inside the Canadian zone. Basically, there's a provision, as you say, that if suddenly Canada feels that NAFO has done something with respect to fisheries management or in terms of protection of the ecosystem, and if in fact some of that ecosystem ranges into the Canadian zone, and if Canada feels that it's in the best interest of the request to have a consistent management regime, then Canada has the option to go that way.

The way you positioned that opening comment, that the EU has requested that they have a provision that they can manage fish in Canadian zones, is a misrepresentation of the clause.

My understanding as to why they've requested it in there is that they have a similar provision in the NEAFC, the North East Atlantic Fisheries Commission, which governs the fishing activities on the eastern side of the Atlantic, and the Northwest Atlantic Fisheries Organization is on the western side of the Atlantic. They have it in that, and I suspect that what they wanted to see was some sort of consistency.

As Mr. Chapman said, you look at an agreement and you try to determine what is your basic interest. In this issue, it's quite clear in terms of the English language—I'm sorry, Mr. Blais, I haven't read the French translation—that the clause is designed in such a way that the coastal state, whether it be Canada, the United States of America, or Greenland, has protected its sovereignty, as rightly it should, and has an opportunity.

• (1605)

The Chair: Thank you very much.

Monsieur Blais.

[*Translation*]

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

Good afternoon, gentlemen.

Mr. McGuinness, in your presentation, you mentioned that you were surprised that the message about fisheries management had been well received by NAFO.

Could you explain your reaction? Why were you surprised?

[*English*]

Mr. Patrick McGuinness: I must apologize, Mr. Blais. I didn't have the translation.

[*Translation*]

Mr. Raynald Blais: I will repeat what I said. I know that the chair will be generous about the time; he will not cut me off and will give me a bit more time. I appreciate that.

In your presentation, you said that you were surprised by how quickly NAFO picked up the message or by how receptive it was to that message around 2004-05. I am trying to understand your reaction. Why do you think you were surprised?

[*English*]

Mr. Patrick McGuinness: I was surprised, because as I say, industry was already quite aware internationally that the issue we're facing in the marketplace is one of sustainability. We have to demonstrate that we're not ruining stocks, corals, and vulnerable marine ecosystem.

I know that countries such as Canada and the U.S. are quite aware of that, but NAFO has about 13 countries, and I wasn't sure that the Russian industry or government and even certain elements of the European Union, Spanish and Portuguese industries would be that responsive to this higher-level look at the situation we're in. When Canada presented this issue, that we have an image problem, a marketing problem, and that one of the ways forward is to upgrade this institution called NAFO so it has rules and regulations that demonstrate it is a responsible fisheries management organization—and by the way, that is important to us—I was surprised that some of our members were easily convinced that is a good path to pursue.

[*Translation*]

Mr. Raynald Blais: Unfortunately, history tends to repeat itself in certain cases, and in this situation, NAFO does not necessarily have a good track record when it comes to results. Just look at the Atlantic cod situation.

With that in mind, were you surprised because there was a new attitude solely towards the marketing opportunities? I do not get the sense that these countries are necessarily more interested in species conservation.

[*English*]

Mr. Patrick McGuinness: You're absolutely right, Mr. Blais, that the history here has not been glorious. I'm not naive enough to think that the situation is totally remedied. There's no question that there is a significant need to be vigilant.

I must admit that during this time of quiet that Mr. Chapman referred to, when basically there weren't enough fish to fight over, Canada had a very good strategy. The strategy for Canada during these quiet times, if you will, was to get a wide range of new enforcement and inspection types of measures into NAFO, and these were adopted.

So there is a higher enforcement issue. There's no question that it is a delicate situation right now, because long-distance fishing—

• (1610)

[*Translation*]

Mr. Raynald Blais: I am getting to the heart of the matter. After listening to your answers to my questions, how can we be satisfied with what is currently on the table in terms of enforcement? There is no use having pretty laws and wording, if there is nothing to enforce them. They are only worth the paper they are written on.

[English]

Mr. Patrick McGuinness: As you say, and as Mr. Chapman said, you have a document, whether it's the current document or the new document, that may be helpful, but the bottom line is that you will still need enforcement and inspection. And hopefully there will be cooperation with other countries in terms of their flag state responsibilities.

Another issue that has developed quite dramatically in international fisheries management is the emphasis on flag states' responsibilities with respect to what their vessels are doing on the high seas. This is a major issue, and there's a lot more pressure on countries such as Spain, Portugal, and hopefully China to respond to that now.

[Translation]

Mr. Raynald Blais: There has been a lot of talk about Mr. Applebaum's advice, and I listened to his remarks with keen interest. I also read what he wrote. In black and white, he says that there is absolutely nothing in the new texts or in the amendment you are asking us to ratify to suggest that enforcement will improve.

Therefore, we need to ask the people who took part in the negotiations to go back to the table and try again, because this is the crux of the problem. Pretty words are nice, but without any concrete enforcement measures, we run the risk of finding ourselves with the same problems and the same results, and ending up terribly disappointed.

[English]

Mr. Bruce Chapman: In my view, at least, there are two basic ways of looking at this. One is when people around a table like this one are making rules and regulations, quotas and sharing and measures, you have to ask yourself whether the proposed new convention helps that process or not. As we've determined and explained, the proposed new convention will help that decision-making process and solidify the shares.

[Translation]

Mr. Raynald Blais: In what way? Can you give a tangible example, please?

[English]

Mr. Bruce Chapman: Just in terms of a contracting party such as Denmark, for the Faroes and Greenland, they can now simply object to their quota share and establish unilaterally their own quota for shrimp that's five times what their quota would have been at the table. There is nothing in the existing convention that impedes that process. They simply object. They don't have to really state why they object. They don't have any accountability for objecting; they just do it and fish as they wish.

Under the new convention, they are required to explain in rational terms and register their reason for this. A dispute panel can be set up. The panel of experts goes through how legitimate the complaint is, and then it goes back to the fisheries commission with a recommendation. We now have a closed loop whereby, if they continue to ignore the fisheries commission advice, then they've put themselves into a quarter with respect to an international arbitration. So the countries are going to be a lot more careful in the future when they do that.

In addition to this, when the United States made a push under the existing convention to erode the Canadian share of yellowtail, all right, the 50% vote would make it easier for them to erode the Canadian share relative to a two-thirds vote requirement. So that is a strengthening of the convention at the table.

On the water, there's nothing in this convention, in my view, that's new or better or worse than the existing convention. You can't write conventions that will be good enough to change the attitudes of fishing captains on the water if they decide they're going to cheat. What's required in that is due diligence and vigilance in surveillance and enforcement. You cannot expect a piece of paper of any ilk to change what happens on the water, and that's why the policing action continues to be paramount.

• (1615)

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

Mr. Stoffer.

Mr. Peter Stoffer (Sackville—Eastern Shore, NDP): Thank you, Mr. Chairman, and thank you, gentlemen, for coming today.

Mr. McGuinness, just to reiterate very quickly, who do you represent exactly? What type of companies?

Mr. Patrick McGuinness: The Fisheries Council of Canada is a national association. We have members in British Columbia, Manitoba, Ontario, Quebec, Nova Scotia, P.E.I., New Brunswick, Newfoundland and Labrador, and Nunavut. We're primarily oriented towards the processing sector, but we also represent the main integrated companies, if you will,

Mr. Peter Stoffer: Which companies? Can you give a couple of examples just for the record?

Mr. Patrick McGuinness: In Newfoundland and Labrador, Ocean Choice International; in British Columbia, Canfisco; in Manitoba, the Freshwater Fish Marketing Corporation.

Mr. Peter Stoffer: Thank you. I appreciate that.

Sir, you stated here in your testimony that Parliament or the government should ratify the agreement. Am I correct?

Mr. Patrick McGuinness: Yes.

Mr. Peter Stoffer: Mr. Applebaum and the three other gentlemen, who have about 90 years of experience between them within senior levels of DFO, I think, said not to ratify it. So somebody's right and somebody's wrong. Are you able to say on the record right now whether these fine gentlemen are wrong or right in their objections? They can't be both, and you can't be both either, so....

Mr. Patrick McGuinness: Basically they're wrong in—

Mr. Peter Stoffer: Okay. No, no, that's just it, because we can get into a long argument as to why they're wrong, but if your testament is that they're wrong, that's fine. That's an opinion and it's yours, and it's good to state that, because that way we don't have to fool around mincing words here.

You also indicated—and I just say this as a sidebar to it—that you're concerned about the sustainability of the fish resource, not necessarily the safety aspect of it. I'm just paraphrasing you now. Surely your council would have serious concerns regarding mercury levels of tuna and swordfish, in those regards, I would assume, because those are serious safety issues for consumers throughout the world, right? I just wanted to give you a chance to correct that. You obviously would have concerns about those levels as well, wouldn't you?

Mr. Patrick McGuinness: In terms of fish and seafood, we say that Canada has a leading position on food safety.

The mercury issue is controversial because certain fish have developed elevated levels of mercury naturally. But the science is out, and as far as the products that are in the world market are concerned, some species have higher levels of mercury. Canada and other nations identify that. Nevertheless, the science says that in order to cause any real health hazard the level of mercury would have to be 10 times the level seen in fish in the marketplace.

Mr. Peter Stoffer: You indicated that you act in an advisory role to the people negotiating on behalf of Canada for NAFO. Do you actually go over there with them when you do that?

Mr. Patrick McGuinness: In more recent years the Fisheries Council of Canada has expanded. We have associations, such as GEAC and CAPP, that are more directly involved with the companies that fish the NAFO stocks—such as Mr. Chapman. They participate directly in the meetings. I attend NAFO meetings if they're held in Canada—for example, in Dartmouth.

Mr. Peter Stoffer: Mr. Chapman, do you attend those meetings overseas when they have them?

Mr. Bruce Chapman: I go to virtually all of them.

Mr. Peter Stoffer: Are you invited as a guest of the government, or do you go at your own association's expense?

Mr. Bruce Chapman: We pay our own expenses.

Mr. Peter Stoffer: Very good. Thank you.

The minister indicated the battle over the terminology of custodial management. The former minister said that NAFO was broken, and that's why when he was in opposition he indicated custodial management for the nose and tail of the Grand Banks.

The current minister has indicated that we have custodial management within NAFO now. Is that a fair assessment? My determination of custodial management may be different from the minister's, but I'd like to get your view on custodial management,

• (1620)

Mr. Bruce Chapman: I won't speak about what the minister said or didn't say, but we've seen in the past that NAFO has been broken through different things that have happened. If you look at what is currently happening and has been happening for the last several years and what is on the cards around the table right now, you have total allowable catch decisions that are consistent with the position the Government of Canada has adopted. So in virtually all cases on straddling stocks, and in most cases even on the Flemish Cap, which are not straddling stocks—they're distinct stocks—the NAFO decision has mirrored the Canadian government position. In addition to that, two or three Canadian patrol vessels in the NAFO regulatory

area have had very effective surveillance and control capabilities, in the last several years at least.

As it stands today, at both the NAFO table and on the water in control and surveillance, you probably couldn't distinguish any difference. If we had custodial management where we were totally making all the decisions ourselves rather than having a multilateral table, there probably wouldn't be much difference today. The question is about the future. The extent to which there will continue to be agreement at the NAFO table with the other countries is unknown.

Mr. Peter Stoffer: Thank you.

The Chair: Thank you very much, gentlemen.

Mr. Patrick McGuinness: Can I just add to that?

The Chair: Be quick, Mr. McGuinness.

Mr. Patrick McGuinness: There is one element that's been added and that's consistency. If Canada takes measures on straddling stocks, NAFO has an obligation to try to seek consistency with those measures.

This convention adds a dispute settlement mechanism. We've always had the consistency principle in there, but we've never had any way for it to have teeth. With this document, we have a dispute settlement mechanism that gives a little more play to the consistency obligations of NAFO to what Canada does in management measures. That's also one answer to Mr. Blais' question as to what's in this that's really a bit of a take-away.

The Chair: Ms. O'Neill-Gordon.

Mrs. Tilly O'Neill-Gordon (Miramichi, CPC): Thank you, Mr. Chairman.

Thank you both for being here this afternoon and for the great presentation.

Although I come from a little fishing village called Escuminac on the Miramichi, I certainly have a lot to learn. I'm new on this committee, and I'm enjoying the steep learning curve.

On Tuesday, we heard from Minister Hedderson from the province of Newfoundland and Labrador. He was a little vague when he was discussing Newfoundland's role in the NAFO Canadian delegation. Am I correct to assume that industry's role during these talks would be similar to that of a province, in that you are consultative and you get time to provide input into the process?

Mr. Patrick McGuinness: Yes. I sit on many advisory committees and that sort of stuff. One of the real hallmarks of a great type of model is in fact the NAFO advisory committee, which, as you say, deals with provinces and industry in terms of seeking input, analysis, and so forth. It meets at least, I think, three or four times, or maybe five times, during the course of the year, before the meeting.

Mrs. Tilly O'Neill-Gordon: I feel this could be very important, as you do too, that the input is given to these people and that they can work on behalf of all Canadians.

We know the fishing industry is very important. Can you discuss the role that the industry plays in those talks and, if possible, give us your views of the process of reforming the convention?

Mr. Patrick McGuinness: Mr. Chapman is more intimately involved in the meetings and discussions, so I'm going to ask him to enlighten you on that.

Mr. Bruce Chapman: There is a distinction between our role in preparation for and at the NAFO meetings, which are held on an annual basis, and the process that was involved in the negotiation of the new convention.

In the negotiation of the new convention, we were not at the table. We received regular briefings, I would say, three to five times a year for the period of time, the two years or so, that these discussions were taking place. In those briefings we would be informed of the positions of the various parties and also draft text. On issues such as the dispute resolution procedure and the voting, we had as a delegation an opportunity to make the decision, in effect. It was very clear that, especially on the voting procedure, it's a judgment call. It could go either way. There were cases to be made for both.

The Canadian delegation collectively made its judgment to go with the two-thirds process, but that was second-hand. We were not at the table.

In all other aspects of the NAFO meetings, we are effectively at the table and we have real-time observations of what the other countries are involved with. In fact, we often advance the Canadian perspective through the industry contacts that we have at the table. We're involved in bilateral meetings as well.

•(1625)

Mrs. Tilly O'Neill-Gordon: Then would you say there was pretty well a general consensus amongst all parts of the Canadian delegation?

Mr. Bruce Chapman: In terms of the delegation meetings on the NAFO convention, I don't recall any views expressed contrary to the consensus of the Canadian delegation.

Mrs. Tilly O'Neill-Gordon: So you're saying there was a comfort level with how the process unfolded with the delegation and in working with the other states.

Mr. Bruce Chapman: Yes, I believe so.

Mrs. Tilly O'Neill-Gordon: Were you comfortable with Canada's negotiation team?

Mr. Bruce Chapman: Yes.

Mrs. Tilly O'Neill-Gordon: Mr. Chairman, how much time do I have left?

The Chair: You have five and half minutes.

Mr. Patrick McGuinness: Perhaps I could add that one of the issues we were concerned Canada would not be able to maintain in the new regulations was the consistency clause, because that type of phrase has been...not watered down but changed in UNFA to compatibility.

That was really quite an achievement, I think, in terms of the negotiations, that we maintained the consistency clause whereby that implies an obligation on NAFO to be consistent with management

measures and decisions that we make with respect to straddling stocks.

Mr. Bruce Chapman: There is one other point under that controversial clause whereby, at a coastal state's request and if the coastal state concurs, the NAFO regulations can apply within our zone. We discussed that clause extensively during our discussion and in the process of our review.

In all aspects of the debate, nothing was brought to my attention that gave me any concern that Canada would lose or have its sovereignty eroded. Just as it exists in the northeast Atlantic, it exists in the northwest Atlantic. It's an enabling clause, but it doesn't diminish in any way Canada's ability to decide to exercise its sovereignty or not.

Mrs. Tilly O'Neill-Gordon: It's nice to hear that.

I understand NAFO sets management measures every year, as it did for the reopening of the two stocks this year. What happens if a decision is not finalized at the meeting? Could people just fish wherever then?

Mr. Bruce Chapman: It's almost a theoretical question. We've never run across it before. It often can happen, if you can't reach agreement at a particular meeting, that you convene an intersessional. The annual meeting was held in September in Bergen, and there will be an intersessional discussion on 3M shrimp in London next month. I'm not sure that it's not just a theoretical question.

Insofar as the theory even exists, you have a default scenario built into the green book, as I understand it, the conservation control measures, whereby you can default to the prior year's decision if there is no consensus or agreement on the coming year. Maybe other experts can confirm that.

•(1630)

Mrs. Tilly O'Neill-Gordon: Thank you.

Thank you, Mr. Chair.

The Chair: You have two and a half minutes remaining.

Mr. Mike Allen (Tobique—Mactaquac, CPC): Thank you, Mr. Chair, and thank you to my colleague.

I have just a couple of quick questions, but there may not be quick answers, though.

I was interested in your comments with respect to having a written text, and how it applies in the seas is something completely different. That's true. You can have it written down. It's like piracy; it's illegal, but we still have a lot of it on the high seas. Can you answer as to the way the objection procedures play today, as opposed to how they might play in the future under the dispute mechanism? Some comments on testimony said it could be dragged out for months and months. As opposed to today's NAFO convention, how do you see that playing out? Can we see this going on for years while a country overfishes a stock?

Mr. Bruce Chapman: We currently have two objections alive and well at NAFO. One is by Iceland on 3M shrimp on the Flemish Cap, and that particular objection is to the management regime that's out there, the days on ground as opposed to a quota system. They've put in place a quota system that is arguably comparable to their days on ground.

That does not cause me great concern. It's a philosophical objection as much as anything else. Frankly, the Government of Canada and Canadian industry would agree with Iceland that we need to move forward to a total allowable catch and quota system for that stock, like all other stocks we have.

The other type of objection they have there is with Denmark for the Faroes and Greenland. They simply say they think their share should be more and better than it is, and until it gets better they'll set their own TAC unilaterally. There is no other recourse, no other process; there's nothing in the existing convention to change that.

That objection has been annualized and rolled over every year for many years now. It is very similar to the objection the EU used to have years ago on species and stocks like the Greenland halibut. There is no recourse currently. At least under the new convention, there is a timetable and process that may take some months, but at least within a year's cycle you can, in effect, bring that one to ground, if I understand the timetables properly.

The Chair: Thank you very much, gentlemen.

On behalf of the committee, I want to say thank you very much for coming today and appearing before our committee. We really appreciate the time that you've put in here.

We'll take a five-minute recess while we change to our next guests. Thank you.

- _____ (Pause) _____
-
- (1640)

The Chair: I ask members to please take their seats and we'll resume.

Before we begin with our next guest, we will distribute the subcommittee report that was discussed here a few weeks ago.

As we planned for future meetings, this is what was decided by your subcommittee. There have been some names submitted of more witnesses with respect to the NAFO convention. The subcommittee had determined that we would allot three meetings for dealing with the NAFO amendment and with the additional witness' names that have been put forward. We need to have some discussion about how much more time we want to commit to the NAFO amendment.

As you can see from the subcommittee report, the October 20 and October 22 meetings have been held with respect to the NAFO convention. The October 27 meeting would be Boris Worm and NAFO, and we tentatively scheduled October 29 for an update on small craft harbours, as well as November 3 and November 5.

Going forward, it's small craft harbours for the following two meetings, November 17 and November 19; and November 24 we set

aside for a discussion of work plans and terms of reference for the study that we talked about on Pacific salmon in B.C.

Mr. Byrne, did you want to make a few comments?

Hon. Gerry Byrne: Yes. The committee has decided to continue with this. I put forward a list of potential witnesses that I think would add great value to our committee. We've heard today from the FCC, the Fisheries Council of Canada, and others. I'll cut right to the chase.

I want to recommend Bill Rowat as someone this committee needs to hear from. He's a former Deputy Minister of Fisheries and Oceans Canada.

George Rose, I understand, was contacted for next Tuesday but wasn't available for that particular day. Dr. Rose is extremely anxious to appear before this committee. He's a former chair of the Fisheries Conservation Group from the Memorial University of Newfoundland.

To get the other side, we've heard from the FCC and others today.

Gus Etchegary, a former president of FPI, is now one of the driving forces behind the Fisheries Community Alliance. It's a very active group in terms of supporting fisheries conservation and has expressed some opinions about this particular NAFO treaty. I think it would be very important for the committee to hear from them and, as well, David Vardy and Les Dean, both of whom are former Deputy Ministers of Fisheries and Aquaculture of the Department of Fisheries and Aquaculture in the province of Newfoundland and Labrador and, I think, former participants in the NAFO process, who may have actually played a very fundamental role in some of the past decisions and format.

Since we have taken the time as a committee to decide some time ago that we needed to address all aspects of this particular issue rather than deal with my motion two weeks ago, and we decided that we need to hear those witnesses, I really think a former Deputy Minister of Fisheries and Oceans Canada, two former Deputy Ministers of Fisheries and Aquaculture in the province of Newfoundland and Labrador, and Gus Etchegary, who represents fishing industry interests in the province of Newfoundland and Labrador, and George Rose, a fisheries scientist and former chair of fisheries conservation, would be great fellows to hear from. So I'd ask the committee to support that.

• (1645)

The Chair: Are there any questions or comments?

From what I'm hearing from Mr. Byrne, we'd have to dedicate another two meeting days, I would say, to witnesses, so if that's the committee's wish....

Mr. Kamp.

Mr. Randy Kamp (Pitt Meadows—Maple Ridge—Mission, CPC): I guess my comment is that we've been putting off the small craft harbours program report for a long, long time, and we do need to get to that. We have already heard from a number of former officials of DFO, perhaps not the ones from Newfoundland and Labrador, so I think we're reasonably well represented there, having heard from them and seeing their testimony as well before the Senate.

My personal opinion would be that this side of the argument, if there is a side that they take, is already fairly well represented at this point.

The Chair: Thank you, Mr. Kamp.

Mr. Byrne.

Hon. Gerry Byrne: As I say, Mr. Chair, that was a very specific point that I raised two weeks ago as to whether or not it was time for the committee to move on to another issue. The wish of the committee was no, it was not. More study needed to be done on this. We had to hear from Minister Tom Hedderson or the Premier of Newfoundland and Labrador even though two days earlier Minister Tom Hedderson had appeared before the Standing Committee on Foreign Affairs and International Trade.

In order to provide balance to the witnesses that we've heard thus far, especially the additional witnesses, I really think the committee decided that more testimony was required, that it was not time to clue this up two weeks ago. I specifically raised the point about its impact on other business. That was not a factor. I am now simply saying that to provide balance to some of the testimony we've heard, I think hearing from a former Deputy Minister of Fisheries and Oceans; two former deputy ministers from the province; Gus Etchegary, who represents fishing stakeholders from the province of Newfoundland and Labrador—probably, yes, admittedly on a different side of the fence from what Bruce Chapman and Patrick McGuinness may be on, but still a very valuable opinion to hear from—and, of course, George Rose.... We're hearing from academics on Tuesday. George Rose is a former chair of fisheries conservation at Memorial University. I think his testimony would be quite in order.

I simply ask my colleagues on the committee, in the spirit of what happened two weeks ago, that we now do what we say and let's hear a good, full, broad-based repertoire of testimony from a broad swath of witnesses.

The Chair: Thank you, Mr. Byrne.

Mr. Stoffer.

Mr. Peter Stoffer: In fairness, and Randy would know, we've asked the government, appropriately, to delay any kind of ratification—I think 21 days, if I'm not mistaken—and the purpose was to have an enhanced study.

I would tend to agree with Mr. Byrne on this one, but my question for Mr. Byrne is this. Instead of having four or five days of this, would it be possible to bring them in as a group and to do it in one day? Would they all agree, more or less, on the same instance? Or would you need a couple of days for that?

The Chair: I think it's possible, but a lot of it depends on schedules.

Mr. Peter Stoffer: I understand that.

The Chair: Obviously we have to contact the individuals to see what their schedules will allow. But yes, it's possible to bring in more than one, as we just saw here with the witnesses before, where there was more than one group represented at the table at one time. So yes, we can look into that.

I was just judging by the numbers that Mr. Byrne put forward as a number of potential witnesses, and it's probably going to add a couple of more committee days. To be fair to the witnesses as well, you don't want to bring them in and have them be part of some side show here. You want them to be able to express their opinions and their views with the amount of time that they deem necessary to do so.

Mr. Peter Stoffer: That's fine.

The Chair: I appreciate that, Mr. Stoffer.

Monsieur Blais.

[*Translation*]

Mr. Raynald Blais: Thank you, Mr. Chair.

You know that I am all for cooperation. In this file, in particular, I am not at all questioning the list of people put forward to appear before us to give their version of the story. I see that we will have a chance to talk to fishery conservation officers. I have no problem with the choice of witnesses. The same goes for the opposite point of view. We are talking about the opposite point of view, but ultimately, it is an informative point of view. That is how I see it.

I think that my colleague's request is appropriate. I am willing to support additional meetings to bring the necessary clarity to this file. But I am not at all questioning the choice of witnesses from one party or another. These people no doubt make choices in good faith and call on witnesses who will help us to understand an issue better. That is what our witnesses just did a few minutes ago, and I would imagine that future witnesses will do the same.

With that in mind, I urge everyone to support adding two extra meetings so that we can hear from witnesses and then brings things to a close. We do have a deadline of sorts. I appreciate that we need to give ourselves more time, but we cannot stretch things out too long, either.

• (1650)

[*English*]

The Chair: Thank you, Monsieur Blais.

Are there any more comments on that subject?

Mr. Allen.

Mr. Mike Allen: Thank you, Mr. Chair. I have a quick comment, and maybe there's a clarification that Mr. Byrne could give me, because I don't want to tie our witnesses up any longer.

I'm okay with bringing some more witnesses in. I would ask for some clarification as to whether we can pare that list down a little bit. Why two deputy ministers? Can we pick one of them to speak on that behalf and to try to do that? And would there be a possibility that we could put forth a witness as well on that?

I would ask Mr. Byrne. I'm not opposed to the witnesses, I'd just like to maybe trim it down a little bit and ask why two.

The Chair: I think it's a valid question, and if you want to put forward other names as well, you'll certainly have every opportunity to do that.

Mr. Byrne.

Hon. Gerry Byrne: The most obvious answer to that question would be that they represented the province of Newfoundland at different periods of time, different historical periods.

David Vardy and Les Dean were part of the NAFO process, part of the international management process, during two very discrete and specific times, and their perspectives in that regard would be extremely valuable.

The Chair: If there's no more discussion, I'll ask the clerk to come back with a revised work plan and contact the individuals as to their availability. Thank you.

At this time, I'd like to welcome our guests.

I'm sorry for the delay, gentlemen. We really do appreciate your taking the time today to appear before this committee. I'm not sure who's going to be leading the discussion.

Mr. Jenkins, you'll be leading the discussion. I would ask, if you want to make some opening comments, that you do so at this time.

You'll probably hear a beeping noise up here. You probably noticed as you were sitting listening to the last guests that there are some time constraints that we try to adhere to. We generally allow about 10 minutes for opening comments. Don't feel you have to use the entire 10 minutes if you don't feel it necessary. When you're making your comments, I'd ask if you could introduce your associate with you as well.

Please proceed at any time, Mr. Jenkins.

Mr. Randy Jenkins (Director, Enforcement Branch, Department of Fisheries and Oceans): Thank you very much, Mr. Chair, and thank you all for the welcome and the opportunity to come here today to speak to you.

As you probably guessed from the green uniforms, we're from conservation and protection, enforcement branch.

To give you a quick introduction, my colleague Kevin and I are both from Newfoundland coincidentally, although he currently works in Newfoundland, in the St. John's office, and he is the director responsible for the operational aspect of our program, including the NAFO component. I, on the other hand, work here at 200 Kent Street. I moved from Newfoundland in 2005 and I currently look after more of the policy side of our operational programs.

What we thought we would do today is have Kevin give you a quick overview of the operational side of the program of NAFO and how it fits into the scheme, and then, of course, we'll offer you some great answers to your great questions at the end of the session.

Kevin and I both started as fishery officers and have both worked offshore. We've been to sea, we've flown, we were in port. We know first-hand what goes on in the NAFO regulatory area and we know what the fish look like and smell like and we also know what it's like to be seasick. We've been there.

I'm going to turn it over to Mr. Anderson.

Thank you.

•(1655)

Mr. Kevin G. Anderson (Director, Conservation and Protection Division, Department of Fisheries and Oceans): Thank you, Randy.

We've handed out a document that outlines what we hope to present here today. We'd like to show how the monitoring, control, and surveillance program applies to the reform process. We would also like to describe the elements of the current Canadian NAFO enforcement program and some of the progress we've made in recent years.

The NAFO reform process has two elements. First, we have the convention reform process, which my colleague and I are not in a position to speak to. Second, we have the reform of the NAFO conservation enforcement measures, which took place in 2005 and 2006. Specifically, we would like to speak about the elements of this process as they pertain to monitoring, control, and surveillance. We would then like to review the effectiveness of the existing NAFO monitoring, control, and surveillance regime in the context of the fight against illegal, unreported, and unregulated fishing. In this way, we hope to determine the changes needed to strengthen the scheme and make it more effective and efficient in its operations, results, and expenditures.

I turn now to key elements coming out of the post-reform process and key measures we have achieved. There is now an enhanced follow-up provision in regard to certain serious infringements such as misreporting of catch, misreporting of area, and targeting species under moratoriums. This provision allows for the immediate recall to port of a vessel suspected of being in contravention of the measures.

In addition, we have clarified for NAFO members the penalties and sanctions that may be employed by flag states for serious infringements. This results in greater transparency. It forces them to state what happened to these citations and what they did about it.

We've also achieved improved control measures for stocks identified in our rebuilding plan. For example, we now have a provision under which all vessels that fish for Greenland halibut in the NAFO regulatory area must be inspected upon returning to port, including Canadian vessels.

We have enhanced bycatch requirements and established the definitions of bycatch and directed fishing. We have achieved provisions whereby vessels have to move when they encounter excessive bycatch. In the most recent measures, as they pertain to 3M cod and the opening of that fishery, we have retained 5% as opposed to the more normal 10% for actual directed fisheries.

We have achieved improvements in the recording of catch and stowage plans. For enforcement officers, stowage plans are very important. It's our way of understanding what's actually being put in a particular part of the vessel's hold. As one inspector leaves and the next inspector comes on board a few days later, you get a good picture of what fish are being stowed where. It's an important component, something we achieved as recently as 2006.

Enhanced port state control has been achieved as well. Since last year, before entering a port state, flag states have been required to declare that the catch on board is proper, that all the procedures are in place, and that all the proper authorizations have been acquired. We have also achieved an improved vessel monitoring system. In the recent NAFO meetings in Norway, these measures were updated and improved, so that now we will get one-hour reporting as well as the reporting of course and speed.

Within the NAFO regulatory area, I want to bring to your attention the areas known as 3M and 3N. That is the nose and tail and the Flemish Cap, and it is principally the area we're talking about. We're equally responsible for sovereignty and the patrol of boundary lines.

Canada spends approximately \$30 million a year on the NAFO enforcement program. This includes our program, the conservation and protection program, the coast guard vessels, the air surveillance contract, and contributions from the Department of National Defence, which also patrols in airplanes and aboard ships. We have, as a result of that, approximately 800 dedicated coast guard and DND days for patrol in the NAFO regulatory area. I would like to highlight that the way we manage, the vessels are actually on alternate weeks. We want to maximize our presence as much as possible. On the return to port, they get approximately 12 hours' turnaround to change crews, change fisheries officers, provision and so on, and get back out.

• (1700)

A very important component of our program is that we stay out in all weather. In the recent storms, with winds of 100 knots, the *Cygnus* was on patrol. We are also out there during Christmas and the holiday season. We don't alter the program in any seasonal way.

We have 23 inspectors in the NAFO unit. Some of these inspectors have 25 and 30 years' experience; others have less. These inspectors receive various types of training in addition to the regular fishery officer program and are often seen by their colleagues in the NAFO area as people they can look to. They provide training for people from other countries, and we have had requests—as recently as last week from St. Pierre, for example—for training on import inspections. We also provide on-site training for United States inspectors, as well as some from Europe—the Baltic states, and so on.

We have an air surveillance program dedicated, contracted, and delivered by provincial airlines as well as by the Department of National Defence. I would like to note that the significance of the air surveillance program is the coverage area, of course—we have close to 300 flights a year in the area—but it also has significance for sovereignty, for the protection of Canada's 200-mile limit.

The air surveillance program contributes to our marine security program in a broader sense as well, but the air surveillance program has been instrumental in addressing the issue of boundary line violations that were so prevalent back in the 1980s. And of course it's very important for us, in gathering data, to match up with other sources of information in the NAFO regulatory area. We enjoy quite a lot of cooperation, as just noted, with other countries.

But a key, I think, to the whole program is not just the application or the deployment of significant large capital resources, such as ships

and planes and so on, and the use of vessel monitoring systems, but how you integrate it—forensic analysis. It's the use of those resources to get a sense of the picture, to be constantly forward-looking.

A violation is the result of the actions of one master, and a citation of the ability of inspectors to intercept at any particular time. But the use of the information in a broader way to integrate where they are fishing now with what the historical patterns are and what the seasonality component is, matching what an inspector sees at sea with where the vessel is actually fishing at various times, is very important to our ability to understand what we believe the catches to be and what we believe the situation currently is.

Specifically, I would like to note some of the post-reform results. We have seen a very significant reduction, as no doubt you have heard, in fishing activity in this area from the 2003 period onwards. There has actually been a 70% decline of fishing activity in the NAFO regulatory area in that timeframe, and approximately 50% more recently.

Some other measures, of course, pertain to bycatch and so on. We have had vessels called back to port since 2006, and on every occasion we have had an opportunity to participate in the inspection.

Thank you.

The Chair: Thank you very much, gentlemen.

Mr. Byrne.

Hon. Gerry Byrne: Okay, Mr. Chair.

As fine a gentleman as Mr. Jenkins is and as Mr. Anderson is, and clearly they are, I don't think it likely that they're going to be able to comment very much on their preferences within the revised NAFO treaty. So I guess what we're really here to do is talk a little bit about enforcement and so on.

So let me ask a broad-based question. How's morale? When those 23 inspectors within the NAFO unit come across a vessel that is clearly not holding up its end of the bargain but is breaking the rules, and when things don't necessarily happen the way we all would want, does that affect morale within the inspection unit? How is the morale amongst the troops?

•(1705)

Mr. Kevin G. Anderson: Morale is quite good. I think a significant component of morale pertains to the enhanced program that we have seen since 2004: the additional vessels and aircraft and so on, as well as some of the new measures we have achieved—such things as course and speed, for VMS information is very helpful to the way we do business. It is very complicated and requires quite an effort, being at sea on a continuous basis, to keep up to speed with all the measures to make sure that the program is operating effectively, but I would say morale is good.

Hon. Gerry Byrne: Why won't the Department of Fisheries and Oceans release the at-sea observer reports? I think the department is creating a cloud around itself and participating in a conspiracy, in some people's minds, by not releasing these vital reports to allow us to see first-hand whether infractions are really on the decline or are in fact steady as she goes. Why won't the department release them?

Mr. Kevin G. Anderson: Speaking specifically to observer reports, commercial confidentiality is the reason we don't release them.

As to the nature of the improvement in the situation, there's a whole array of issues, opportunities, and tools at our disposal, including information on the number of vessels, the decline in fishing activity, obviously the role of observer. There is the role of inspectors and the increased inspection rate. We have maintained our number of inspections, although the number of vessels has declined quite significantly. We are on board very often—more often than in most other jurisdictions that I know of. In addition to observers, we have a significant number of resources at our disposal to monitor the compliance rate.

Hon. Gerry Byrne: Why won't you release them in aggregate form? I don't necessarily accept the premise that commercial confidentiality applies to the high seas, especially when it comes to decisions of the United Nations and the Law of the Sea. Canada has a responsibility, in my opinion, to provide data and information as to what the management is. I don't see why it's confidential, but that's a point of argument.

Why don't you release them in a certified form in an aggregate way that does not show the individual catches of individual ships?

Mr. Randy Jenkins: Mr. Chair, it's tough even in the Canadian industry to talk about personal information. In this case we have third parties, other countries, collecting this information and providing it to the secretariat. In turn, the secretariat provides it to us. It's in a kind of confidence, in a trust mode, for the purposes of use in the NAFO regulatory area by inspectors and by the countries.

I can appreciate the suggestion in the query that it would be useful to read, but this is a question our ATIP or privacy people would have to advise us on. We do our utmost to work within the confines of the NAFO regulatory requirements and also within Canadian privacy laws.

Thank you.

Hon. Gerry Byrne: Thank you.

The Chair: Go ahead, Mr. Andrews.

Mr. Scott Andrews (Avalon, Lib.): I have a couple of questions on the at-sea inspections.

You said you did 200 to 250 annually. That would mean you'd be boarding a vessel every day or day and a half. Is that fair to say? That number seems a bit high.

Mr. Kevin G. Anderson: We have a very high rate of inspection. For example, this year there were some vessels on which we did inspections two or three days apart. Some vessels are there longer than others and are inspected many times throughout the year. At any given time.... I think 51 different vessels to date in 2009 have fished in the NAFO regulatory area. The maximum on any given day was 22. We are now at 147 inspections so far this year. If you think about that purely on a vessel basis, it's about three inspections per vessel, but in actual fact some vessels were inspected 10 or 12 times, and others only once.

•(1710)

Mr. Scott Andrews: Your infringements chart shows that infringements bottomed in 2008, and it seems to be that they are increasing in 2009. Is that fair to say, going by your graph?

Mr. Kevin G. Anderson: Yes, we had eight different infringements in 2008 on seven different vessels, and we have had 12 infringements in 2009, again on seven vessels.

Mr. Scott Andrews: Were they the same seven?

Mr. Kevin G. Anderson: No, not the same seven.

I noted earlier the significance of things like capacity plans in some of these measures, so in recent times, up-to-date capacity plans have been one of the key components we're looking for, because it's so important to us in understanding what's actually on board. A number of those citations were issued for things like those types of administrative, if you will, infractions pertaining to capacity plans, stowage plans, and so on.

Mr. Scott Andrews: Explain to me what we're talking about here when we refer to serious infringements. Where does it go after you say you have a serious infringement, and how far does it carry on before you rectify the problem?

Mr. Kevin G. Anderson: Serious infringements as opposed to non-serious infringements emerged in NAFO's terminology probably about four or five years ago. Prior to that it was all one category. Serious infringements are outlined in the NAFO conservation enforcement measures specifically. They are things like misreporting of catch, misreporting of area, directing for species other than what you're authorized to fish for, and so on.

When an inspector believes there's an infraction, the process is to call the flag state and advise them that they now, as per the measures, have to come on board, and we'll follow up. If they're not there, they have to have the vessel returned to a port for follow-up. In most of the cases where serious citations have been issued.... For example, if it's the European Union, a vessel is in the area so the inspectors would come on board and do their thing. In all cases since 2006, they have confirmed what Canadian inspectors believed to be the case, and the vessel has been asked to go to port. Canada has requested and has been granted the opportunity to send our inspectors there when the vessel arrives. Usually it's one of the inspectors who was on board, plus some other person. Holds are sealed and so on during the transportation back to home port. Then there's the process of validation of what's on board.

Some of those cases have not been finished in the courts of their flag state, I should note, but we believe that in all cases the observations of the inspector have been validated.

Mr. Scott Andrews: What flag states are we talking about here? Is it one area in particular, or is it all of the European Union?

Mr. Kevin G. Anderson: In terms of serious citations issued in recent times, we have issued citations to European Union vessels and I believe a Russian vessel, as well.

Mr. Scott Andrews: Thank you.

The Chair: Monsieur Blais.

[Translation]

Mr. Raynald Blais: Thank you, Mr. Chair.

Good afternoon, gentlemen.

I have been a member for five years and have experienced very high levels of frustration during my political career.

You are fishery conservation officers. I would imagine that, as far as NAFO goes, your level of frustration is even higher than mine. If I look at the area you cover, the mission you are tasked with and the results achieved over the years, I would think that you are extremely frustrated with everything that is going on.

First, I need you to clarify something. I may not have done my homework as diligently as I should have, but in terms of the dockside observer program, who are the observers and who pays and appoints them?

•(1715)

[English]

Mr. Randy Jenkins: Each contracting party is responsible for placing the observers on board the vessels. That's not to say they can't make arrangements with other countries if they so please, but generally Canadian vessels carry Canadian observers, European vessels carry European observers—not necessarily from the same country, the flag state, but certainly from the same contracting party.

Now, there have been in the past some Scandinavian states—I believe Norway, and some of the Baltic states, before they entered into the European Union—that did contract Canadian observers simply as a matter of economics—it was cheaper—but by and large, the observer on board the vessel will be provided by the contracting party to which the vessel belongs.

[Translation]

Mr. Raynald Blais: Quite honestly, I was worried you would say that. How can we really trust them? That is just my personal opinion. I am sure you have yours.

We are considering amendments to a convention that governs your work. You have no choice but to come to terms with all this. There are changes announced—I was discussing them with other witnesses not that long ago—to the level of enforcement in terms of the legislation or agreements between the 13 countries.

As someone in charge of enforcing the law and the overarching principles, do you feel that these amendments will make your job easier, or will the situation stay the same?

If there are changes, what will they be? If not, what changes would you like to see?

[English]

Mr. Kevin G. Anderson: Thank you.

I noted earlier in the presentation that there are two pillars, or two elements, to the NAFO reform process, one being the convention itself and the other being the conservation and enforcement measures. The convention itself is kind of like that institutional framework or governance. The measures are the area where the regulations reside, if you will. It's this document. I and my colleague are co-chairs for Canada of the subcommittee at NAFO on STACTIC, which is the enforcement group, the people who write the measures and so on—sometimes, and at other times the commission is involved in writing them—so in that sense, the current or any future instruments. It is in fact the measures that become the instrument for addressing what the rules are and what the enforcement mechanisms are. As I noted earlier, since 2006 we have already achieved a number of measure changes, not the least of which, of course, is the recall provision, which has been very useful for the monitoring and control surveillance program.

[Translation]

Mr. Raynald Blais: But are you able to answer in terms of the proposed NAFO amendments, or not?

[English]

Mr. Kevin G. Anderson: I cannot speak to the convention process—no, I cannot—but I can speak to the measures that are adopted pursuant to the process in STACTIC, and that is our instrument for putting measures in place for enforcement in the NAFO regulatory area.

[Translation]

Mr. Raynald Blais: You mentioned the tools at your disposal. You talked about some of the results you have achieved, and, to use a maritime expression, I get the sense that the results are just the tip of the iceberg.

Do the results vis-à-vis infractions account for 10%, 20%, 30% or 50%? What percentage of infractions would you say is committed in that area, which is practically unlimited?

[English]

Mr. Kevin G. Anderson: In the recent period—I guess we're talking about that timeframe from 2003 up to the present—we have seen a significant reduction in fishing effort, as I noted earlier, and we have also seen a general decline in the number of citations, albeit an increase in 2009, but only the same number of vessels. So in terms of a percentage, I'm not sure if I can, off the top of my head, figure out what the numbers are, but say, for example, I think the number of citations issued was 37 in 2002 or 2003 and that number is now down to eight, nine, or ten per year. So it's probably by two-thirds, about a 70% reduction in fishing effort.

• (1720)

The Chair: Thank you.

Mr. Stoffer.

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

First of all, gentlemen, thank you for coming, and thank you for your service to the department and to the country, as well.

You indicated, in the section on the reduction of fishing vessel activity in the NRA, reduced rates of bycatch of moratorium species. Is it not also fair to say that some of that reduction may be because the species themselves have declined to a point where they aren't as bountiful as they were before? Besides just enforcement and keeping an eye on those we call the "pirates" out there, maybe some of that reduction has been because the species themselves aren't there.

Mr. Kevin G. Anderson: There is a number of factors. I believe that a significant component of the reduced harvest of species on the moratorium list pertains to the enhanced program we now have in place. With the use of forensics to monitor locations and where vessels are and seasonality and so on, we have enough experience to know, almost, in a certain location what a vessel is probably catching.

In addition to that, obviously there has been a significant reduction in fishing effort, which would correspond to a reduction in catch by 70% over that timeframe.

There are individual species, yes, for which we obviously see availability. At the same time, we see a directional improvement in terms of the general abundance of a lot of species in the area in recent times.

In addition, I should also note—I'm not sure if I noted it earlier—that fishing gear is another component. For example, last year one of the measures adopted included the elimination of one of the particular chafers that could result in issues with bycatch. There are a number of factors.

Mr. Peter Stoffer: You indicated that there are 800 dedicated coast guard patrol vessels per day plus the at-sea inspections plus the daily air surveillance patrols. Right?

If you look at zone 1E and up, you indicated that a lot of that activity takes place near the nose and tail and the Flemish Cap. What percentage actually takes from area 1E and up?

Mr. Kevin G. Anderson: Do you mean the area between Canada and Greenland?

Mr. Peter Stoffer: Yes, I mean that and all the way up to the top, where Ellesmere Island ends. You indicated that a lot of the surveillance is done around the Flemish Cap and the nose and tail. How much surveillance of the area, percentage-wise, is done in the far north?

Mr. Kevin G. Anderson: I'll defer to my colleague. We do have air surveillance, especially with the Department of National Defence in the north, because of the capacity and the range. We have on occasion used smaller aircraft as well in the north.

We did, in 2008, send a patrol vessel, actually, to area 1F, which is south of the area you specifically referenced. We attempted to send a second patrol vessel up there, but all fishing activity ceased, so we changed strategy, if you will.

Percentage-wise, Randy, would you have any idea? It would be relatively low. I'm not sure.

Mr. Randy Jenkins: My colleague Kevin has a coloured chart, unlike yours, so he has the NAFO regulatory area highlighted in orange, so it's easy to see. If you look at 1F, there is a little fish line going through. That would be the exclusive economic zone of Greenland. We wouldn't normally patrol in that area. We would get some hits on fishing vessels that may be fishing close to the line as we do our own domestic patrols. There are vessels that fish there, there's no doubt, up in the Davis Strait area.

• (1725)

Mr. Peter Stoffer: Correct me if I'm wrong, but in the entire NAFO area, are you not allowed to have Canadian vessels patrolling those waters?

Mr. Randy Jenkins: No. This regime and the inspection regime applies only to the NAFO regulatory area.

Mr. Peter Stoffer: But that's it, isn't it?

Mr. Randy Jenkins: The regulatory area is the portion outside the exclusive economic zones of countries. In this case, it would be the orange portion, so it would be the area outside Canada's exclusive economic zone. Foreign inspectors cannot come into Canadian waters to inspect, and we can't go into somebody else's exclusive economic zone to inspect. Being Canadians, we can inspect our own zone in Canada, as Canadian fisheries inspectors. We would gather data and intelligence through our routine patrols if anybody was close to the line, even on the Greenland side, but generally we do not...not generally; we do not do inspections on vessels, period.

So when we say we're inspecting vessels in area 1F, it would be that section of 1F south of the exclusive economic zone of Greenland. And if they were to go into Greenland waters, we would not go in there to do an inspection.

Mr. Peter Stoffer: I have more questions, but I've been beeped.

Some hon. members: Oh, oh!

Mr. Randy Jenkins: Sorry.

The Chair: Thank you very much.

Mr. Peter Stoffer: He's very stringent on that; he's tough on that.

The Chair: Mr. Kamp.

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

Yes, Peter frequently gets beeped.

Some hon. members: Oh, oh!

Mr. Randy Kamp: Thank you for coming. Although, as you said, you don't have direct comments on the amendments to the convention, I do appreciate learning a little bit more about how NAFO works, particularly in the enforcement area.

Are there DFO fishery officers, and perhaps people with other job titles, who are assigned solely to NAFO inspection?

Mr. Kevin G. Anderson: Yes, we have such a unit. They're offshore, and of course they can conduct inspections inside the 200-mile limit as fishery officers. But their primary role is to patrol the NAFO regulatory area, with two dedicated platforms, two vessels, plus some additional days. Currently there are 23 fishery officers/NAFO inspectors assigned to that unit.

Mr. Randy Kamp: Do they receive any kind of special training for that role?

Mr. Kevin G. Anderson: Yes, in addition to the regular program for fishery officers, which all of them must go through, everyone in our NAFO unit has the capacity for armed boarding. Both ships are capable of armed boarding to protect our sovereignty. The officers in the unit are leaders and are trained to be leaders of armed boarding teams.

In addition, under NAFO, there is a capacity to have a training status—training ID, if you will—so on some of the regional trips they will go along as a third person, a trainee. We always assign one person as a fishery officer in charge of a patrol. So on an ongoing basis, that forms part of the training as well.

Mr. Randy Kamp: So we have 23 officers assigned solely to NAFO inspection.

What about the other NAFO members? Do they have the same kind of thing, and what are their numbers like, if you know them?

Mr. Kevin G. Anderson: The European Union has a vessel for most of the year in the NAFO regulatory area. I think it was for eight months in 2008, and I believe that's what they're aiming for this year. In addition, some of the flag states have vessels in the area; Spain, for example, had a patrol and navy vessel in the area this summer. Like us, they keep two inspectors onboard the ship. We have two ships and they have one, so they would need half the numbers. In addition to that, we have worked with the United States, who had four different inspectors in the NAFO regulatory area in 2008 and

2009. They went with us. In addition, we've had requests from other countries with whom we will be facilitating joint patrols in early 2010.

Mr. Randy Kamp: So who is providing the coordination of that so we know it's actually being enforced and inspected and so on? We do a lot of it, perhaps most of it, and other countries do some, but is there somebody actually seeing that the job happens?

Mr. Kevin G. Anderson: Yes, essentially the person who supervises our unit liaises with the other inspection vessels. The latter make port calls in St. John's, so we make sure we have meetings with them on what their plans are and what areas they're going to be going to and so on. They have access to vessel monitoring system data, just as we do, and they of course see where we are. So generally there's not a problem with overlap, as we share enough communications to make sure we're coordinated in the area.

• (1730)

Mr. Randy Kamp: Maybe I have one final question.

One of our colleagues, and perhaps more than one, has suggested that maybe part of your success is due to the fact that there are no fish. Fortunately, we're now seeing some recovery in some species. We expect to see some directed fisheries, hopefully, in the future.

Is NAFO now structured in such a way in your area of enforcement that it will be able to respond to the additional fishing effort and more vessels that will be out there? Will you be able to keep your track record as good as it is now? Or if there's additional fishing effort, do you think you'll be challenged again to do that?

Mr. Kevin G. Anderson: I think we have very good capacity to handle any increased activity, because we don't rely anymore just on physical assets of ships and planes. We are embracing the technology that's being made available to us. We are embracing the integration of sources of information. At the same time, as fisheries reopen and we see the changes that we saw this year, with the enhanced vessel monitoring, the maintenance of the 5% bycatch for an actual directed fishery, and measures like that, and we blend the measures as well as the assets and technology together, yes, I believe we have the capacity to maintain a significant program in the area.

Mr. Randy Kamp: Thank you very much.

The Chair: Thank you, gentlemen.

On behalf of the committee, I want to say thank you once again for taking the time to appear here this afternoon. We really do appreciate your input.

Thank you very much.

The meeting is adjourned.

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