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Chair

Mr. Rodney Weston

Standing Committee on Fisheries and Oceans

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● (1110)

[*English*]

The Chair (Mr. Rodney Weston (Saint John, CPC)): We'll start this meeting today. Before we get into hearing from our witnesses this morning, I have a small housekeeping item, a motion that I believe has been circulated. Could I have a mover of that motion?

Mrs. Patricia Davidson (Sarnia—Lambton, CPC): I so move.

The Chair: It's been moved by Ms. Davidson:

> That the proposed budget in the amount of $3,600.00, for the study of Bill S-3, An Act to amend the Coastal Fisheries Protection Act, be adopted.

On the motion, Mr. Chisholm, go ahead.

Mr. Robert Chisholm (Dartmouth—Cole Harbour, NDP): Thank you, Mr. Chairman.

Could you explain the motion?

The Chair: It's to cover the expenses of the witnesses appearing before the committee for the study of Bill S-3.

Mr. Robert Chisholm: How many witnesses?

The Chair: We have two right now.

Mr. Robert Chisholm: Is that it?

The Chair: There will be no expenses for the minister.

(Motion agreed to)

The Chair: Thank you, Georges.

I want to thank our witnesses for taking the time to appear before the committee today. As you are no doubt aware, we're discussing and studying Bill S-3. We certainly appreciate your taking the time out of your busy schedules to appear before us to make some comments and to answer some questions the committee members might have afterwards. I'm not sure if you have decided amongst yourselves who wants to go first this morning.

Mr. McGuinness, any time you are ready, the floor is yours to begin with your opening comments.

Mr. Patrick McGuinness (President, Fisheries Council of Canada): First of all, thank you very much for inviting me to attend. I thought what I would do is to start with just a short overview of the Fisheries Council of Canada and then launch into the issue.

The Fisheries Council of Canada or FCC is a national trade association here in Ottawa—so there will be no expenses with regard to my participation today. We represent the industry from coast to coast, from British Columbia to the Prairies in terms of freshwater, to Ontario, Quebec, the Maritimes, Newfoundland and Labrador, and Nunavut. Our main supporters, in terms of those who pay my salary, are basically what we call vertically integrated companies in the fishing industry. That basically means that they own their own fishing vessels and processing plants and are involved in marketing.

We are also very proud that we have major fishermen's cooperatives. These are processing plants that are owned by fishermen's associations in New Brunswick, Newfoundland and Labrador, and Nunavut.

We also have a special category for fleets. We have the BC Seafood Alliance, which basically has 80% of the vessels licensed by the Department of Fisheries and Oceans. In Atlantic Canada we have the offshore shrimp industry, the offshore groundfish industry, and the offshore scallop fleet.

In summary, we have a diverse membership, and what we focus on is addressing national and international issues that would impact upon our industry. We don't get into fisheries allocation issues concerning quotas and so on. That is probably why we have lasted since 1945. Actually, it has been since 1915; in 1945 we changed the name of the organization to the Fisheries Council of Canada.

Another organization I want to bring into the scene is the International Coalition of Fisheries Associations. This is an international coalition of national fisheries associations, such as the Fisheries Council of Canada. In the United States it's the National Fisheries Institute. In Japan it's the Japan Fisheries Association. The founding members of this group are the Fisheries Council of Canada, the National Fisheries Institute of the United States, and the Japan Fisheries Association. At the time the organization was founded, the United States and Japan were the two largest seafood markets in the world, and Canada was the largest fish exporter.

The reason we moved into that type of realm was that we had identified that the United Nations General Assembly and also the FAO's fisheries department were moving into fisheries policy and fisheries management issues that would have an impact on commercial fisheries right around the world. When we looked at their playing field, we found that a number of the global environmental organizations, such as the WWF and Oceana, were registered with these institutions, and so we felt there was a need for a commercial global association to represent the views of the commercial fishing industry.

In the UN and the FAO, the negotiations are obviously among the member states, but during the meetings there is always a time in the agenda when the floor is open to non-governmental organizations, whether environmental or industrial, to make comments and suggestions on the deliberations. In such cases, the International Coalition of Fisheries Associations has always had somebody at those meetings as negotiations were progressing.

We now have 16 national associations among our group: in North America, Canada and the United States; in Europe, the Scandinavian countries; in the Asia Pacific region, Japan and so forth; and also associations from Africa. I am the current chair of that organization. For whatever reason, they have re-elected me for five years straight to hold that position.

With regard to the issue on the table, although it deals with the Coastal Fisheries Protection Act, we're really talking about the UN port state measures agreement.

● (1115)

In terms of FAO and moving in that direction, it really was in response to a very successful campaign by environmental NGOs to focus on this issue in terms of illegal, unreported, and unregulated fisheries. Of course, the NGO communities in the fisheries are very astute. What they recognize is that in the major countries, say, for example, North America, Canada, the United States, and Europe, the retail sector is very vulnerable.

First of all, it's very concentrated, albeit not as concentrated generally as we have in Canada. In Canada we have basically five national retailers. In the United States they have major retailers, but it's a little more fragmented. Also in many countries in Europe, for example, Germany, the U.K., and so forth, they have leading retailers. The environmental community at that point in time made a significant push with the retail community in terms of IUU fishing being a real problem for our industry.

At the end of the day it was in our best interest—both in terms of fisheries management organizations, such as DFO, and also in terms of the industry—to try to respond to that issue of IUU fishing that has emerged. What we found is that the initiative to have a port state measures agreement got it right. It got it right in the sense that the focus became high sea fishing and the transmission of illegal fish on the high seas. Basically we're very supportive of that agreement.

With respect to the Coastal Fisheries Protection Act, I have to admit that the Fisheries Council of Canada hasn't drilled down into the legal aspects of the amendments required by the Coastal Fisheries Protection Act to be able to ratify the port states agreement. We're thankful that from a fisheries point of view in Canada, we do have the Canadian Maritime Law Association that focuses on this issue. I want to compliment the committee for inviting the association to comment on the bill.

The problem that has emerged in trying to address this IUU through an international agreement, the port states agreement, is that it's taking so long. It took a long time to negotiate and it's going to take a long time to be ratified by a significant number of countries to be able to attest that this is the right thing in addressing the IUU fishing issue that has been identified. With that delay the environmental community is never asleep; it's always moving forward. They put considerable pressure on the European Union, which is now the largest seafood market in the world, to do something to address this issue dramatically.

The EU, a couple of years ago, did respond unilaterally. They took the position that we're all guilty of IUU fishing until we can prove ourselves innocent. They introduced legislation where all the shipments from Canada or the United States, whatever, into the EU is licensed. In our Canadian case, the Department of Fisheries and Oceans has to certify with a certificate that the vessel that harvested fish was licensed by DFO, that when the fish was harvested the fishery was open, and that the amount of fish caught was within the quota.

● (1120)

When that requirement came down, the fishing industry, the Fisheries Council of Canada, was in crisis mode because we recognized that we're not Iceland, that we're not, if you will, Alaska, which have very consolidated fisheries. The Department of Fisheries and Oceans has fisheries management plans or oversight of 150 distinct fisheries, and 87% of the vessels they license are vessels of 45 feet and less.

It was an amazing challenge for us to try meet that requirement, and I must admit that it's been one of the highlights of the Department of Fisheries and Oceans' performance over the last couple of years, in that they really buckled down. They hired an excellent Canadian medium-sized IT company that miraculously put it all together, providing a computer program that enabled us not to miss a beat and to meet the timeframe and have that certificate available so that our exports to the EU could continue. Of course, that office originally was operating out of Ottawa, but now it's in beautiful P.E.I. and continues to do a fantastic job.

Also, there were pressures in the United States to move forward with some unilateral action. When they had the reauthorization of their, if you will, fisheries act, the Magnuson-Stevens Act, they, under a lot of lobbying pressure, included their own unilateral action that was distinctly different from the EU approach.

The American approach was that you're innocent until we prove you guilty. Basically what happened is that their fisheries administration, NOAA, would keep track of what was happening in the IUU fishing communities and identify particular countries that they felt were not really addressing the IUU aspect of their fishing. They would then notify that country and enter into consultations to try to get them to improve their practices—with, of course, the threat of market closure if in fact they don't comply. Of course, given that the United States is a $20 billion market with 90% of fish and seafood they eat and consume being imported products, that's quite a threat.

Of course, when the Americans took that approach, we sighed in relief because we knew that because of our reputation, because of the very robust fisheries management regime we have, we would not be a target. In fact, in 2011, they identified six countries. In 2013, five of those countries hadn't made improvements, so they stayed on the list. Currently they have 10 countries that are in negotiations, if you will, to get their approach to IUU fishing updated.

That's been going for a number of years. Again, the environmental groups in the United States, primarily the WWF and Oceana, weren't really quite happy with what was happening. There didn't seem to be any significant action being taken, other than discussions with those companies. So they lobbied Secretary of State Kerry very strongly, who is from Massachusetts, that the United States government had to do something a little more high profile, something like, if you will, the EU was doing on the ground in terms of at least having import certification. Senator Kerry was convinced it was a good issue. I think it could also probably almost be perceived as a legacy issue for him in Massachusetts.

They were successful in establishing a presidential task force on IUU fishing in June 2014, and basically went through a number of issues. The Fisheries Council of Canada and the International Coalition of Fisheries Associations played on those issues. At the end of the day, the task force and the president have agreed on an action plan.

● (1125)

I just want to bring to your attention that in the action plan, the U. S. has said that it will ratify the port state measures agreement. They've given the mandate to the Secretary of State to go out to the world to encourage countries to ratify the port state measures agreement. Also, in current and upcoming trade negotiations, the Secretary of State will put that on the table as one of the issues.

If I could just finish up—

The Chair: Quickly, please.

Mr. Patrick McGuinness: In terms of IUU, it's not really a North American issue, in the sense that in order for the retailers to get into the Canadian market, they really have to have some credentials, either sustainability or certification.

As a result of that, ratification by Canada is necessary for us to maintain our leadership image. It's now even more important as a result of the U.S. focus on it. Hopefully, if we get significant ratification around the world, we'll have an opportunity to discuss with the European Union its moving away from its current certification requirement.

I'm sorry for taking so long. I'm certainly available for questions.

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

Now, Mr. Henley.

Mr. David Henley (Member, Canadian Maritime Law Association): Thank you, Mr. Chair.

Thank you for inviting the Canadian Maritime Law Association to discuss Bill S-3 today. I particularly appreciate being here with my colleague, Mr. McGuinness. As he suggested, while their focus is on the context and the underlying issues, the Canadian Maritime Law Association had a closer look at the drafting. So I hope that our presentations will complement each other.

My comments will cover three brief points. ln the first part, I'll briefly introduce the Canadian Maritime Law Association. In the second part, I'll essentially confirm that we endorse the bill. ln the third part, I would like to reiterate an area where the bill could be improved, and that will mirror our submission to the Senate on this point. Our endorsement of the bill, though, is not at all contingent upon this suggested improvement.

To begin, the Canadian Maritime Law Association is an organization consisting of both practising maritime lawyers across the country and a number of constituent companies and associations involved in the maritime industry. There are currently 14 of those constituent members representing a broad spectrum of the shipping industry. I can name the full 14, but just to give you a sense of the types of organizations, they include the Canadian Shipowners Association and the Shipping Federation of Canada.

The CMLA has its origins in Canada's involvement in international maritime law organizations. Specifically, the Comité Maritime International is an international body that was organized in 1897 to promote uniformity and reform in international maritime law and commerce. The CMLA is Canada's representative to the Comité Maritime International. The CMLA looks at domestic maritime laws, among other things, with one of the goals being uniformity. Since Bill S-3 would basically implement an international treaty that promotes uniform law, it's been of interest to the CMLA for some time. We have been monitoring it and have made similar submissions before the Senate. We've also had representatives on conference call meetings with the Department of Fisheries and Oceans involving the port state measures agreement and its implementation.

The fisheries committee of the CMLA has reported to its membership a number of times throughout the progress of the bill, and we've not received any adverse comments from any of our members. The CMLA agrees with the philosophy of the port state measures agreement. Specifically, because some countries do not effectively control their fishing vessels, we agree that it's necessary for states where fish are landed, including Canada, to take steps to control illegal, unreported, and unregulated fishing.

The CMLA is strongly in support of DFO's initiative to curb this illegal, unreported, and unregulated fishing through the implementation of this bill.

Although we support Bill S-3, there is one minor area where we feel there could be some room for improvement, and it's a particular area of drafting. Clause 8 of the Bill proposes an amended section 13 of the Coastal Fisheries Protection Act. This section retains wording from the existing act that allows seized fishing vessels and goods to be redelivered on posting of a bond in an amount and form satisfactory to the minister. lt also requires consent of a protection officer for release of that seized vessel. This is very similar to the existing wording in subsection 71(2) of the Fisheries Act.

Subsection 71(2) of the Fisheries Act was reviewed by the Nova Scotia courts in the trial decision of R. v. McDonald in 2002, which was upheld by the court of appeal, and in that decision the judge observed that, “It seems there is a failure in the legislation to have the issue of interim possession of these important items determined judicially”. Essentially the judge was critiquing subsection 71(2) of the Fisheries Act, which is largely the same as section 13 of the current Coastal Fisheries Protection Act. The CMLA feels that this is a timely opportunity to make that amendment in the current legislation. We concur with the comments of the judge in that decision of R. v. McDonald.

The CMLA is of the view that both section 71 of the Fisheries Act and section 13 of the Coastal Fisheries Protection Act are fundamentally flawed because they provide that the security to be granted for release of a vessel must be in a form and amount satisfactory to the minister as opposed to a court. As I've said, this provision has been interpreted by at least one court to mean that if no form of security is satisfactory to the minister, the vessel need not be released.

● (1130)

Our suggestion is a modest improvement to the bill. It would be a proposed change to section 13, similar to what was proposed by the government in 2007 when it looked at changing subsection 71(2) of the Fisheries Act, 2007. That was in Bill C-32. Unfortunately, that bill died on the order paper, so the amendment was never implemented.

But the amendment required is very simple. It just changes the determination of the form and the amount of the security from the minister to a court or tribunal.

When a fishing vessel is seized by the Government of Canada pending trial, it can take one to two years, or even longer in some cases, to work its way through the courts. The underlying concern is that during this time the owner of the seized vessel cannot use the vessel, and it very likely will put the crew out of work. Given the presumption in our legal system of innocence until proven guilty, preventing the vessel from working pending trial seems problematic. It amounts to a penalty prior to any finding of guilt.

The Fisheries Act and the Coastal Fisheries Protection Act have always had provisions whereby owners of these vessels could post money to get the vessels released pending trial. Normally in that case, the penalty that the crown is seeking would be roughly what they're seeking for security to release the vessel, sometimes slightly in excess of that. This allows the asset, then, to resume working pending the outcome of the trial.

The problem with the current provisions in both Fisheries Act subsection 71(2) and section 13 of the Coastal Fisheries Protection Act is that they essentially say that the court can allow the vessel to be released, but they also say that the minister and not the court decides on the amount and form of the security. The fundamental concern we have with this is that this amount and form of security should be determined by an impartial and independent person, such as a judge or an administrative tribunal. With the present version of section 13, this task is essentially performed by the minister, which effectively in most cases means that it's the fisheries officer conducting the investigation who decides upon the amount and form of security.

The earlier amendment recommended in Bill C-32 to the Fisheries Act would have substituted a court or tribunal for the minister. I recognize that there is no tribunal associated with the Coastal Fisheries Protection Act. In the present case, the CMLA is of the view that section 13 could refer only to a court rather than the minister.

I'd also note that in the Coastal Fisheries Protection Act there's a requirement in section 13 that a protection officer “consent” to the vessel being released. The CMLA also suggests that this reference be deleted because, similar to the minister, the protection officer is not necessarily an impartial and independent person. In our view, the reference should also be to the court, or the court should decide that.

To summarize, Mr. Chair, the CMLA proposes this minor amendment to address what we see as largely a procedural concern. We think it's timely to fix what we see as a minor flaw in the legislation. We believe, given the presumption of innocence until proven guilty under our legal system, that the court is best positioned to set the form and amount of security and that this change would improve the bill. Regardless, the CMLA does agree with the philosophy of the legislation and endorses Bill S-3.

Subject to any questions, those are my submissions. Thank you.

● (1135)

The Chair: We'll start our 10-minute rounds of questions, beginning with Mr. Chisholm.

Mr. Robert Chisholm: Thanks very much, gentlemen, for appearing and talking to us about Bill S-3.

I was interested in going over the transcript from the Senate fisheries committee hearings back in 2013. I have a couple of questions relating to your presentations from your organizations today and then.

First of all, Mr. Henley, the point you raised about the amendment is something that was raised by your colleague, Mr. Caldwell, back in 2013. It appears that it wasn't particularly well received.

Voices: Oh, oh!

Mr. Robert Chisholm: I am interested in the consequence in terms of a potential prosecution if that change is not made, given what you've said about the R. v. McDonald case in Nova Scotia. What is the potential consequence of a prosecution if we continue to allow the minister and/or the protection officer, in different cases, to determine the amount and form of security?

Mr. David Henley: That's a good question, Mr. Chisholm.

The way the court would normally work, if this were to be at the court, is this. Under the Federal Court rules, typically what will happen, if a vessel is arrested, for example, for a civil claim, is that the court will release the vessel on bail set at security for the amount of the claim up to the value of the vessel, essentially substituting the security for the vessel. In the case of a prosecution, we would think that from an equitable perspective it would be the same. But the fundamental issue here is that the court is bound by *stare decisis* to follow its own precedent and its governing rules, whereas the minister or a fisheries officer is not. So in theory, the minister or the fisheries officer could set an amount that is prohibitive or could simply refuse to release the vessel by not agreeing to the form of security. They're not bound by the same desire for consistency as the courts.

The concern, as was recognized in R. v. McDonald, is that setting an amount that is prohibitive essentially prevents the vessel from being released at all, and in a situation in which the alleged offender is particularly egregious, you can perhaps understand that. But were somebody to eventually be acquitted, that means that for two years or three years, perhaps, they will not have had the use of their vessel.

Mr. Robert Chisholm: And could the determination that the penalty was egregious have an impact on the ultimate decision by the courts?

● (1140)

Mr. David Henley: It could potentially.

Mr. Robert Chisholm: —in terms of natural justice, or...?

Mr. David Henley: From a natural justice perspective, essentially what you're doing by providing bail or security is substituting whatever that form of security is for the vessel. Perhaps the logical way of looking at it is that the most you're ever going to get is the value of the vessel, simply because, were you to proceed to prosecution and the court decided to forfeit the vessel, all you're going to get is from selling the vessel.

And frankly, I think that releasing the vessel in exchange for cash security or something like that is probably easier for the crown, because they won't have to go through the process of selling the vessel eventually.

Mr. Robert Chisholm: Okay.

Thank you, Mr. Henley. By the way, I hope your clients recognize the lengths to which you've gone to get here.

For other members of the committee, Mr. Henley is from Dartmouth, and his street still has not been plowed out. Everybody knows that this is not a federal issue, and I will be on the phone shortly to pass on to the municipal officials that this needs to be addressed.

Anyway, thank you, Mr. Henley, for showing up.

Mr. McGuinness, you raised the issues of the EU and the United States acting unilaterally to deal with the illegal, unreported, and unregulated fishery. You saw this international agreement, if Canada ratifies it and brings in this legislation, as generating some momentum and releasing some of the hardship burden that you suggested was being applied to your members by the EU in particular.

Your members must be somewhat frustrated that we haven't made much progress. Here it is, the spring of 2015, and we still have some way to go ourselves at passing enabling legislation.

Mr. Patrick McGuinness: Well, I should say that basically we've been in the fishing business for quite a long time and we know that these things take time. Our members are pretty well up to speed on the difficulties of 90 countries coming together to agree on the item. But yes, there is no question that the real issue is basically the approach the EU took with respect to import certification. That is more of a cost item—cost, delays, and uncertainty types of items. As an export industry, with 80% of our business being exports, we run into comparable types of challenges in various markets. So it's an issue, but it's not one on which they are pressing us to move quicker, because we recognize the difficulties that are in play.

Mr. Robert Chisholm: Thank you, Mr. McGuinness.

I'm going to turn over the rest of my time to Mr. Cleary.

Mr. Ryan Cleary (St. John's South—Mount Pearl, NDP): Thank you, and thank you to the witnesses.

Mr. McGuinness, you're not the first chair of the Fisheries Council of Canada I've had dealings with. I don't know if you're familiar with Gus Etchegary, a former chairman of the Fisheries Council of Canada. He's also former head of one of the largest integrated fishing companies in Canada, Fisheries Products Limited before it was called Fishery Products International. I helped him write a book prior to my being elected to politics called *Empty Nets: How Greed and Politics Wiped Out The World's Greatest Fishery*. Of course, I'm talking about the cod fisheries off Newfoundland and Labrador. There's a story in the news today, as a matter of fact, about how the northern cod moratorium that was introduced in 1992 and was supposed to last 2 years will probably last at least another 10 years. If it lasts another 10 years, what was supposed to be 2 years will be 33 years.

In that book, Mr. Etchegary, the former chair of the Fisheries Council of Canada, writes about how overfishing, illegal fishing, and mismanagement destroyed the cod fisheries. One of the big criticisms after the institution of the 1992 moratorium was the fact that while Canadians stopped fishing inside the 200-mile limit for northern cod and other species that were in danger, the fishing outside the 200-mile limit did not stop and continues to this day. There are foreign vessels charged regularly outside the 200-mile limit, but the question has been raised about what penalties are instituted by the flagged countries. My answer to that is that practically nothing stops them from further overfishing.

Illegal fishing inside Canadian waters is not seen as a problem because the Canadian Coast Guard and our regulatory forces take charge. Any vessels that illegally fish are brought to court and are prosecuted. Illegal fishing outside the 200-mile limit...and it's different from the United States, you're right, because the United States has the Magnuson-Stevens Act, but it doesn't have a continental shelf that extends outside the 200-mile limit in international waters. Canada is one of the few countries in the world that does. I'm telling you something you do know, Mr. McGuinness, but I'm sure a lot of people around this table don't know, particularly on the other side.

Illegal fishing inside the 200-mile limit is not a problem, but it is a problem outside the 200-mile limit until this day. What will this act, which we've been waiting for for years and which may take years before being instituted, do to help Canada charge and prosecute foreign vessels outside the 200-mile limit where the real problem with illegal fishing exists? What will this do to stop that?

I'm sorry, Mr. Chair. I hope I was speaking loud enough for Mr. Kent. Mr. Chair, I know he mentioned yesterday in the House of Commons he has a hearing a problem. I hope that he not only heard me today, but also listened.

Thank you.

● (1145)

Mr. Patrick McGuinness: Just one clarification, you're quite right that Gus Etchegary was chair of the Fisheries Council of Canada. I'm the president, so we have a current chair, Rob Morley from British Columbia.

There's no question that with the decline of the cod fishery in 1992, Canada introduced a moratorium on the fishing of Atlantic cod. Then under the UN FAO agreement in terms of the NAFO organizations, NAFO adopted a moratorium on fishing northern cod roughly in sequence. Both the NAFO organization and the Canadian fisheries management regime with respect to northern cod had a moratorium.

As you say illegal fishing will occur. The powers that we have are through our participation in NAFO, where Canada's coast guard, aircraft, and all that do the surveillance, and hopefully identify those fishing vessels fishing illegally for cod, or whatever, then proceed.

You're quite right. I'll pass it to David for the comment, but this agreement does not in itself enhance or diminish the powers of Canada to operate not only in its own waters, but also within the regional fisheries management organization, such as NAFO. It gives further responsibilities and duties with respect to the importation or transshipment of fish products through Canada. That's what it's targeted at. In my view that's straightforward.

David, you may want to add to that.

Mr. David Henley: I think Patrick is quite correct. It doesn't change a lot of what's behind the Coastal Fisheries Protection Act and the NAFO treaty, generally. What it does do, though, is enhance it somewhat, because now it's targeting the market for the product. Ultimately, IUU fish are fish that are caught in that manner. The intention here is to try to make it more difficult for such fishers to land their product, at least within NAFO countries or in countries that are party to the port state measures agreement. Canada is doing its part to do that.

Certainly I would agree that there's not a great deal of illegal, unreported, or unregulated fish being landed in Canada. But if implemented across all countries who ratify the port state measures agreement, this will at least provide some further augmentation, one piece at a time.

● (1150)

The Chair: Thank you very much.

Mr. Kamp.

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

Thank you, gentlemen, for appearing. I appreciate your taking the time, especially getting here under difficult circumstances. We appreciate that.

Let me begin just briefly with you, Mr. Henley.

We've noted your comments about proposed section 13. It sounds like you've been looking for an opportunity to have that section of the Coastal Fisheries Protection Act amended at some time, and you think this might be an opportunity. We've taken note of that and need to give a bit more thought to that.

Is the new wording, through the amendments of Bill S-3 now, required by the port state measures agreement that we're trying to ratify, to get our domestic legislation in place? Is there any sort of justification for keeping it the way it is in order to meet the terms of the port state measures agreement?

Mr. David Henley: That's a very astute question, Mr. Kamp. In fact, I was looking at that earlier. The port states measures agreement does not speak to that level of detail. I can only presume that the drafting in proposed section 13 of the Coastal Fisheries Protection Act at some point in the past mirrored the existing drafting in subsection 71(2) of the Fisheries Act. But to answer your question, no, it would not be required by the port states measures agreement.

Mr. Randy Kamp: Okay, thank you for that.

One more question. When we spoke to the officials from the department, they raised the possibility of a couple of areas that might need amendment or that could benefit from amendment to Bill S-3. I want to maybe just mention one of them to you to see if that caught your attention as well. That was in proposed section 14, where, as I understand it—and you can correct me if I'm wrong—the amended act will allow officials, enforcement officers, to seize fish and fisheries products and other things no matter where they're found, basically, whether they're on a ship or in a warehouse. But as I understand it, they were saying that it wasn't clear that the forfeiture powers of the act would apply to things that were seized in other places besides the ships, and so they suggested that might benefit from an amendment to Bill S-3.

I'm just wondering if you have any comment on that. I know I'm catching you by surprise on that, perhaps, but I just wondered if you had taken a look at that as well.

Mr. David Henley: We didn't see that as an issue and it hasn't been raised by our membership. But a very quick glance at that section does suggest that it is tied to a fishing vessel, so I can see where that might be a concern if you're looking to be able to seize more broadly. I wouldn't have thought that our members would have raised that potential.

Mr. Randy Kamp: Okay. So I think we will be taking a look at an amendment there.

Mr. McGuinness, I know you've had a lot of experience in this and I appreciate your role in the International Coalition of Fisheries Associations. When you were an observer during the negotiation and development of the port states measures agreement, is it accurate to say that all 16 country associations that you were representing were in favour of the agreement?

Mr. Patrick McGuinness: I would say yes. I mean, some associations would be silent, if you will, on the issue, but basically we meet once a year, generally in Rome, and then we have meetings with the FAO. These positions are put as resolution types of issues and are passed or not passed. This resolution in terms of support of the port state agreement was passed. I can only assume from this that they are in support of that.

I must admit that what we've tried to generally, in terms of the 16 countries that we have, is actually recruit fisheries associations that we think measure up to the standards that are consistent with the Fisheries Council of Canada and the National Fisheries Institute. So we are, if you will, identifying a relatively select group.

● (1155)

Mr. Randy Kamp: Okay.

The problem of IUU fishing that the port state measures agreement is addressing, in part at least, is a serious problem I think globally. It's true to say, though, that we're talking about fishing that takes place on the high seas, almost. Is that accurate? We're not talking about within a country's economic zone?

Mr. Patrick McGuinness: Really, the problem with the IUU fisheries is pretty much promoted by the NGO group, if you will. It's very vague as to what an unreported and unregulated fishery is. In our context, we're talking about illegal fishing. That's something you can identify.

Say, for example, that one of the countries the United States has on its radar is Ghana. The largest protein product traded in the world is fish and seafood, and about 60% of that trade is from developing countries. In Ghana you could have, for example, an artisanal fishery that is relatively significant in terms of the economy, significant in terms of the Ghana situation, and it's a fishery that's not regulated. There's no quota or things of that nature. At the same time, it's not illegal, because they're not breaking any laws.

As we move out on this issue, and once we get through this, the fishing world is going to have ask what they really want to address. The issue that we want to address is illegal fisheries, both domestically and on the high seas. For example, in terms of the push in the United States by environmental groups that we have to get IUU fishing under control, the groups Oceana and WWF reviewed about 16 or 17 countries, including Canada. They basically identified some 10% of Canada's inshore lobster fishery as being illegal. With illegal, there's no border, if you will. Basically it's with respect to domestic fisheries and those on the high seas. But from our perspective, the real target and the area to really address is high seas fishing. We feel that if we can focus on high seas fishing and also transshipment on high seas, that will really put the push on it.

In terms of its being a global issue, in North America and the major markets in the EU, it's not necessarily an issue. It is an issue in the marketplaces that are really developing, such as China. China is now our third-largest market for Canadian fish and seafood. The United States is number one, Canada number two, and China number three. With the amazing types of advancements in Russia of.... Well, it was Russia.

It's in those areas that IUU fishing is in fact getting into the marketplace and sold. In Canada, the United States, England, Germany, it may be about 2% or 3% of the market.

Mr. Randy Kamp: Does Canada have fishing enterprises that primarily fish on the high seas?

Mr. Patrick McGuinness: No. Say, for example, when the shrimp were on the 3M, the Flemish Cap, we would have one vessel that would have a limited quota of shrimp. Therefore, it would be going outside Canada's zone into the NAFO area, and this would be highly regulated.

● (1200)

Mr. Randy Kamp: I think you mentioned this, but do you see the port state measures agreement as a benefit to developing countries, which have their own set of problems, being in some cases unable to enforce their own economics, never mind the other obligations here? Is this a good thing for developing countries? Do you see them getting onside with this, addressing the problem they're part of, I assume?

Mr. Patrick McGuinness: The negotiations took a long time, but basically it was signed by 90 countries, and a lot of those were developing countries. I think it is a good thing for them, because, if in fact they ratify it, and if they have the infrastructure to actually implement it, it will give them something to put on the table in the markets of North America and Europe regarding their authenticity and things of that nature.

The Chair: Thank you, Mr. Kamp.

Mr. MacAulay, go ahead.

Hon. Lawrence MacAulay (Cardigan, Lib.): Thank you very much, Mr. Chair, and welcome to our witnesses.

As an example, Mr. McGuinness, could fish exports from Ghana enter this country with this legislation legally because Ghana is not breaking any laws. Is that correct?

Mr. Patrick McGuinness: Yes.

Hon. Lawrence MacAulay: I just wonder, if NAFO put a moratorium on the cod fishery at the same time we did.... On the illegal side of fishing on the high seas, we have no power whatsoever to deal with these vessels unless they come into port. Is that correct?

Mr. Patrick McGuinness: That's my understanding.

Hon. Lawrence MacAulay: When we have a moratorium on the cod fishery and other countries are fishing the cod, it's kind of difficult for the fishermen to take, but we live in this world, and that's the way it is. I just wonder, if you have these massive trawlers fishing on the high seas and they offload onto other vessels, which then come into our port, how is this certified? How is it legally handled to make sure that this fish is fished in a legal manner? Do you have any examples of that?

Mr. Patrick McGuinness: What the FAO is doing is trying to develop what we would call a black list. The black list is basically vessels and transshipment vessels that have been determined to be fishing illegally.

Hon. Lawrence MacAulay: If it's determined that they are fishing illegally, who has the authority to board? Does anybody have authority to board those vessels?

Mr. Patrick McGuinness: On the high seas, it would be the responsibility of the port state.

Hon. Lawrence MacAulay: That's just their own state, okay.

Mr. Patrick McGuinness: On the other hand, our port states agreement gives us the duty, the obligation, not to allow that vessel to transship or come into Canadian ports, other than perhaps for inspection and seizure.

Hon. Lawrence MacAulay: That's the vessel that's fishing.

Mr. Patrick McGuinness: It also applies to transshipment. The port state measures apply to not only the fishing vessel, but also whatever mode of transportation they have in terms of trying to enter the Canadian market.

Hon. Lawrence MacAulay: Okay, then we would know if we had a large trawler fishing on the high seas and it offloaded onto a vessel. We are in some way supposed to know that that fish came off that trawler. Is there a way to know that? Do we have enough observers? The government took over $4 million out of the observer...as you are aware. Does that have an effect on this or not? Do we need more money for observers? Do we need to know more about what's taking place on the high seas?

What I'm getting at is that if we don't fish it inside the 200 and they take it outside, it's not much good.

● (1205)

Mr. Patrick McGuinness: I must add, in terms of NAFO and the regional fisheries management organizations that Canada is participating in, this issue of illegal fishing is pretty much top of concerns. Basically, the countries are working better together in monitoring and regulating. I think the citations that you see from the Department of Fisheries and Oceans have been reduced. They're still maintaining the overflights, if you will, over the area and so forth.

One thing that this amendment may enable at this point in time is, if Canada or observers or whoever identifies a vessel from EU or wherever that gets a citation, then basically that vessel would have to go back to its home port. Then the obligation or the duty of that state is to inspect the shipment to verify that there was illegal fishing taking place. That's been a really new addition to the NAFO tools. What we have found is that unfortunately, for example, many of those vessels that are fishing in the NAFO waters are subsidized. The Fisheries Council of Canada's position is that the fastest way to address overfishing on the high seas is to have a prohibition on any fishing enterprise that operates a vessel on the high seas. In fact, in the action plan of the—

Hon. Lawrence MacAulay: Are you saying any Canadian vessel or any vessel?

Mr. Patrick McGuinness: I'm saying any vessel, in terms of a subsidy.

The thing is that long-distance fishing, by and large, is uneconomic unless you have a subsidy. That's why the Germans got out of it; that's why the UK got out of it; and we're not fishing on the high seas. To us, that's a big issue. Unfortunately, in the IUU action plan of President Obama, one of the issues they have identified to act on is to work towards eliminating subsidies that contribute to IUU fishing. In our view, if IUU fishing is occurring on the high seas and these vessels are getting fuel subsidies, without the fuel subsidies the number of fishing vessels on the high seas would be significantly reduced.

I think there are ways of addressing this, so that hopefully we can emerge in the future.

Hon. Lawrence MacAulay: In order to curtail it, the other countries that are involved in the high seas fishing, if it's a problem, have to.... Are these the 90 countries or the 16 countries? The 90 countries would be preferable, but it would be a long time before we get there. Do we have a good rapport with the 16 countries you've chaired over the last five years? Do we have any difficulties with them? It's awful hard not to think of what happened with Spain and the overfishing and that type of thing.

I'd like you to elaborate on that.

Mr. Patrick McGuinness: That's a good question.

For example, that's the position of the Fisheries Council of Canada. That's the position of the New Zealand industry, which also has a high seas fishery but agrees that there shouldn't be any subsidies. Also, a member of our coalition is Spain. In terms of the international coalition, I can't promote that as chairman of ICFA in my dealings with the UN or with the FAO. Certainly, as president of the Fisheries Council of Canada, I can advocate that type of position in dealing with the Canadian and the U.S. governments, because the U.S. government is on side, with the National Fisheries Institute.

As you say, within 16 countries there are a couple of countries that would not subscribe to what I just said.

● (1210)

Hon. Lawrence MacAulay: I would imagine.

You mentioned, too, that all the fish from Canada that go into the European Union now have to be certified by DFO, if I understood you correctly. Does that mean that all the fish that go into the EU are certified by the country they are exported from? Do you think this means there are no illegal fish going into the EU? I would be surprised.

Mr. Patrick McGuinness: Yes, I agree, and that's one of the problems. As you know, if Canada commits to something, it's due diligence and—

Hon. Lawrence MacAulay: We do it right.

Mr. Patrick McGuinness: —we do it right.

In many countries I would think the certificates they're providing.... In fact, the EU is already taking action on that because there are a number of countries they have identified whose certificates they are suspicious are not really not up to par.

I must admit, Canada's DFO has put in place a relatively sophisticated certificate arrangement with computerization. At the time, NOAA, which is the fisheries group in the United States—and I knew the director there—was having a lot of problems in trying to develop a system to address the EU initiative. I told them that we had a great IT company here in Canada that could help them right away.

But the United States was able to negotiate a separate agreement with the EU whereunder they basically provide a list of all the vessels licensed by NOAA, and if in fact the shipment details identify one of those vessels, then it's determined to be okay.

In our situation it's really a much more an in-depth type of quick analysis. There really is a check. The bottom line is that at the end of the day, even though it's more sophisticated and more difficult than the U.S. one, we came to the conclusion that we have it, we know what it is, and you always have to be concerned about audits.

Hon. Lawrence MacAulay: We are, too.

Some hon. members: Oh, oh!

The Chair: Thank you very much.

Hon. Lawrence MacAulay: Are you not going to give me another minute at least?

The Chair: No. Thank you, Mr. MacAulay.

Mr. Leef.

Mr. Ryan Leef (Yukon, CPC): Thank you, Mr. Chair.

Thank you to both of our witnesses today.

My question is directed to you, Mr. Henley. It's great that you're in support of the bill, by and large, and I know that Mr. Kamp touched briefly on the one amendment you proposed. Since that is the one piece of concern you have, I figure it's worth exploring that a little bit more.

I've listened to a fair bit of your testimony on the who, the how, and the when IUU fishing comes into Canada and who is involved. I fully appreciate your perspective on the natural justice application of that and the decision of the court over the minister in respect of that section 13 piece.

I gather though that seizures, by and large, are done for two reasons, either to prevent the continuation of the offence, or in respect to securing and preserving any evidence that might be there.

In that regard, we say that in theory the minister could create a cost-prohibitive sanction or not release at all if he doesn't deem the monetary value to be of significance. But of course in theory that begs the question, what are we observing in actual practice?

That will form the basis of my question around how many occurrences do we know exist where the minister has deployed that. As well, by and large, who is it applied to? Are these Canadian vessels or are they international vessels?

In that respect, if we're dealing with international vessels, and again, respecting your point on this, it would seem to me that if we have international vessels—and in the best case scenario, or in the worst case scenario, depending on what side of the seizure you happen to be on—as you indicated, you're going to get the cost of the vessel in terms of cash, if that's the price the minister or a court were to set.

But it would appear to me that if we have an international vessel coming in with IUU fisheries, subject to seizure—so we can prevent the continuation of that offence and secure and preserve any evidence—Canada, as a nation, would be better off having the vessel than the cash, and having that vessel slip out of our waters again and then continue the harmful practice. I assume the point of having the minister retain that discretionary ability is perhaps prescribed by regulation and monitored by their own precedence, which could and would reasonably be set simply by the principles of natural justice. But it would seem to me that Canada would be far better off having that vessel, to prevent the continuation, than having the value of the vessel in cash and watching that vessel leave Canadian waters to continue the damage for which it's been seized in the first place.

Your comments on that are welcome.

● (1215)

Mr. David Henley: Well, I think that's certainly a valid concern. I guess the fundamental, underlying issue is that by withholding the vessel, pending trial, on the basis of fear of a new offence, you're essentially presuming that they are guilty, so it overrules the presumption of innocence. That's the underlying concern.

Having said that, if you have a frequent offender, I can see where it might make sense to provide restrictions on releasing the vessel if they've had a prior conviction for illegal or unreported fishing. Stemming from the presumption of innocence—if they've been presumed innocent and done nothing wrong yet until they've been found guilty—the real concern is that you're potentially depriving them of their livelihood, especially if they're acquitted.

It's a bit of a balancing act, and the balancing act on the civil claim side has always been a substitution for security, essentially allowing the vessel to go back into operation. The remedy for a frequent offender, I can only suggest, would be to continue to monitor and rearrest.

Perhaps there should be some additional wording in the legislation that would allow the minister or the courts not to release the vessel on bail if there's been a previous conviction.

Mr. Ryan Leef: Fair enough. Of course this isn't the only piece of legislation that exists in the Canadian context, both federally and provincially, that allows for the seizure of any personal property in order to prevent the continuation of the offence, or if the crown or the investigation believes on reasonable and probable grounds that it would afford evidence to the matter before the courts.

It's not subverting the “innocent until proven guilty” angle to seize and retain any level of property to either present it as evidence, or, in the first place, to prevent the continuation of the offence. But an element still remains that allows an application before the courts to have property returned, correct?

In such a case, if that element does exist as a mechanism of protection, the minister would effectively be operating in bad faith on a court decision if he then established a cost-prohibitive structure, or simply refused to find a satisfactory monetary amount. Wouldn't you agree with that?

Mr. David Henley: Mr. Leef, that's also why, even if this amendment isn't made, the CMLA does not oppose the bill. In fact, we strongly support it. It's simply a matter of concern. Certainly, we would expect the minister and the fisheries officers to behave in a reasonable and well-reasoned manner. It's more about consistency, so no, it's not a critical concern.

Mr. Ryan Leef: That dovetails back to my original question. Because we're laying out the theoretical challenges that could occur, what is our practical experience with that application to date? Do we know that?

Mr. David Henley: That's a good question. I don't have any detail on the exact seizures. That's something that perhaps the minister or the department could speak to.

Mr. Ryan Leef: Okay, fair enough. Thank you for that.

Do I have a little time left or am I done?

I have three minutes. Okay, so we'll move on.

Thank you, I appreciate your input on that piece. Like you said, it's not a deal breaker but certainly a valid point of consideration.

Can you talk to us about how IUU fishing is currently prevented from entering Canada? How is Canada—this is open to both of you—affected by illegal, unreported, and unregulated fisheries when it approaches other countries? How does that affect the Canadian context and our Canadians fishers and producers?

● (1220)

Mr. Patrick McGuinness: As you say, it's really hard to measure in terms of our major markets. For example in the United States, Canada, and so on, it's not an issue.

In China, it's is an expanding industry and we are concerned about that. It has increased substantially. It's our third largest market. We see opportunities in South Korea opening up. It's an issue with respect to that marketplace. Vietnam is an important marketplace for us.

We're talking about sales from our top 10 markets. There are a couple of key, growing markets, particularly in Asia-Pacific.

If Russia ever comes back, in terms of IUU fishing, it will be a challenge.

Mr. Ryan Leef: Stopping IUU fishing is not only a laudable and critical objective, but it obviously also makes up a certain percentage of the marketplace. In your estimation, what does that do to the market? As that declines, does that drive our prices up, which would be advantageous to our fisheries in terms of what they can sell to the market? How does that impact the market?

In every case, some of this unregulated product does influence market prices and market share.

Mr. Patrick McGuinness: I would say that in terms of the wild fishery in particular, it's a price issue. If we can attack that, get that out of the marketplace, Canadian prices in those markets would increase.

Mr. Ryan Leef: This isn't just about a management; this is really an economy-based piece.

Were you about to add something, sir?

Mr. David Henley: I would say that at least in theory it would increase the fish that are available to be caught legally, especially the straddling stocks. The IUU fishing is taking away fish that could be caught within our exclusive economic zone.

Mr. Ryan Leef: That's a good point.

How is Canada's reputation globally in taking a lead on these particular issues in terms of Canadian fisheries' adherence to the rules and regulations that are set up?

Mr. Patrick McGuinness: I think we have a good reputation at the meetings of both the UN and the FAO. Canada was an articulate spokesperson on the issues. Actually, it was quite expansive on the challenges and what seems to be workable or not. Canada is fairly articulate in these meetings and has been looked upon as a leader, and is also very capable of gathering like-minded countries to join the march.

Mr. Ryan Leef: Thank you, both.

The Chair: Thank you, Mr. Leef.

Mr. Lapointe.

[*Translation*]

Mr. François Lapointe (Montmagny—L'Islet—Kamouraska—Rivière-du-Loup, NDP): Thank you, Mr. Chair.

In an article published in 2014 in *Le Devoir*, the FAO, the Food and Agriculture Organization of the United Nations, published the following statements via a press release:

> [...] illegal, unreported and unregulated (IUU) fishing has escalated over the past 20 years, especially in the high seas [...]

This echoes the concerns of my colleague Mr. Cleary. The article goes on to say:

> [...] and is now estimated to amount to 11 to 26 million tonnes of fish harvested illicitly each year, worth between $10 and $23 billion.

That is enormous. The article continues as follows:

> The various available estimates indicate that at least 25% of world fishery is illegal or unreported. According to the FAO, this practice "jeopardizes the livelihoods of people around the world, threatens valuable marine resources and undermines the credibility and efforts of fisheries management measures."

A major problem was identified by the FAO in this file, and the article says this about the issue:

> Flag states are already required to maintain a record of their registered vessels together with information on their authorization to fish [...] However, many fishing vessels engaged in illegal activities circumvent such control measures by "flag hopping"—repeatedly registering with new flag states to dodge detection, which undermines anti-IUU efforts.

Will Bill S-3, An Act to amend the Coastal Fisheries Protection Act allow us to fight, if only to some extent, major problems of this type? If not, what intelligent measures could we take in some future bill to attack the source of the real problem that threatens fishery stocks in Canada and everywhere in the world?

● (1225)

[*English*]

Mr. Patrick McGuinness: I have two comments. One is that you have to understand that these types of reports saying that 25% of the fish are IUU really haven't been substantiated. There are feelings that's a fairly high level.

The other issue, as I mentioned in my presentation, is that at some point in time we're going to have to drill down and determine what IUU fishing is. By definition, for example, if you have a fishing vessel that is registered with a flag of convenience country such as Belize, and then it's fishing in the high season and all that sort of stuff, that vessel is not regulated because flag of convenience countries don't monitor the performance of their fishing vessels.

We really have to start to deal with those types of issues.

[*Translation*]

Mr. François Lapointe: Do you have any idea of what could be done concretely through legislation to attack this problem? I am thinking of our fishermen in the Gaspé who may not see their grandchildren fish cod since the problem persists. We have a duty to begin solving the problem in some concrete way.

[*English*]

Mr. Patrick McGuinness: Well, among the concrete measures that could be taken, one is subsidies for fishing vessels on the high seas. Another is that you could make a declaration that registering any vessel under a flag of convenience is by definition an illegal activity. Those are very dramatic types of measures that would directly affect, if you will, IUU fishing.

But to get a consensus to move forward on them would be difficult. I have suggested that there could be coalitions of active environmental groups and fishing nations such as Canada, New Zealand, and the United States, if we could come together to start that type of dialogue to move forward more directly.

There's no question that the port state measures agreement, if it goes right across, will be effective, because then the prospect of being identified as doing IUU fishing and not being able to get the product into the key markets will have an impact.

[*Translation*]

Mr. François Lapointe: That might contribute a bit to solving the problem.

Mr. Henley, your association suggests that we change the wording of the bill so as to eliminate the requirement that a protection officer consent to a vessel being released. Could you explain the rationale behind that?

I would really like Mr. McGuinness to tell us what he thinks of your suggested amendments to the bill, which seem eminently appropriate to me.

[*English*]

Mr. David Henley: Thank you, Monsieur Lapointe. I think your question came through as changing labelling. I'm not sure that we raised the labelling issue, but certainly anything that would indicate —

[*Translation*]

Mr. François Lapointe: The note I have here says: "[...] to delete the requirement that the protection officer consent to the vessel being released". There is no mention of labelling.

I don't know if this is a translation problem, but I would like this to not be deducted from my speaking time.

Mr. David Henley: Thank you. I understand now.

[*English*]

The Chair: I think what he is referring to, Mr. Henley, is the part of your comments in which you talked about the officer.

● (1230)

Mr. David Henley: I'm sorry; I understand now.

The issue with the protection officer is similarly that the requirement of consent is consent from someone who is not an independent, impartial person like a court or a tribunal.

Just to add to Mr. McGuinness's comment, I think you hit right on the fundamental challenge of international law, and that is that no one country can really act as a policeman outside of its boundaries. That is the conundrum that all countries in NAFO and across the world face. The only way to address it is by international cooperation through these types of agreements. As Mr. McGuinness has pointed out, it can be very challenging to get agreement internationally, and for that reason it tends to be incremental.

From the CMLA's perspective, this amendment to the Coastal Fisheries Protection Act to bring in the port state measures agreement is one of those fundamental steps. It certainly does not get us all the way, but it moves us a few feet closer to the goal.

Mr. François Lapointe: Thank you very much, gentlemen.

The Chair: Mr. Kamp.

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

I have just a couple of brief follow-up comments. In its most simplistic analysis, the fisheries world could be divided into port states and flag states. If there were no such thing as flags of convenience, then perhaps all of the high seas problems would be solved if all flag states were responsible and, for example, lived up to the code of conduct for responsible fisheries, which Canada takes very seriously. I think many jurisdictions don't take it quite as seriously as Canada does.

However, that isn't the reality and so we have to try to solve the problem with port states. We're trying to make it less economical, I assume, for these rogue IUU fishing enterprises. It must be a very expensive, costly operation to fish on the high seas and take product back to a port where you're actually going to eventually sell it at a profit. In order for high seas fishing to be profitable to these enterprises, they have to find some economies, and I guess they're illegal economies.

That is just a comment. You can comment on it if you like.

Mr. McGuinness, you seemed a little unhappy with the EU's unilateral action to deal with an issue. IUU fishing is part of it, but responding to a growing desire for traceability on the part of consumers and so on is another part. I'm sure you're not opposed to that, but I find it interesting that although the IUU is kind of at the front of this, in a sense, over the years—correct me if I'm wrong—some of these IUU vessels have borne the flags of EU states, such as Spain, for example.

A comment on either of these would be fine.

Mr. Patrick McGuinness: First, one other things that's happening, as you mentioned, in terms of the economic viability of high seas fishing, is that China is finding a way to do or approach that. That's a concern. What China does now in certain areas is that it basically sends out its harvesting vessels, and those harvesting vessels are almost working 24 hours, seven days a week. China has organized is a trans-shipment type of protocol, where basically the Chinese cargo vessels meet the Chinese fishing vessels in the high seas and transport that harvest to wherever they're going to take it. That is, if you will, reducing the fact that you go a far distance, you harvest it, and then you have to bring it back to your country, which is of course very expensive. That's a growing concern, because if that happens, it's going to institutionalize some form of high seas fishing that actually make economic sense, perhaps, without the economic consequences.

On your second question, you're absolutely right. It's interesting in terms of the U.S. initiative, say, for example, to look at situations and identify countries that aren't adhering to good management of their vessels in terms of IUU. Of the 10 countries they have identified since 2011, the U.S. is currently in discussions with Spain, Portugal, and Italy. They also had France on the list at one point in time. They had discussions with France, and it was recognized that something had been misinterpreted and France was removed from the list.

So that's why the EU, in its position, basically has no clothes, in the sense that it has had great feedback from environmental communities and so forth for having introduced the unilateral import certification requirement, but nevertheless is still the subject of U.S. negotiations with three EU countries to improve their performance on IUU fishing.

Now, the thing is that the EU has avoided, if you will, countries such as Canada launching a challenge in the WTO, because EU simply puts that type of regulation in place, which applies to the import community, and then sends a directive to its 27 member-countries that they must basically replicate the types of measures the EU has imposed. They do that, but nevertheless they don't really enforce it. That is a problem, because the WTO stipulates that if you put certain types of requirements on imports getting into a market, you have to put those same types of requirements on your domestic production.

● (1235)

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

Gentlemen, on behalf of the committee, I want to say thank you very much for being here today, taking the time to make presentations, and answer committee members' questions. We certainly do appreciate that. Thank you very much.

There being no further business, this committee now stands adjourned.