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## **Standing Committee on Fisheries and Oceans**

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**EVIDENCE**

**Tuesday, March 3, 2009**

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**Chair**

**Mr. Rodney Weston**

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## Standing Committee on Fisheries and Oceans

Tuesday, March 3, 2009

• (1110)

[English]

**The Vice-Chair (Hon. Lawrence MacAulay (Cardigan, Lib.)):** I call the meeting to order.

I believe as our first order of business we have a couple of motions by Mr. Stoffer.

Mr. Stoffer.

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

The first motion deals with a DFO employee by the name of Lorraine Ridgeway. An audit has revealed an allocation of over \$400,000 in two years for travel and expenses. Knowing that my Conservative counterparts appreciate accountability and fiscal responsibility, I thought it would be warranted to have her come before the committee, along with whoever she wishes to bring, just to explain to us what value the Canadian taxpayer got for that money. She can come to the committee whenever it's convenient for her and/or her departmental officials.

**The Vice-Chair (Hon. Lawrence MacAulay):** Go ahead, Mr. Byrne.

**Hon. Gerry Byrne (Humber—St. Barbe—Baie Verte, Lib.):** I believe my colleagues within the Liberal Party would have no objection to this.

We would like the witness to be able to provide specific information as to exactly what files she was involved with while on those specific points of travel, and what indeed she accomplished. So we could relay that to her. I don't think anyone is too concerned about issues that are populist in nature; what they're interested in is what value we got for that particular money.

**The Vice-Chair (Hon. Lawrence MacAulay):** Mr. Stoffer, do you have that information?

**Mr. Peter Stoffer:** I don't have that personal information of what she's done, sir. All I know is that an audit was done, and apparently they said she made 51 international trips in that time period. I'm not saying anything is illegal or immoral here, I'm just saying it seems like an awful lot of money to spend for one official over a two-year period. I just thought it would be nice to bring her in to ask her to explain how we got the best value for the dollar on that. And whatever documents accompany her would be great.

**The Vice-Chair (Hon. Lawrence MacAulay):** Monsieur Blais.

[Translation]

**Mr. Reynald Blais (Gaspésie—Îles-de-la-Madeleine, BQ):** Thank you very much, Mr. Chairman. The Bloc Québécois will support that motion, but we do not want the committee to act as a tribunal, quite the contrary.

The information that appeared in the papers is significant enough, and this has tarnished the reputation of the person in question as well as that of the department. In my opinion, it is absolutely the right thing to do to offer this person the opportunity to explain what happened to us. Obviously, I have no intention of this becoming a court. It is not our role to judge, but rather to understand the situation, where perhaps funds were overspent. Is there a way of doing things within the department that, in our opinion, should be modified or changed? We shall see.

In order to support this motion, we do not need to judge this person or set up a tribunal. It is rather an issue of offering this person the opportunity to explain the ins and outs of this way of doing things. In that way, we offer this person the opportunity to provide us with more details than what appeared in the media. Furthermore, I believe that Ms. Ridgeway already provided some explanations to the journalist in question. It would not be unusual for her to present her perspective to the committee members. I would like to know if the department should change some things about the way it does business that could, in our opinion, result in excesses. We shall see, but my idea is certainly not that the committee become a tribunal.

• (1115)

[English]

**The Vice-Chair (Hon. Lawrence MacAulay):** Thank you, Mr. Blais.

Mr. Kamp.

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

I appreciate the comments. I certainly agree that if we bring Ms. Ridgeway in, we bring her in as the director general for international policy and integration. That's her title. She has a significant role in the department. It's never a bad thing to get a closer idea of what these people actually do on behalf of Canada. In her case, in 2006-2007 she was elected to chair the United Nations informal consultation on oceans and the law of the sea. That required a fair bit of travel, as she will explain to us. We're certainly not opposed to meeting her and finding out what her job is and what she delivers on behalf of Canadians.

**The Vice-Chair (Hon. Lawrence MacAulay):** Are we clear? Most of the members asked me to do this in a smart fashion because we have a number of guests waiting. Are we ready for the vote?

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

**Hon. Lawrence MacAulay:** Mr. Stoffer, you have another motion you wish to bring forth.

**Mr. Peter Stoffer:** Yes, again very quickly.

As we all know, there was an incident in a NAFO-regulated area off Canada's coast a week ago Sunday. The coast guard vessel did a tremendous job in rescuing and saving the lives of those particular sailors. I would like then, if possible, to ask the Commissioner of the Coast Guard to appear before the committee. It would be, first of all, to thank him and to thank the crew who did the great job, and also to ask the crew and the coast guard exactly what happened on that particular day, because there are extenuating circumstances as to what happened to the trawler.

I think it would be appropriate for us to ask the coast guard in a very respectful manner what the conditions of the sea were like, what the discussions were, etc., just to get a better idea of what may have transpired that day.

**The Vice-Chair (Hon. Lawrence MacAulay):** Thank you very much.

Is there any comment on this?

Mr. Byrne.

**Hon. Gerry Byrne:** Yes. I have stated for the record that I'm not in support of our colleague Mr. Stoffer's concerns. The evidence doesn't measure up to those concerns, in my opinion. However, I do think there is value to actually just hear what the Canadian Coast Guard and the National Transportation Safety Board have to say. I would ask that those two organizations be called as expert witnesses. We can put the questions of evidence of any malfeasance directly to them. So I would be supporting this particular motion from that point of view.

**The Vice-Chair (Hon. Lawrence MacAulay):** Mr. Stoffer.

**Mr. Peter Stoffer:** I just want to make a clarification. I'm not in any way insinuating any kind of malfeasance in this regard. All I'm asking is just for the details of what transpired that day.

**The Vice-Chair (Hon. Lawrence MacAulay):** Mr. Kamp.

**Mr. Randy Kamp:** I think if Mr. Stoffer wants that information, he's certainly free to get it from the coast guard without having to bring in witnesses to ask that kind of question. I think we have a busy agenda before us scheduled in the next number of weeks. Personally, I am not supportive of this motion.

• (1120)

**Hon. Lawrence MacAulay:** Monsieur Blais.

[*Translation*]

**Mr. Raynald Blais:** Thank you, Mr. MacAulay.

I am quite unsure about this motion. At first glance, I have many reservations. Unless Mr. Stoffer has specific information that he would like to share with us, I have the impression that if we were to invite the commissioner to speak to us about what happened... In a few days, we will be experiencing a very sad anniversary. I am more

inclined to invite the commissioner to give us further information on the investigation into the *Acadian II*.

Unless Mr. Stoffer is in possession of some information that I do not have, I think we can perhaps get the same kind of information by asking the commissioner to write us a letter, for example, that might allow us to better understand the timeline of these events. I have very mixed feelings on the subject.

Peter, I am not trying to undercut you on this. I find the proposal interesting, but I would like to know why I should support it. If something in particular happened, that is fine. That would allow me to understand why we should summon the commissioner. In my opinion, it would be a much better idea to invite him to review the follow-up on the *Acadian II* file. Even if there were three investigations, they do not indicate that we got to the bottom of the *Acadian II* story. On the contrary, there remain many unanswered questions. This committee will eventually have to deal with that. It would be a different discussion, another story.

As for the events of February 22, I followed it on television as did many others. I have my own theories as to what happened, but I would like to better understand the thrust of Mr. Stoffer's motion before saying whether I will support it or not.

[*English*]

**The Vice-Chair (Hon. Lawrence MacAulay):** Is there any more discussion, or are we ready for the vote?

(Motion negated)

**The Vice-Chair (Hon. Lawrence MacAulay):** We'll suspend for a couple of minutes and get our guests seated at the table.

• \_\_\_\_\_ (Pause) \_\_\_\_\_

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• (1125)

**The Vice-Chair (Hon. Lawrence MacAulay):** I call the committee back to order.

Mr. Bevan, chair of NAFO and ADM, welcome. I understand you're heading this group, and you can introduce your people. I expect you'll have an opening statement to make. Proceed, and welcome.

**Mr. David Bevan (Assistant Deputy Minister, Fisheries and Aquaculture Management, Department of Fisheries and Oceans):** Thank you, Mr. Chairman.

I have a deck that I believe is being distributed to the members, and I'll just briefly speak to that.

I guess the choice before us with respect to NAFO is between the revised convention and the old convention of 1978. There is no opportunity to choose other options; the solutions would not be realistic. We have to either accept the new convention or we'll have the old one as the alternative.

The 1978 convention is fatally flawed. It is a convention that was designed with the sovereignty of Canada as one primary objective, and to achieve that, we put in place the objection procedure. That was put in at our request. So we have a convention now that permits objections with no constraints, that has no dispute settlement procedure because we didn't want to be bound by a dispute settlement process in order to maintain our freedom to operate. Decisions are based on votes, which creates winners and losers, and that was the means by which decisions were taken in NAFO for a long period of time. There's only a single species management, so we were voting on TAC and quota in the course of these meetings.

We created winners and losers, but the losers had an alternative. They objected; they set unilateral quotas. The fishing was above the scientific advice, and the actual fishing, because of non-compliance, was above what was unilaterally set. In those circumstances, the outcome was almost inevitable, and a collapse of the stocks resulted.

The objectives for NAFO reform were to protect our quota shares. We and the EU hold the vast majority of quotas in the NAFO regulatory area. We wanted to constrain the use of objections by making objections part of the decision-making process, whereby the onus is on the state wishing to object. In other words, a state would have to explain why it was objecting, and we wanted to have in place an effective mechanism to resolve disagreements, in particular those over allocations.

We have had tremendous progress over the last few years in improving the monitoring control and surveillance scheme in NAFO, and we'll talk about non-compliance and how the incidence of non-compliance has been dramatically reduced as a result of the changes made in 2006 to the NAFO conservation and enforcement measures.

More broadly, our international strategy has moved forward with a multi-faceted approach to stop overfishing. NAFO reform is one aspect of that, but we worked the multilateral processes to help create the conditions for change. I'm not going to pretend that NAFO was suddenly moved to take steps to protect the vulnerable marine ecosystems or corals or seamounts. That only happened as a result of the work done by my colleague, Ms. Ridgeway, in terms of the UN General Assembly and an alternative to banning bottom-trawling—which supports 14,000 Canadian jobs—and finding a better way to manage the impact of fishing on vulnerable marine ecosystems.

By and large, we have strong bilateral relationships with Spain, Portugal, and Russia—we have some current issues with Russia—and that's been a key component to getting action in NAFO and getting action, more importantly, on the high seas.

Compliance in NAFO has changed quite significantly. As a result of ongoing enhanced enforcement presence, and significant improvements in the NAFO conservation and enforcement measures that were adopted in 2006, there's been a steep decline in serious infringements in NAFO. That is reflected in the data we have, where we had 13 serious infringements in 2005, seven in 2006—the year the measures came in—one in 2007, and zero in 2008.

In the global context, we see dynamic change is occurring at an increasing pace. That's reflected in measures to reform all of the RFMOs. The UN General Assembly resolution adopted in 2006 called for the protection of vulnerable marine ecosystems from

bottom-contact fisheries. The RFMOs have to report back to the General Assembly this year, so NAFO, along with others, will be going back to the General Assembly process and reporting the progress made to date.

•(1130)

In the U.S.A. we have the Magnuson-Stevens renewal act. That has serious implications for Canada's ability to access the U.S. market, in that the new American law requires the Americans to stop overfishing within two years, and they must ensure that the fish they're importing into the United States, our most important market, are coming from sustainable fisheries. That means that their conservation measures could be applied to countries that are shipping that fish to the United States.

The EU is also moving ahead in January 2010 with measures for tracking and traceability so as to avoid importing into the EU illegal, unregulated, and unreported fish. We have a commitment from the North Atlantic Fisheries Organization ministers that there will be a stop to IUU and an end to misreporting. So there is growing transparency and accountability.

I would point out that in the North Atlantic we had a problem years ago with IUU fishing in the NAFO regulatory area. It ended with the arrest of several vessels in that area. But we had continuing problems in the oceanic redfish fishery up until a few years ago. NAFO, NEAFC, and the North Atlantic fisheries ministers agreed to implement port measures, and those port measures in the North Atlantic have virtually eliminated IUU fishing there. Half the vessels were scrapped, and the other half, unfortunately, have moved to other parts of the world to continue that activity. But they're no longer in the North Atlantic.

The key results we've achieved since 2006 have been improved monitoring, control, and surveillance measures. Those are measures that require vessels to be pulled from the NAFO regulatory area to port for inspection under certain conditions. In 2007, we amended the convention text and adopted measures that met Canadian objectives in the areas of application, protection of Canadian quota shares, and constraints in the use of objection procedures. Canada attained agreement to safeguard provisions in the NAFO measures that reinforce the protection of Canadian quota shares. That is to say that it now takes an active vote to change the quota key. In other words, the quota key stays the same unless there's an agreement to change it.

In 2008 the French version of the text was adopted, and now the convention text can be ratified.

On the NAFO enforcement measures, there has been some thought that UNFA was stronger than the current measures in NAFO. That's not the case. The UNFA measures allow the inspecting people to remain on board the vessel for 72 hours and to then take it to port in their country and await the presence of the flag-state inspectors. There is no provision in UNFA that allows boarding inspectors to take action outside the authority of the flag state. That's not the case. Portraying UNFA as a means by which we can pull a vessel off the high seas into Canada and apply Canadian law to that vessel is not accurate. I think it's clear that this is the situation. As soon as the flag state takes control of the vessel—

**Mr. John Weston (West Vancouver—Sunshine Coast—Sea to Sky Country, CPC):** I guess I should have had my earpiece in.

Did you say that it is not the case?

**Mr. David Bevan:** Some are portraying the UNFA boarding provisions as that the Canadian inspectors could board a vessel of another country. That's the case. If there is no response from the flag state of that vessel within 72 hours, the Canadian inspectors can bring the vessel back to a Canadian port. That is also the case.

What is not the case is that the vessel is subject to Canadian courts, Canadian law, etc. What is the case is that the vessel can remain in port until the flag state says it is satisfied it's in compliance, or let it go, or they come and do the inspection. But Canada has no authority to take action against the vessel in port, outside of the authority of the flag state. The flag state is still the body that will have to deal with the non-compliance. I think that's important to keep in mind, because portraying the UNFA as superior to the current NAFO is based on an assumption that something can happen once we have the boat in a Canadian port, and that's not the case.

What happens under NAFO is that they've signed onto NAFO conservation enforcement rules that oblige the flag state to remove the vessel from the NAFO regulatory area under certain conditions, when there's a serious infringement or where there are repeat infringements, and take that vessel back out of the NAFO regulatory area and into a port. That's what happened in 2007 with the serious infringement. That vessel was removed prior to the end of its trip and taken back to a Spanish port, where it was found to be in non-compliance and had serious consequences for the vessel in terms of lost fishing opportunity and significant fines in the range of over 200,000 euros.

Looking at the old convention versus the new on slide nine, the new is a precautionary approach, an ecosystem approach versus single-species management. We're moving in that direction internal to our waters as well, because that's a more sustainable way to manage.

On the governance, we move from a simple open-ended objection procedure with little onus on the objecting party to justify it to an improved objection procedure, where the onus is on the objecting party to demonstrate that the objection will not create a conservation concern and there's an opportunity for the objecting party or NAFO to request an ad hoc panel with short enough timelines that the objections should be resolved prior to any problems in the regulatory area.

Decisions used to be simple majority. They're now two-thirds. The reason we want two-thirds is because we want to make it more difficult for people to change quota keys.

There was no dispute settlement process. Now there is a dispute procedure with an option to submit to a compulsory binding dispute settlement procedure pursuant to UNFA and UNCLOS. So we can move quickly into a binding procedure if that's the way to solve the problem.

We have good faith and abuse-of-rights clauses. The intention is to try to reach consensus and to make decisions that are inclusive and do not create isolated parties. We have this designed in relation to other international agreements. The functioning will be changed to make it more streamlined.

So the governance choices: simple majority consensus decision is the default; more frequent use of votes leading to more frequent decisions that are one-sided versus two-thirds as a last resort and leaving fewer people isolated. Objections: now we have objections with conditions and dispute settlement. Unilateral action was often the result in the old governance model. This is a more inclusive convention, and there's more follow-up to transparency.

Moving ahead, we are going to keep creating the conditions for change multilaterally. The overarching objective is to achieve sustainable fisheries, basing the implementation of fisheries management decisions on scientific council advice. We are looking to address the overfishing in NAFO, and as I said, we have successfully combated the IUU in the North Atlantic. I think we're fairly well situated in the North Pacific relevant to high-seas drift-netting as well. Our problem is that it has now re-situated to Africa and Southeast Asia, and we're looking at measures by which, in the multilateral fora, we can resolve that issue as well. I think I'll leave it at that.

● (1135)

I would note that there was an incident recently. Last week, subsequent to the sinking of the Spanish vessel, another Spanish vessel was boarded by fishery officers from the *Cygnus*. That was while the *Cowley* was in port. The *Pescaberbes Dos* was found with two citations.

Those citations were not serious infringements. However, the Spanish government has decided that the citations were evidence that the vessel was engaged in something in this reporting. They decided, based on the information provided by Canada, to seal the holds and to withdraw the vessel from the NAFO regulatory area. They have invited Canadians to be present when that vessel is inspected in Vigo upon its arrival.

Now, this means that the vessel had to leave with only half a trip—a serious economic blow. It will be inspected. If found to have misrepresented, it will be subject to significant sanctions by the Spanish government. I think it's just another indication that the compliance in the zone is good. The serious response by the Spanish is indicative of the fact that anybody cheating in that area will have to face the music.

The other thing I would point out is that the effort in the NAFO regulatory area is now down significantly; the Spanish have cut their presence by 87%. The TAC for halibut went down to about 40% of what it once was; the Spanish are now down to 13% of what their presence used to be.

The presence of the vessels in the NAFO regulatory area is now in balance with the fishing opportunities. Cheating is going down because people don't need to cheat. It's estimated that the Spanish vessels fishing out there are making a 17% return on their investment, which in this day and age is a dream world for almost anybody. The need to cheat has been removed. The opportunity to cheat has been removed. They fill their boats up legally now. That drop in effort has been a significant gain for rebuilding stocks in the NAFO area.

Just one last point I would make is that it's not just on the water with respect to compliance; it's also in the water with respect to the fish. Yellowtail flounder has rebounded fully. American plaice is on the right trajectory. The 3M cod amount was over the conservation limit to allow a fishery to open. NAFO decided not to do that. They want to let it grow bigger before they start to reopen that fishery.

It's the same thing for 3M redbfish—over the limit. Science advice was that it could have been a 3,500-tonne fishery. NAFO declined that, and is letting that rebuild. For 3LNO redbfish, same thing.

Those are significant changes from behaviour of the past. NAFO is actually declining fishing opportunities in an attempt to allow a better rebuilding of those stocks. We're seeing quite a change in the behaviour of the organization.

Thank you.

• (1140)

**The Vice-Chair (Hon. Lawrence MacAulay):** Thank you, Mr. Bevan.

It's obvious that we're a little over time. We have to end this meeting at about 12:45 for some committee business. Then we have the liaison budgetary committee, which I have to attend in order to find out what we're doing down the road.

So we'll stick close to the time, and we'll start with Mr. Byrne.

**Hon. Gerry Byrne:** Thanks, Mr. Chair. You've left us no choice but to ask swift questions and expect swift answers.

Thank you to the witnesses.

Under the revised NAFO convention, the decisions are still non-binding—or that's what I understand, despite the assertions that have been presented here—in that after the arbitration procedure, contracting parties can still object and implement unilateral fishing plans.

Is that true or false? A quick answer, please, Mr. Bevan.

**Mr. David Bevan:** If they go to the UNFA binding arbitration, they are obliged to follow that decision.

**Hon. Gerry Byrne:** They cannot object? They cannot institute—

**Mr. David Bevan:** After that process, after they go to UNFA, they can't object.

**Hon. Gerry Byrne:** Okay. So in other words, the government's assertion that it has now instituted custodial management is a fraud. That's a false statement, because contracting parties still have a genuine legal opportunity to enact unilateral fishing practices under current and proposed circumstances.

Now, Mr. Bevan, you've suggested here this morning—it's sort of counterintuitive—that the former NAFO convention was broken and didn't work. Yet in your closing statements you said that fishing practices are changing dramatically without the proposed convention, the redraft, being in place. Can you explain that?

• (1145)

**Mr. David Bevan:** That's because we've agreed as a body to behave as if the new convention was already in place. We've agreed to have decision by consensus. We've agreed to implement things such as ecosystem-based management and protection of vulnerable ecosystems, even though it's not covered by the convention. So we've determined that's a better way to proceed. We're acting as if the convention's in place and the results are positive.

On the objection procedure, yes, somebody can object under the new convention. There is, however, the dispute settlement, and the dispute settlement can lead to going to UNFA. And if it goes to UNFA, and the arbitration under UNFA decides on an outcome, that is binding on the parties.

You'll no doubt hear from other witnesses that by interpreting the minutia in the law you might be able to find a loophole. Having said that, that is not consistent with the obligations under UNFA to cooperate. It's not consistent with the way the organization has been operating, so looking at what is potentially or theoretically possible versus what's happening is the key.

**Hon. Gerry Byrne:** I don't think anyone sitting at this table who's followed fisheries management would consider minutia as being immaterial to the actions of foreign flag contracting parties when it comes to certain practices in the regulatory area, especially outside of 200 miles.

Notwithstanding all of that, we have an agreement here that there is an objection procedure that does indeed allow contracting parties and other flag states to actually fish unilaterally, with their own plans. I've come to the conclusion, as a result, that the statement of the government that they have now enacted custodial management is a false statement.

Notwithstanding all of that, there's nothing in this NAFO convention, the current convention, that allows any NAFO intrusion into Canadian waters. Yet it is proposed in the new NAFO convention to allow international management inside of 200 miles—NAFO control of the area inside Canada's exclusive economic zone. Agreed, this has to occur with the consent of the coastal state. NAFO could gain control of the entire regulatory area right up into the Gulf of St. Lawrence.

Why would Canadian negotiators allow such provisions to be included without a reasonable quid pro quo of Canada being able to assume full management authority of the area outside of the Canadian exclusive economic zone—in other words, into the current NAFO-regulated area outside of Canadian jurisdiction?

This provision is conspicuously absent from the draft convention. Is that because it was a European rapporteur who was holding the pen to the draft convention? Because it certainly wasn't a Canadian. It just seems to me that for Canada to agree to that particular provision, however ridiculous it is, for Canada not to insist that this same provision be put in place for the coastal state to actually have an opportunity to gain control of the regulatory area outside of the exclusive economic zone is a huge failure on the part of the Canadian negotiators.

**Mr. David Bevan:** First off, I must point out on the objection procedure that there is a dispute settlement process now, or would be under the new convention, that doesn't exist under the 1978 convention. So that's the significant difference.

**Hon. Gerry Byrne:** But it still has an opt-out, which is the point.

**Mr. David Bevan:** The opt-out is only if people are going to look at the most obstructive way to interpret the convention and to behave in a way that's inconsistent with their obligations under current international law.

While you can say that there's a potential there, the reality is that this would be a significant departure from current practices and current expectations. Also, they have to sell their fish somewhere, and the provisions that are being implemented are going to make selling fish that are coming out of those kinds of actions much more difficult.

With respect to the new convention, clearly any decision that's reached by NAFO applies in the NAFO regulatory area. Canada is a party to those decisions, and while there could be a decision reached by vote, if we are reaching a consensus decision, as we have been for the last number of years, then Canada is a part of that and is influencing the outcome of those decisions that apply to all the parties fishing in the NAFO regulatory area.

**Hon. Gerry Byrne:** Could we get to the specific issue of NAFO control, of international management inside of Canada's exclusive economic zone and the point that I have made, which is clearly written into the draft convention? The thing that's missing from the draft convention, which Canada is about to ratify, or presumably about to ratify, is the provision to allow Canada to control outside of the exclusive economic zone and the rest of the NAFO regulatory area.

• (1150)

**Mr. David Bevan:** In a sense, that already's in there, because if you look at—

**Hon. Gerry Byrne:** In a sense? One specific provision—

**Mr. David Bevan:** Here's the issue. In the application inside the zone, it would have to be at our request and with our agreement. We would have to want it, ask for it, and vote yes to it.

**Hon. Gerry Byrne:** So why would we do that outside? As a quid pro quo—

**Mr. David Bevan:** Are you suggesting that Canada would try to write into an international treaty the right to unilaterally impose anything we want on people outside the 200-mile limit, on the high seas?

**Hon. Gerry Byrne:** Mr. Bevan, that's what your negotiators did to Canada.

**Mr. David Bevan:** No, we didn't. That's not what we did.

**Hon. Gerry Byrne:** It is written into the convention that NAFO, on the consent of Canada, has the right to impose not only unilateral enforcement but management inside of the exclusive economic zone, right into the Gulf of St. Lawrence around P.E.I.

**Mr. David Bevan:** I absolutely—

**Hon. Gerry Byrne:** Why didn't we put it as a quid pro quo that Canada, at the consent of NAFO, at the very least could control outside of 200 miles?

**Mr. David Bevan:** It already exists.

**Hon. Gerry Byrne:** Where?

**Mr. David Bevan:** In the NAFO convention. If you're a party to that convention and there's some measure adopted, it applies to you by obligation if you don't object or if you don't go through objection procedures and disputes. If it applies to you, if you accept it, it comes into your management of those high-seas fisheries automatically.

So when we adopted a measure such as the 2006 changes to the conservation enforcement measures, they were obliged to follow it. It applies to them once it is adopted. We don't need to ask their permission. We don't need to have them ask us. We don't have any of that going on. Once it's passed, it applies to those parties in the NAFO regulatory area.

The only quid pro quo here was that if Canada so desired and asked, and if Canada accepted and voted yes to a measure, it could apply inside the zone, but it's certainly not going to apply.... We're not going to ask for anything in the NAFO convention area in the Gulf of St. Lawrence.

Also, I'm not quite sure when a minister or negotiator would be so inclined as to make these requests and have it apply, but clearly any party to NAFO has the obligation to follow the decisions of NAFO in the NAFO regulatory area. That's in there. In reality, it's the same as—

**Hon. Gerry Byrne:** To actually allow.... This is your stalwart defence of the indefensible, in my opinion, and we'll just leave it at that. Because to allow that provision into the context of the proposed NAFO convention is contrary to Canadian sovereignty; at the very least, to not allow a quid pro quo for Canada, with the consent of NAFO—being able to usurp the authority of NAFO on consent of NAFO—to control outside of 200 miles is, quite frankly, ridiculous.



But, you know, the formal acceptance of any NAFO decision now has gone from 50%, a simple majority, to a two-thirds majority. That's being hailed by DFO and by the Canadian government as being a victory and as NAFO being more inclusive. Past experience at NAFO says that whenever tough conservation decisions need to be instituted, getting the 50% simple majority has been tough enough. Now we have to go to a two-thirds majority.

In fact, any observer of the NAFO process would agree that in order to get some of those tough conservation positions, Canada has often had to seek concessions from other contracting parties by giving away fish from non-threatened stocks. How has the two-thirds majority achieved any greater success? Because I'll tell you something from a guy who's been around this process: I can't see it.

**The Vice-Chair (Hon. Lawrence MacAulay):** Mr. Bevan, be as quick as you can, please.

**Mr. David Bevan:** I would point out that in the past, prior to the changes at NAFO—in behaviour, at least—that took place back in the 1990s, we won all the votes and lost all the fish. That's a reality. We paid with fish to get the votes, and then when we won the votes, because of the convention people just went fishing anyway. That's the reality. Every conservation measure that's been put in place since that time has been done by consensus, with not one vote on one conservation measure. We've had tremendous gains, as you can see from the compliance on the conservation measures, all by consensus.

The real fear that all the people who participate in NAFO now have is that there's going to be a potential redistribution of fish. That's why we want more stickiness to the process. That's where the votes will be: not on the conservation, but on the sharing of the resource. We want to protect ourselves, along with the other quota-holders.

• (1155)

**The Vice-Chair (Hon. Lawrence MacAulay):** Thank you, Mr. Bevan.

Monsieur Blais.

[*Translation*]

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

Mr. Bevan, Ms. Lapointe, Mr. Beaupré, the first thing that comes to mind is that every time I have heard talk about NAFO since I started to become interested in it—not as a small child, but when I was younger, a few years back—I had the impression of looking at a failure, that is that there was overfishing and illegal fishing. Take cod alone as an example. NAFO existed, was up and running to a certain extent, but the fact remains that cod off the Grand Banks was pillaged. There was illegal fishing. In the end, I asked myself what the use of NAFO was.

Afterwards, I heard that Canada was a major funder of NAFO. First of all, there was a recognition of failure on an issue that is of primordial importance. Second, it seems as though only Canadians are major participants in NAFO, or practically so. Therefore, I wondered whether it was worth carrying on with it and that is a question that I am still asking myself.

Given what I am still hearing today, the question remains the same. I would like to hear you on the effectiveness of the organization and on its funding.

[*English*]

**The Vice-Chair (Hon. Lawrence MacAulay):** Mr. Bevan.

[*Translation*]

**Mr. David Bevan:** One must admit that NAFO failed as far as overfishing of cod in the North is concerned. Unfortunately, the same thing must be said regarding fisheries management in Canada. We had problems with the cod fishery in the Gulf of St. Lawrence as well as in Nova Scotia. That is why we are in the process of changing the way we manage fishery resources. We are in the process of changing NAFO as well.

Canada must pay approximately 40 % of the cost of NAFO because we have a lot of fish. Canada is a country that has interests in NAFO, therefore we must contribute, as do the others. NAFO managed to obtain the Canada Clause, which ensures that Canada has the right to the greatest share of the harvest because our country is the one with the greatest interest in the fishery, in the NAFO zone.

**Mr. Raynald Blais:** We were talking about the degree of effectiveness in the past and the degree of effectiveness today.

**Mr. David Bevan:** In my opinion, NAFO is becoming more effective, because we have far less a foreign fishery, therefore more compliance with regulations. Also, we have seen an increase in the population of certain species of fish. For example, the populations of yellowtail, cod and redfish are increasing. We are therefore hopeful that this fishery can reopen in three to five years.

**Mr. Raynald Blais:** I would like to make one comment, Mr. Chair.

Are we more effective because there are fewer fish, less plentiful resources?

It is an unfortunate thing to realize, on the one hand. On the other hand, we do have an interest and that is obvious. We know that fish, the resource, has no boundaries. Unfortunately, if the past is any indication of the future, we know that some countries—Russia, Spain, Japan etc., not to mention any names—are capable of doing almost anything when it comes to the resource.

What can we do to avoid the ineffectiveness of the past becoming in the end the modus operandi of NAFO?

• (1200)

**Mr. David Bevan:** In my opinion, NAFO is more effective now. Countries have learned that they need to change their behaviour as far as fisheries management is concerned. In the past, Spain, the other countries and even Canada continued to fish a much too high volume of fish, even if there had been changes in the environment. For example, there were changes in the productivity of cod. The cod population changed, and was greatly diminished. And yet we did not change our habits.

It is clear that we have to find a new way of managing the fishery. All of the countries agreed on this and changed the way they issued fishing permits in the NAFO zone. That is why NAFO is more effective today, compared with the 1980s and 1990s.

[English]

**The Vice-Chair (Hon. Lawrence MacAulay):** Thank you very much, Mr. Blais. You have about three seconds left, so perhaps we'll move on.

[Translation]

**Mr. Raynald Blais:** One, two, three.

[English]

**The Vice-Chair (Hon. Lawrence MacAulay):** Mr. Stoffer.

**Mr. Peter Stoffer:** Thanks very much to you, Mr. Chairman.

And to David and to your colleagues, thank you very much for coming today.

You indicated quite clearly that a lot of this was based on certain circumstances, certain conditions, and that's the part that makes me nervous. On page 8 it reads, "In cases of serious misreporting under certain circumstances...". This is the part I get kind of confused by. It seems very, very weak and very vague, because we don't know what those certain circumstances will be.

When George Baker was the chair of this committee, we filed for international observer reports on various vessels operating within NAFO. We did get one after a year, and it was so blacked out that all we got was the name of the vessel and the days it fished. That was it, more or less.

So my first question for you is this. Are international observer reports open to the public for inspection or open to a committee like us, so we can investigate exactly what was said and done on a particular fishing vessel's voyage?

**Mr. David Bevan:** I've got to be quite frank that we aren't putting much weight on international observer reports at this point. We're relying on data from satellite systems, air surveillance, observed tows by fishery officers, and extrapolation of those tows based on days on ground. We have a very clear idea of where they're fishing, and we know how much their catch per unit effort is, so we have those as a way of estimating catch. We compare known catches from high-compliance vessels, such as the one Japanese vessel, to their counterparts from other countries. We use a number of checks and balances to get very clear understanding of the catch.

We also are inspecting vessels that land in Canada. And, as you're hearing, we can be involved in vessels landing in Spain, for example.

So all of those are used to estimate catch, and the observer reports have been fundamentally switched for more scientific-based information, and we aren't using them in terms of compliance to the extent we used to.

**Mr. Peter Stoffer:** But there are observers on board.

**Mr. David Bevan:** There are observers on board.

**Mr. Peter Stoffer:** So if it was a Russian vessel, would there be a Russian observer on board?

**Mr. David Bevan:** Yes, except Norway hires Canadians, and some of the others are also looking at that, but—

**Mr. Peter Stoffer:** Mr. Bevan, I say with great respect, that's why it costs us that NAFO is in many ways a sort of toothless enforcer of this, because if you have observers from the country on the vessel

from that country, we're not quite sure. And there's usually just one observer on board.

• (1205)

**Mr. David Bevan:** That's correct.

**Mr. Peter Stoffer:** That person has to sleep eventually, and these vessels have the capability of fishing 24/7.

Although I appreciate the technology you use to observe and sort of understand what's being caught, I simply find it quite difficult that NAFO can really police itself on many of these issues.

And I go back, of course, for the committee, to the *Olga*. As you know, the *Olga* disappeared, and this committee found it—and the chairman was there—in Iceland, of all places. It was supposed to go back to its home port. It was supposed to be punished, in whatever way, for the illegal catch it had on board. We found out it was in Iceland. The fish disappeared. When we asked the Icelandic fishery minister, he said, "That was in the past; we've moved on from there." And the ship was sold at auction. So that was just one isolated incident a few years ago.

I suspect—and correct me if I'm wrong—that this type of incident could happen again.

**Mr. David Bevan:** I'm not going to say everything's perfect, but I will say, as I mentioned before, we don't use observers. We are not relying on observers as our key compliance tool. We're relying on Canadian fishery officers and we're spending money, as you're aware, to keep officers in the NAFO regulatory area, and to have two to three vessels.... There are also vessels from other contracting parties. We've had as many as five patrol ships patrolling 20 vessels fishing in the area. That kind of coverage gives us the opportunity to see with our own eyes what's going on, and to understand from our own experience. Based on observing haulbacks, looking at what's in the freezers, we get a good idea of the catch per unit effort, and then we can extrapolate based on highly accurate data from the vessel monitoring systems and our air surveillance the number of days those vessels are on ground.

I'd also point out that the Spanish government and others have put controls in place based on the fact that when a vessel is in a particular area, they don't care what it reports. They take off its quota a certain amount of fish based on our CPUE, catch per unit of effort. So say they're catching seven tonnes a day. If they're in turbot waters, they'll take seven tonnes of turbot off that vessel's quota and haul them back when the effort is indicating that their catch is there.

So it is a significant change from what used to be there. With the new conservation enforcement measures that came into effect as a result of the 2006 meeting, we're quite confident that we have a very solid handle on what's going on out there.

**The Vice-Chair (Hon. Lawrence MacAulay):** Thank you.

Mr. Kamp, the floor is yours.

**Mr. Randy Kamp:** Thank you, Mr. Chair. I'll be splitting my time with Mr. Allan.

You can interrupt me at some point here.

**The Vice-Chair (Hon. Lawrence MacAulay):** Okay, I will.

**Mr. Randy Kamp:** Mr. Bevan, I have a couple points I need to clarify for my own benefit.

Within NAFO, we have contracting parties, who I assume are those who sign on to the convention. Do we also have other non-contracting parties who will fish in the regulatory area? In other words, could someone flying the Mexican flag be fishing in the Grand Banks in some way but not be a contracting party, not be subject to the rules that have been laid out in the convention?

**Mr. David Bevan:** That has been a problem in the past. There's nothing in terms of UNCLOS that would prevent somebody from coming forward and fishing in the NAFO regulatory area, as long as they're cooperating with the organization.

Having said that, the presence of NCPs, non-contracting parties, has dropped dramatically over the years as a result of actions taken by Canada, and recently by NAFO and NEAFC, and by Iceland as well. I'm not quite sure if anybody has data on that. I don't think we've had much in the way of presence of those kinds of vessels in recent years. But it is not prohibited under UNCLOS.

**Mr. Randy Kamp:** Is it true that in the past, vessels flying a contracting party's flag might change the flag to a non-contracting party so that they can exceed the quota that their original country would have had?

**Mr. David Bevan:** In the past, we've had vessels re-flag, whether it's Spanish, Icelandic, whatever. So they'd re-flag to Belize or to a flag of convenience. Canada spent a lot of time on talking with those countries to make sure there was a connection between the flag and the vessel so that they were going to meet their obligations.

All of that was going on, but I think the arrest of the *Kristina Logos* on the high seas convinced people that there's a better place to go fish if you want to do that kind of practice. That took place in 1994, and the drop in the presence of NCPs happened then, and happened as a result of other actions taken by Canada to ensure that the message got out to anybody who wanted to run a business based on this kind of action that we were serious about protecting straddling stocks.

• (1210)

**Mr. Randy Kamp:** Can you tell us how the enforcement procedures in the new convention—the objection, the DSP and so on—compare with other RFMOs?

**Mr. David Bevan:** The NAFO draft convention was similar to other RFMOs. On that one, I'd have to see if my colleagues can add anything to it, because I'm not personally involved in some of the other RFMOs.

**Mrs. Sylvie Lapointe (Director, Straddling and Highly Migratory Stocks, Department of Fisheries and Oceans):** The procedures in NAFO were largely based on what exists in the South East Atlantic Fisheries Organization and the North East Atlantic Fisheries Commission. But by and large, most RFMOs that have objection procedures have no dispute settlement procedures attached to them.

**Mr. Randy Kamp:** Finally, the spectre has been raised of the encroachment on Canadian sovereignty. I want to give you an opportunity to respond to that again. Obviously, that should be a concern to us, if we believe it to be true. I'd like to know if you have any concern about that.

**Mr. David Bevan:** As noted, all parties are bound by NAFO decisions in the NAFO regulatory area. So anything that Canada puts forward as a proposal that is adopted would be obligatory for all parties in the NAFO regulatory area.

Because we're looking at ecosystem-based management, there was some concern that you can't split up the ecosystem and therefore maybe there'd be circumstances in the future where Canada might want to ensure the measures would be applied throughout.

I don't have a real concern because of the conditions on it. It would take a request. We could ask for it. We'd have to approve it. We'd have to vote for it. Clearly, there'd be a great deal of consideration given to that.

I would point out that any treaty has impacts on sovereignty: trade agreements, agreements on environmental issues. The Pacific Salmon Treaty means we can't unilaterally manage those stocks; we have to agree. So any treaty has some obligations. But in this case, I'm not really that concerned about it.

The other thing I would point out is that we have already moved ahead with vulnerable marine ecosystems, closing seamounts and coral closures in NAFO and the NAFO regulatory area. Canada did not have a problem with implementing the same actions inside our zone using the Fisheries Act. So whether we'd ever use this provision of NAFO would have to be considered, but it is our choice. I know this is about overfishing, etc., but if somebody wants to overfish, they'll have other problems. People fish for money, and unless you have your own market, you won't necessarily have any benefits in overfishing if your market gets closed. And that's where the world is going.

**The Vice-Chair (Hon. Lawrence MacAulay):** Thank you very much, Mr. Kamp.

Mr. Allen.

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

**The Vice-Chair (Hon. Lawrence MacAulay):** Four minutes. Three minutes and 30 seconds.

**Mr. Mike Allen:** I have just a couple of questions for Mr. Bevan with respect to the adoption of the convention by all the countries.

You said you've been working under the new rules over the last little while. One of the things that was pointed out in testimony in the Senate committee was that there would be significant government debate processes in some of these other countries before this could actually be adopted. On page 7 of your deck, it states, "At 2008 NAFO annual meeting, French version of amended Convention text was adopted".

Do you have any idea, with respect to the process in these other countries, how long this would take to adopt and how much longer you'd have to operate under these new rules on a good-faith basis?

•(1215)

**Mr. David Bevan:** Probably for some years. Nine parties need to ratify the convention before it becomes binding on all.

We know the process in Japan means going through the Diet. The process in the United States is not without some time for them to move ahead. I would also expect Russia to take some time. You already looked at a number of parties—that's three. Therefore, it's going to take a while.

Whether all the other nine are going to be able to move quickly is another issue. Some are more nimble than others. Some of the smaller parties are much more able to move quickly, and others have a more protracted time. I'd estimate we're probably looking at somewhere in a three-year timeframe. Even two to three years would perhaps be optimistic.

**Mr. Mike Allen:** From this point.

**Mr. David Bevan:** Yes.

**Mr. Mike Allen:** Okay. Interesting.

You talked about the number of serious infringements. Of course, significant dollars are spent by Canada—and you just referred to that in terms of the patrol vessels, and five patrol vessels in twenty. We've seen since 2005, 2006, and 2007 this has gone down. How much do you attribute that to our policing as much as you do to your arrangement under NAFO and the good faith you have between your parties?

**Mr. David Bevan:** Policing is really important. The measures we have are not going to work unless somebody's out there, so we keep two to three vessels out there. The EU has one, and from time to time there are others. The U.S. has worked in partnership with us.

All of those actions are necessary. There has to be a real understanding on the part of the fishing masters of what's going on, that they can't misreport. They can't now say they're somewhere they aren't, because we have their vessel monitoring system satellite data in near real time. So we know where they are, and we know what kind of fish they're fishing. We can see the hauls based on our fishery officers.

If we don't do that, we won't have control. That's the reality.

**Mr. Mike Allen:** You talked about consensus. You're operating under consensus now and you've eliminated a number of the votes. In terms of the two-thirds majority, would you use that now, or is that a fallback position?

**Mr. David Bevan:** No, that's not applicable until the convention's ratified. In the last 14 years we've voted once in NAFO, and that did not come out with a position that Canada supported. Other than that, it's all been consensus. As I noted, all of the conservation and enforcement measures that improve compliance in NAFO were agreed on unanimously.

**The Vice-Chair (Hon. Lawrence MacAulay):** Thank you very much, Mr. Allen, Mr. Bevan.

Mr. Byrne, for a short question.

**Hon. Gerry Byrne:** Mr. Chair, the ratification formula for an amended convention requires the support of three-quarters of the contracting parties, but should any one contracting party object prior

to ratification of the three-quarter majority, the convention is not to be ratified; it's null and void. That's my understanding.

Could the witnesses tell us if any of the contracting parties are engaged in any discussions with Canada or with NAFO generally to revise quota shares, presumably in order to get their support? That's a general question.

Specifically, has Denmark, in respect to the Faroe Islands, put in an expectation of greater shrimp quotas—yes or no?

**Mr. David Bevan:** Do you mean linked to the convention ratification?

**Hon. Gerry Byrne:** In any respect.

**Mr. David Bevan:** They are looking for more shrimp, yes. Is it being linked to the ratification or are they asking Canada to do something relevant to the ratification? No. We are still discussing it with them, trying to remove their objection, but—

**Hon. Gerry Byrne:** They have placed an objection. Is that what you're saying?

**Mr. David Bevan:** That's correct. They have an objection based on their desire to have a larger shrimp quota.

**Hon. Gerry Byrne:** Is this in relation to the convention itself?

**Mr. David Bevan:** Not to the convention; the convention is completely separate. It's under the old convention that they're doing that. In the new convention we could probably solve this problem by going to dispute settlement, but it doesn't exist.

**Hon. Gerry Byrne:** The test of a reasonable person, though.... If they don't get their shrimp, they're not going to ratify this new convention, and it is sunk, correct?

**Mr. David Bevan:** They have not made that link, no.

**Hon. Gerry Byrne:** Oh, I see. Well, I guess other people may have.

I'll turn my question over to....

**The Vice-Chair (Hon. Lawrence MacAulay):** Mr. Andrews.

•(1220)

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

I have a couple of questions.

A minute ago you mentioned patrol vessels. We have two or three outside the 200 miles right now, is that correct?

**Mr. David Bevan:** That's correct. I think we have two now. The *Cowley* came in with a crew, and then the *Cyngnus* was able to make that inspection.

**Mr. Scott Andrews:** What about the EU? Do they have one patrol vessel?

**Mr. David Bevan:** That's correct.

**Mr. Scott Andrews:** And then the United States—

**Mr. David Bevan:** No. The other one came from another contracting party, once while the Faroese were there. I've forgotten who.... At one point last summer we had five patrol vessels, and I can't remember if it was Russian or.... One was Russian, we believe—one Russian, one EU, and three Canadian.

**Mr. Scott Andrews:** Okay.

I guess we spend around \$30 million on aerial surveillance a year outside the 200-mile limit. How much does the EU spend on air surveillance?

**Mr. David Bevan:** We are not spending that amount on aerial surveillance. That's more or less what it costs us for the whole package. The air surveillance would not be a huge part of that. It's significant, but it's not that amount. The EU does not have air surveillance because they don't have any place to base an airplane.

**Mr. Scott Andrews:** So we're doing the total air surveillance in the NAFO area?

**Mr. David Bevan:** That's right. Now, every vessel has VMS. We know where they all are based on VMS. The air surveillance is used to verify the VMS, to make sure nobody's turned it off or found a way to falsify it. More importantly, the air surveillance is to make sure we know what's going on there for security and for other reasons, and on the fishing side to make sure nobody shows up unannounced in the NAFO regulatory area and starts fishing without our knowledge of it.

**Mr. Scott Andrews:** So we're paying our share for doing this work in this particular area under NAFO?

**Mr. David Bevan:** Yes, and we also get 97.5% of the yellowtail; we have a large percentage of American plaice; and we will have the biggest share of northern cod, once it comes back, or if it comes back. So the benefits would accrue to Canada in the event we can get the control, keep the control, and rebuild the stocks.

**Mr. Scott Andrews:** Fair enough.

Since the new enforcement measures came out in 2006, how many citations have been issued by Canadian inspectors? And of those citations, how many were considered serious infringements? And I have the same question regarding the EU inspectors: how many citations did they issue and how many were serious?

**Mr. David Bevan:** I don't think I have those data. I know that the measures came into place in 2007. From 2005, the total citations were 29 in 2005, 21 in 2006, 11 in 2007, and 8 in 2008.

I would point out as well that we have a lot more rules than we did. Over that period of time, we made more rules, so there's more opportunity for people to be in non-compliance. Stowage plans were introduced, and all sorts of other things, including labelling requirements. So there are more rules to be in non-compliance with.

On the more serious infringements, the more traditional misreporting, and those kinds of thing, which have always taken place, we had thirteen in 2005, seven in 2006, one in 2007, and zero in 2008.

Now, the Spanish have indicated to us that in their port inspections in 2007, they found a number of non-compliant vessels. Their fines on those vessels were between 200,000 and 300,000 euros. That was in addition to what we found. But in 2008 the compliance as a result of those actions was very good.

As I noted, we had two citations against a Spanish vessel last week. They were deemed to be serious infringements, but the Spanish government felt they were indicative of action that would have been a serious infringement and therefore hauled the vessel back.

[*Translation*]

**The Vice-Chair (Hon. Lawrence MacAulay):** Thank you, Mr. Bevan.

Mr. Lévesque.

**Mr. Yvon Lévesque (Abitibi—Baie-James—Nunavik—Eeyou, BQ):** Pardon me for leaving the meeting for a few minutes.

This document, have you already begun negotiations on it, or is it only a proposal that we are planning to negotiate?

**Mr. David Bevan:** No. We have negotiated a new NAFO Convention.

• (1225)

**Mr. Yvon Lévesque:** That is it?

**Mr. David Bevan:** No, that is not it; it is another document. It is available on the NAFO Website. This document looks like it. It is something that we negotiated two years back.

**Mr. Yvon Lévesque:** There was a report, at one point in time, according to which for Canada was to spend \$30 million, I believe to monitor the territory beyond the 200-mile-limit. Is that still in effect?

**Mr. David Bevan:** Yes. It costs approximately \$30 million. That represents the expenditures of the Government of Canada in order to be certain that we are in compliance with the regulations and that we can project and establish the catch.

**Mr. Yvon Lévesque:** Very well. Thank you.

[*English*]

**The Vice-Chair (Hon. Lawrence MacAulay):** Thank you very much.

Mr. Stoffer.

**Mr. Peter Stoffer:** Thank you once again.

Mr. Bevan, on page 8 of your deck you state that “In cases of serious misreporting under certain circumstances, flag state contracting party must direct the vessel....” Can you give us examples of what are defined as “certain circumstances”?

**Mr. David Bevan:** The “certain circumstances” are clear. They include misreporting of a catch, and fishing directly for species subject to moratoriums. Those are two clear ones.

There are also provisions for those doing “directed fishing for stocks or species after the date on which the contracted party for the inspected vessel has notified the executive secretary....” So once you've caught your quota and you keep fishing, that's another one.

Fishing in a closed area or using gear prohibited in a specific area is another issue that would result in that.

Others are mesh size violations; fishing without valid authority, or having no licence; misreporting of catches; interference with satellite or VMS, so if you don't have your VMS on, that's another reason to be removed; catch communication violations, essentially the same thing as misreporting; and preventing inspectors or observers from carrying out their duties.

There are also provisions in the event that vessels are repeating offences, for which they could be removed.

So it's pretty comprehensive, and it gets at the major behaviours that can impact on stock conservation.

**Mr. Peter Stoffer:** Sir, I know the answer, but just to put it on the record, can a Canadian Coast Guard vessel board a foreign trawler in NAFO waters?

**Mr. David Bevan:** That's correct.

**Mr. Peter Stoffer:** Would the Canadian Coast Guard vessel know beforehand who the captain and the crew are onboard those vessels?

**Mr. David Bevan:** Generally they'd have an idea of the captain. Obviously these vessels have been in the NAFO regulatory area for years, so they know the captain. I'm not sure they'd know all the crew members. Because fishery officers boarding a vessel on the high seas are boarding under the flag of NAFO and under the authority of NAFO, they have to be accredited by NAFO. We send NAFO a list of names of those who are qualified to do the inspections. We also share with others. For example, we have workshops with Spanish and Portuguese and EU members to make sure all the inspectors out there are working from the same understanding of compliance. It makes it much better for follow-up.

**Mr. Peter Stoffer:** On July 20 to 24 in Portland, Maine, there's an international observers conference. Will people like you or DFO have representatives there?

**Mr. David Bevan:** We'll have people there. We've been running those conferences in conjunction with others, and we have participated from the start. Quite frankly, though, that's not quite related to what's going on in that. It's more to share information on how countries are running their own observer programs.

**Mr. Peter Stoffer:** The last question is in regard to what Mr. Byrne and Mr. Kamp had indicated about the perception that other countries have some sort of managerial authority within our exclusive economic zone. Does the United States have the same provision in their waters under NAFO?

**Mr. David Bevan:** They're a coastal state. So are France and Greenland. That applies to all.

**Mr. Peter Stoffer:** So the same provision in Canada would apply to the United States?

**Mr. David Bevan:** That's correct.

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

**The Vice-Chair (Hon. Lawrence MacAulay):** Thank you, Mr. Stoffer.

Mr. Weston.

**Mr. John Weston:** Thank you, Mr. Chair.

Thank you, Mr. Bevan, for this most interesting presentation.

From what I understand, there's tension between the desire on the one hand for enforcement and conservation of our fish stocks and on the other hand for sovereignty. The more you want to emphasize the conservation of your fish stocks, the more you give up your sovereignty under NAFO so that individual states can then preserve the stocks. There's where I see the tension. Is that a fair statement?

**Mr. David Bevan:** I think it's fair. There's been some concern raised about the possibility of NAFO making decisions relevant to completely Canadian stocks like those in the Gulf of St. Lawrence. I don't think that's something people need to be concerned about.

Clearly, when we're dealing with something like Greenland halibut, we've agreed to follow the NAFO decisions relevant to the TAC and our share of the Greenland halibut. That means that we are giving up our possibility to decide to unilaterally set quotas, etc., on that outside of an objection procedure under NAFO. We have in that sense said we are surrendering a bit of the management to NAFO.

• (1230)

**Mr. John Weston:** Okay.

I'm trying to clearly comprehend Mr. Byrne's suggestion and your response. In law you can't give up what you don't have. I think Mr. Byrne was asking why we can't have some reciprocal provision that would extend beyond the 200-mile limit. I don't think there's any authority in NAFO or anyone else under international law to allow any country to extend its reach beyond that 200-mile limit. Isn't that correct?

**Mr. David Bevan:** Well, for sure UNCLOS does not anticipate that. These regional fish management organizations are, however, in international law. So there is no unilateral opportunity for Canada to say you're fishing on the Flemish Cap and we think you should have the following quota, and you should use the following gear, and so on. We can't do that outside of the regional fish management organization because we don't have the possibility, under international law, to extend it. So we gain control of actions out there through organizations such as NAFO, and by making the interventions that we've been making to get these arrangements that do get control over fishing on the high seas.

Right now, with our investment in enforcement, with our understanding of what's going on out there, I think we can say that we are able to ensure that measures adopted by NAFO are complied with.

**Mr. John Weston:** Even if we all agreed in this room that what Mr. Byrne was proposing was a good idea, is it within anybody's jurisdiction to provide that reciprocal authority? I would think it wouldn't be.

**Mr. David Bevan:** If it's with the agreement of NAFO, it will be reflected in a NAFO decision. So those decisions would apply. However, for Canada to unilaterally impose its will on the high seas, whether it's in NAFO or in the middle of the north Atlantic, that doesn't exist.

**Mr. John Weston:** So from what I understood in this very interesting arrangement, there is a reliance on the host state to enforce NAFO rules against the host state's own member. In this case you mentioned—the 200,000 euro fine—Spain imposed that fine against Spanish interests. What is the incentive for the host countries to act against their own people? I would think it would be politically very unpopular, even though it may be legally required. What is the incentive for countries to do that?

**Mr. David Bevan:** They have a legal obligation. They've ratified UNFA, and that requires their obligation to maintain control over the vessels they flag. And if they are part of NAFO through the European Union, they have a legal obligation there to enforce the rules.

**Mr. John Weston:** And if they fail?

**Mr. David Bevan:** Then they are failing to meet their obligations, and that will certainly be a significant problem for all parties. That's perhaps why they haven't done that and they aren't complying.

**Mr. John Weston:** If a country fails to enforce its obligation against its own member fishermen, or boat, or fisherwoman, there's nothing we can do about that?

**Mr. David Bevan:** There's no quick response. You can take them under UNFA. There could be a dispute under NAFO in the new convention and that could lead to UNFA, but you can't just send a gunboat out to do something on very quick actions. Certainly that has happened in the past, as we are aware, but it wasn't quick; it involved a lot of diplomacy.

**The Vice-Chair (Hon. Lawrence MacAulay):** Thank you very much, Mr. Weston.

This committee wants me to attend another meeting, so we have a couple of minutes for each party. If people will adhere to the time, then I can get to the meeting; if you don't, I won't.

Mr. Byrne.

**Hon. Gerry Byrne:** Thank you, Mr. Chair.

I think what we've learned so far at this meeting is that there is indeed a legal opt-out option for any foreign nation and contracting party to fish as it sees fit in the NAFO regulatory area. In other words, that throws the assertion that Canada now has custodial management of the nose and the tail of the Grand Banks out the window.

We've discovered that countries are now lining up to feast at the Canadian fish buffet. To allow ratification, Canada is prepared to engage in talks with contracting parties to ensure that ratification of this convention proceeds. We also know that Canada has proposed certain measures that actually allow foreign countries and NAFO contracting parties, NAFO generally, to be able to engage in operations and management of Canadian fish practices inside our exclusive economic zone and that we failed to negotiate any sort of comparable arrangement outside the economic zone.

That, Mr. Weston, is exactly the point here. You asked the question if it's consistent with international law. If NAFO so decides and Canada agrees to letting NAFO control inside our 200-mile limit, then NAFO could allow Canada to control outside the 200-mile limit, so it would be completely consistent with international law. The problem is Canada didn't ask for it. We allowed NAFO the rewriting of the NAFO convention inside the 200 miles without asking for the rewrite of the NAFO convention to allow Canada to manage outside the 200 miles. That is the failure of Canadian foreign policy and international fish management, in my opinion.

Mr. Bevan, would you like to respond?

• (1235)

**Mr. David Bevan:** I would point out that currently the dispute settlement is not there, and therefore objection procedures, unilateral action, are certainly allowed under the current convention. Under the new convention, there is recourse to deal with objections through the dispute settlement process and leading to UNFA.

With respect to negotiations under way relevant to ratification, there aren't any. There are no negotiations because there was an

agreement made in 2007 and then again in 2008 by all the contracting parties to accept the new convention. There was no relationship to the fish discussions at all. So I would just make that point.

**Hon. Gerry Byrne:** So Canadian fishing stakeholders should not expect any significant changes to quota sharing between the 2008 arrangement and the 2009 or 2010 arrangement. What you're saying to us under oath is that there really shall not be any significant resharing of quotas to the Faroe Islands or any other stock or species to any of the other contracting parties, because there are no negotiations.

**The Vice-Chair (Hon. Lawrence MacAulay):** Mr. Bevan, be as short as you can.

**Mr. David Bevan:** No negotiations have taken place relevant to the new convention to get it ratified. That is the case.

**Hon. Gerry Byrne:** But there may be some redistribution of quotas down the road that have nothing to do with this.

**The Vice-Chair (Hon. Lawrence MacAulay):** Mr. Byrne, give the witness a chance to answer.

**Mr. David Bevan:** We're not working under the new convention; therefore unilateral action is still permitted under the old convention. If stocks open up, there's going to be definite interest. We're convinced that we'll be able to maintain it, because we have provisions to help guard our share in the NAFO conservation enforcement measures. I'm optimistic that we'll keep the shares the same way, and I assure you there is no link to ratification and any discussions on fish.

**The Vice-Chair (Hon. Lawrence MacAulay):** Thank you, Mr. Bevan and Mr. Byrne.

Mr. Stoffer.

**Mr. Peter Stoffer:** When do you expect Canada to ratify? What advice would you give the minister to eventually ratify it on Canada's side?

**Mr. David Bevan:** I think we should proceed with ratification. There'll be an obligation to take it to the House. The decision on that rests with the minister, but I would recommend that we proceed.

**Mr. Peter Stoffer:** As you know, the Pacific Salmon Treaty was also supposed to come to the House and it didn't, so that's why I asked the question. I'm quite concerned that it may be ratified without any House consultation. But that's not a question for you; that's for the minister.

I thank you very much for that.

**The Vice-Chair (Hon. Lawrence MacAulay):** Mr. Calkins.

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

I don't know why, but when Mr. Byrne was talking I had the theme song from *X-Files* in my head. But that's okay; I appreciate that he's passionate about the issue. I can assure you that I always appreciate your interventions, because at least they're spirited.

The question I have for you, Mr. Bevan, deals with NAFO science and research. When I went to the NAFO website I did a little research on that and looked into it. It talks about NAFO adopting a precautionary approach in 2004. It publishes the *Journal of Northwest Atlantic Fishery Science*, and so on. It talks about symposiums and scientific workshops. The data generated by NAFO-related research is reviewed by the NAFO Scientific Council and archived. That's the end of the story.

If it's archived, is that the purpose of the science? Where does it fit in with NAFO regulations and providing insight to the member countries in determining quotas, and so on? I'm sure it must play a role in that.

• (1240)

**Mr. David Bevan:** Yes. There's a report made by the scientific council in June of each year. Then the chairman of the scientific council provides that report officially to the fisheries commission in NAFO. The fisheries commission in NAFO then considers that advice in setting TACs, and so on. Sometimes it's followed to the letter; sometimes, like this year, we had decisions made to set the TAC lower, or to not have a fishery. The feeling was that it was not appropriate to open up a fishery at this point. It informs the fisheries commission so they can make informed decisions based on the scientific council's advice.

**Mr. Blaine Calkins:** In terms of adopting a precautionary approach, how has that changed the management? Since 2004, has there been any measurable change of management in the setting of TACs, and so on?

**Mr. David Bevan:** The establishment of a precautionary approach has set what's called conservation limits for stocks. For example, we've seen growth in American plaice, but we have not seen it across the threshold of the conservation limit. Therefore there's no talk about having directed fisheries.

In 3M, the scientific council said both cod and redfish had exceeded the conservation limit, and small fisheries could have been opened. In the past that might have happened, but this time they wanted the fishery to get bigger so it would be more robust when the time came.

It means you don't get into a debate about how much fish you can take. If it's below the conservation limits, you just leave it closed.

**Mr. Blaine Calkins:** Thank you.

**The Vice-Chair (Hon. Lawrence MacAulay):** Thank you very much.

We'll adjourn this portion of the meeting.

I want to thank Mr. Bevan, Mr. Beaupré, and Ms. Lapointe for their supporting roles. Mr. Bevan had an active hour and a half.

We'll continue the meeting, as it's not too secretive, and discuss the upcoming meetings we want to put in place. On March 5, for the first hour the committee will consider the James Bay eelgrass report for re-adoption, the adoption of a study on budgets for the seal harvest, the lobster study, and the NAFTA study. For the second hour, Bernard Applebaum and Scott Parsons have confirmed. Bill Rowat and Earl Wiseman are not able to attend.

On March 10, Earl McCurdy and Ray Andrews have confirmed for the NAFTA study. On March 12, the Fisheries Resource Conservation Council has been invited to brief the committee on their report on the lobster fishery. They are working on some logistic issues at their end and should confirm yes or no soon.

Is that agreeable to the committee?

Mr. Byrne.

**Hon. Gerry Byrne:** It's unfortunate that neither Mr. Rowat nor Mr. Wiseman can attend. Both of those individuals have something specific and direct to offer. Could the committee ask them to provide written submissions on their position about various issues on the proposed amended NAFO convention and their thoughts on the various issues surrounding it?

**The Vice-Chair (Hon. Lawrence MacAulay):** Is it the agreement of the committee that we propose this?

**Some hon. members:** Agreed.

**The Vice-Chair (Hon. Lawrence MacAulay):** Thank you, Mr. Byrne.

Any other business?

The meeting is adjourned.









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